LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 5, 2014

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 5, 2014, commencing at 7:02 a.m.

Present: Council Member Johnson, Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Hansen, and Mayor Katzakian
Absent: None
Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Robison

B. Topic(s)

B-1 Receive Information Regarding Local Bidding Policies (PW)

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding local bidding policies. Specific topics of discussion included local hiring ordinance, purchasing flow chart, exemptions, other agencies' contracts, and contracts awarded to local firms.

In response to Council Member Mounce, Mr. Sandelin stated that, for the smaller projects, staff has the discretion to contact three vendors of its choice and every effort is made to default to local vendors.

In response to Council Member Nakanishi, Mr. Sandelin stated that the City regularly works with engineering companies from the Lodi, Stockton, and Manteca areas.

In regard to formally bidding Public Works contracts that are larger than $5,000, Council Member Johnson questioned whether that figure was too low, to which Mr. Sandelin responded that the requirement is set forth in the public contracts code. Staff has the ability to raise that limit, and he has suggested increasing the amount to $20,000 in the past.

City Manager Schwabauer explained that there is a system in the public contracts code to increase the $5,000 amount; however, there are cumbersome requirements associated with doing so and it could create a burden on staff to comply with the code requirements for each and every project.

In response to Council Member Mounce, City Attorney Magdich stated she would review the public contracts code and report back to Council on the process associated with increasing the $5,000 limit and what the reporting requirements would be to comply with state law.

In response to Council Member Johnson, Mr. Sandelin stated that Lodi is one of the few cities still at the $5,000 level. Deputy City Manager Jordan Ayers described his experience with another organization that increased the level, stating that it was an effective way of delivering a project in excess of $5,000; however, due to difficulties in the administrative aspect, the organization ultimately contracted that portion to a third party administrator.

Council Member Mounce stated she would not be in favor of increasing the threshold if it meant hiring a contractor to administer the program.

Council Member Johnson suggested reviewing the $2,500 level that initiates the bidding process,

which was recently increased from $500, to make the process less cumbersome. Council Member Mounce expressed apprehension in increasing the limit as she felt there should be a process followed when spending public funds. Mr. Schwabauer stated that the process is less burdensome and involves a smaller amount of paperwork than projects set forth in the public contracts code. Mr. Sandelin added that increasing the limit from $500 to $2,500 was a positive change and has reduced staff workload substantially.

In response to Mayor Pro Tempore Hansen, Mr. Sandelin and Mr. Schwabauer explained the process of using other agencies' contracts, such as US Communities, California Association for Consolidated Transportation, and California Multiple Award Schedules, stating that those agencies have followed state bidding laws and cities may "piggyback" on those contracts. Council Member Mounce pointed out that there is a benefit for the League of California Cities in utilizing US Communities.

In response to Council Member Nakanishi, Mr. Sandelin stated that, if bidders' prices were too high, the City would reject the bids and re-bid the project; however, he has not found high prices to be an issue when going through other agencies' contracts.

In response to Mayor Pro Tempore Hansen, Mr. Ayers stated there were pros and cons in moving to a decentralized purchasing program, but overall it appears to be working well. The City has access through publicly bid contracts for office supplies, staff can easily purchase supplies on-line using a City Cal-Card, and there is greater warehouse availability that is now utilized by staff.

In response to Council Member Mounce, Mr. Ayers stated that the prices for office supplies are low because the contract went through the competitive bid process and those prices are honored in store as well.

In response to Council Member Johnson, Mr. Sandelin stated that staff routinely shops prices when it comes to vendors but also considers a firm's local knowledge, history with a project, and its overall operation. Attempts are made to not single out a specific vendor to handle a project repeatedly.

In response to Council Member Mounce, Mr. Sandelin stated he has the Alamo Alarm contract on his desk for review.

In response to Council Member Nakanishi, Mr. Sandelin explained that the City is required to accept the lowest bid on construction projects.

In response to Council Member Mounce, Mr. Sandelin stated that Council has made it clear that it is opposed to excessive contract change orders on a project and stated that staff makes a significant effort to ensure there are few, if any, change orders associated with projects and it builds a contingency amount into contracts to cover any unexpected issues.

In response to Council Member Johnson, Mr. Schwabauer stated that the City's recent carpet replacement project went through the US Communities program and was not bid by the City. Local vendors have the opportunity to submit bids through the US Communities program, and an agency cannot mix the two options of using an agency's contract and bidding on its own.

John Slaughterback expressed concern with the bidding process, stating that it adds bureaucratic red tape to an already stringent process and increases the financial burden, which is passed on to rate payers. Mr. Schwabauer confirmed that no changes were being made to the process and this was only an overview on procedures currently being followed.

Tiffany Gomes questioned how the decision was made to use an agency contract for the carpet

replacement program instead of going out to bid, to which Mr. Sandelin stated that staff did not have the expertise on this project and felt confident utilizing the program and its expert to draw up the specifications.

Council Member Johnson suggested utilizing the agency contract for the consultant to prepare the specifications and then bidding the project locally, to which Mr. Schwabauer explained that the two options cannot be mixed. The project may either be bid locally, or a city may utilize an agency's pre-bid contract for the entire project. Mr. Schwabauer further responded that programs such as US Communities typically advertise for bids in trade magazines and websites and it is incumbent upon local contractors to search for those opportunities.

Council Member Mounce suggested that the Chamber of Commerce include a link to these programs on its website so its member businesses are aware of these bidding opportunities. Mr. Schwabauer stated he would look into the matter.

In response to Pat Patrick, CEO of the Chamber of Commerce, Mr. Schwabauer explained the California communities system process, stating that vendors bid an open contract at the beginning of the year, it would not be for a specific project or specific to this community, it would set forth specifications and prices, and cities and agencies statewide can choose that bid rather than bidding a project itself.

In response to Myrna Wetzel, Mr. Schwabauer reiterated that the City can either bid a project itself or utilize the California communities system, but it cannot do both as it would be an unfair trade practice of shopping for best prices. If a project were to bid locally, the City would transmit bid specifications to the various contractor exchanges and advertise locally.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:58 a.m.

ATTEST:

Jennifer M. Robison
City Clerk

AGENDA ITEM B-1

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Information Regarding Local Bidding Policies

MEETING DATE: August 5, 2014 (Shirtsleeve Session)

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Receive information regarding local bidding policies.

BACKGROUND INFORMATION: Information will be presented to the City Council regarding the following:

1. Development of the Local Hiring Ordinance (Attachments A and B)
2. Purchasing System (Attachment C)
3. Memorandum regarding contracting with local businesses (Attachment D)
4. Bid process waiver using other California public agencies' contracts

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

FWS/pmf

Attachments

APPROVED: _____
Stephen Schwabauer, City Manager

Attachment A

AGENDA ITEM I-1

CITY OF LODI
COUNCIL COMMUNICATION
TM

AGENDA TITLE: Provide Staff Direction Regarding Drafting Local Hiring Ordinance

MEETING DATE: January 19,2011

PREPARED BY:, City Attorney's Office

RECOMMENDED ACTION: Provide staff direction regarding drafting local hiring ordinance.

BACKGROUND INFORMATION: The City Attorney's office was asked by Mayor Pro Tempore Mounce to research and present initial options for a local hiring ordinance. It is important to recognize at the outset however, that there are a number of legal impediments to the most direct form of a local hiring program: simply requiring contracts to be awarded only to businesses located in the city, or businesses that have a specified percentage of employees residing in the city.

There are a number of legal obstacles to such ordinances. Public Contracts Code Section 20162 requires General Law cities such as Lodi to award Public Works contracts (generally meaning the construction, repair, or improvement of a public building, or public infrastructure) to the lowest bidder. The Code makes no exception based on a preference for local residents. Moreover, a number of courts have concluded that local hiring ordinances may violate the Equal Protection Clause, the Commerce Clause of the U. S. Constitution, and the California Constitution's right to work and travel. *(United Bldg & Construction Trades v. City of Camden* 79 L.Ed 2d 249 (1984) and *Cooperrider v. Civil Service Commission* 97 Cal App 3d 495 (1979).)

The Charter City of San Francisco's local hiring ordinance survived constitutional challenge however, because it was allegedly designed to remedy the competitive disadvantages faced by businesses housed in San Francisco (namely high cost) and not by a general desire to favor local residents over those outside the City and County of San Francisco. *(Associated General Contractors v. City and County of San Francisco* 813 F. 2d 922 (9th Cir. 1987).

To address these ehaiienges some cities Rave adopted ordinances that require good-faith efforts by contractors to hire workers who reside locally. Typically these ordinances do not require a quota, but instead operate similarly to the Disadvantaged Business Outreach requirements frequently imposed as a condition of federal funding and familiar to many large-scale contractors. Simply put, a contractor and its subcontractors are required to advertise locally in an effort to hire local workers for the public project, and are required to supply evidence that it has done so. Examples of such programs from Pasadena and Stockton are attached as exhibits A and B.

Given Lodi's smaller population, staff requests direction regarding both the goal percentage for local hires and the definition of local residents. It may be unrealistic to assume that Lodi alone has a sufficient supply of plumbers, framers, masons and other trades to supply 50-percent of the work force for a major public project. It is unknown whether a number of contractors that would commonly be considered local, such as A.M. Stephens, F&H Construction, Ford, DSS, and Diede Construction, employ a sizeable number of local workers. One alternative is to broaden the definition of local resident to San Joaquin

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APPROVED: Konradt Bartlam, City Manager

County, or another geographic area. Informal discussions with employees of these firms suggest that between 20 and 40 percent of their workers actually reside in Lodi and most felt they would have a hard time finding sufficient workers residing in Lodi to meet a 50-percent goal. At this stage, staff suggests that Council first give direction regarding whether it desires to pursue a local hiring preference. If Council does want to pursue the ordinance, staff recommends Council direct Public Works, Electric Utility, and the City Attorney's office to conduct open meetings with the construction industry. The meetings will be intended to explore concerns regarding the ordinance to insure that however it is ultimately crafted it operates effectively. Staff will then return with further recommendations if Council desires to pursue the ordinance.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Stephen Schwabauer
City Attorney

EXHIBIT A

ARTICLE 15 LOCAL WORKFORCE UTILIZATION PLAN

§ 15.1 Objective

§ 15.1.1 The Pasadena community is funding the City Hall Seismic Retrofit Project and the City wishes to provide all local subcontractors, businesses and residents the opportunity to participate in the renovation of the City Hall building. The purpose of the Local Workforce Utilization Plan is to communicate the objectives that the Contractor is expected to achieve and procedural requirements which are considered a minimum. The Contractor is to develop and coordinate proactive outreach programs to ensure that local residents, subcontractors and businesses are informed and involved in the ongoing procurement, employment and construction opportunities on the Project. The Local Workforce Utilization Plan focuses on three program goals: **1)** local hiring, **2)** local business participation through supplying goods and services, and **3)** local workforce development. The Contractor and the City will mutually establish goals for local hiring which the contractor shall make every good faith effort to meet.

§ 15.1.2 Local Workforce Utilization and Hiring

GOAL: Compile a workforce that hires from the tremendously talented and diverse Pasadena community. The City and the Contractor shall establish a goal for local hiring that is based upon the types of skills needed to complete the project.

.1 Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited to:

a. Contractor/subcontractor will prepare a monthly workforce utilization showing the employees' name, hours worked, trade, and residence. Contractor will prepare a monthly summary report for cumulative workforce for entire project.
b. Contractor/subcontractor will notify, in writing, local unions and/or employment organizations, as appropriate, of available positions and request referral of local applicants.
c. Contractor/subcontractor will maintain a list of all applicants, their address and interview result.

.2 The distribution of outreach information shall include, but not be limited to the following locations/groups:

a. Chamber of Commerce
b. African American Chamber of Commerce
c. NAACP
d. Urban League
e. Latinos for Economic Awareness and Development
f. Career Services One Stop Center
g. Neighborhood Connections
h. Church Network
i. Libraries/Community Centers
j. Local Construction Material Stores
k. Pasadena Women at Work
L. Pasadena Armenian Community Center

§ 15.1.3 Local Business Participation

GOAL: Purchase goods and materials from local suppliers where available and utilize local subcontractors in the performance of the work. City and Contractor to establish a target goal

based upon a review of goods and services utilized on the project for which local companies and suppliers exist.

.1 Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited to:

.1 A minimum of three **(3)** Business Opportunities Fairs (BOF) are to be conducted from the date of the Notice to Proceed through the duration of the project. The first BOF is to be initiated within two weeks following the date of the Notice to Proceed and shall include, but not be limited to the following:

a. The BOF will be held at a convenient community facility.
b. The BOF will provide information to businesses on subcontract scopes of work and bid requirements that will be available at the Project.
c. The Contractor will provide pre-bid forms to be completed and returned to the Contractor for input into the database.
e. Require attendance of all major subcontractors, project staff, and members of the Contractor estimating and purchasing teams.
f. Contractor staff attending the BOF will be prepared to have one-on-one discussions with individuals regarding scopes of work, proposal requirements, bonding information and financing information.
g. The BOF is to be advertised in local newspapers, local radio stations, trade and focus publications and the Project website. Information advertised will include but is not limited to Project website, brief information about the Project, direct phone number, mailing address and fax number for solicitation of bids. Advertisements will be completed prior to each major construction activity (e.g., excavation, foundation, mechanical, electrical, plumbing).

.2 The Contractor will work in conjunction with local community organizations, including MBENVBEIDBEILBEIOBE to identify local subcontractors with interest in the Project. Local contractors identified are to be added to the Contractors master database.

.3 Contractor will develop a list of work under $100,000 for work that subcontractors and businesses in the local database could be competitive.

.4 Using the City's outreach data as a starting point, Contractor is to create and maintain a master database of qualified individuals, subcontractors and businesses throughout the duration of the Project. The database is to include current information regarding local Pasadena individuals, subcontractors bidding the Project, contact names, phone and fax numbers, addresses and other information collected on the Subcontractor Information Form and the Construction Outreach Contact Sheet.

.5 The Contractor is to provide a Subcontractor's Handbook for all interested subcontractors and suppliers. The handbook should include, but not be limited to:

a. Descriptions of subcontractor requirements
b. Calendar of local outreach program dates
c. Local Business certification process
d. Anticipated bid and purchase schedules
e. Requisition/payment procedures
f. Bonding seminars
g. Regional resources for business assistance
h. Contractors' associations

.6 The CONTRACTOR will provide assistance to local Pasadena companies, including MBENVBEIDBEILBEIOBE firms, relative to obtaining plans and

specifications, reviewing sub-bid requirements, and referrals for bonding and insurance requirements.

§ 15.1.4 Local Workforce Development

GOAL: Provide an opportunity for interested Pasadena residents to learn how to obtain positions in the construction trades.

.1 Program Requirements: Local Workforce Utilization Plan work efforts are to include, but are not limited, to conducting seminars which include representatives from groups such as construction trade organizations, California Department of Apprenticeship Standards, subcontractors, trade schools, etc. as a means of informing interested residents as to how to begin a career in construction.

§ 15.1.5 Outreach Coordinator

Contractor shall provide a full-time, onsite Outreach Coordinator (Coordinator) for the Project, whose principal duty is to facilitate local community participation in the Project and to provide public outreach. The job shall commence within thirty (30) days of Notice to Proceed, and shall last for the duration of the Project. The duties and responsibilities of the Coordinator shall include, but not be limited to, the following:

.1 Be responsible for monitoring and coordinating overall compliance of the Contractor, subcontractors and suppliers, including, but not limited to:
- **.1** Attendance at construction meetings and at local outreach events.
- **.2** Liaison with the City staff and designated City representatives contracted to document compliance to outreach efforts.
- **.3** Facilitation of meetings with Contractor and subcontractors.
- **.4** Conducting site surveys and inspections.

.2 Perform evaluating and reporting duties:
- **.1** Review and evaluate the current and projected work force for the Project. Prepare reports on said current and projected staffing data to be filed monthly, in a timely manner, to City staff.
- **.2** Work with the Contractor and subcontractors to resolve complaints of employment discrimination, including sexual harassment. If said complaints cannot be resolved at this level, prepare written report for submission to appropriate governmental agencies.
- **.3** Should the coordinator not be female, he will designate a female ombudsperson on the Contractor's staff to receive reports of sexual harassment by female employees.

.3 Work with Contractor, subcontractors, unions, apprenticeship groups, and locally based minority and female groups in recruitment of potential employees.
- **.1** Coordinator shall try to ensure that public noticing of job referrals and opportunities is announced to locally based groups at least **24** hours in advance of intended hiring.
- **.2** The distribution of flyers and noticing information shall include, but not be limited to the following locations/groups:
  a. Chamber of Commerce
  b. African American Chamber of Commerce
  c. NAACP
  d. Urban League
  e. Latinos for Economic Awareness and Development
  f. Career Services One Stop Center
  g. Neighborhood Connections
  h. Church Network

i. Libraries/Community Centers
j. Local Construction Material Stores
k. Pasadena Women at Work
L. Pasadena Armenian Community Center

.4 Maintain records of all walk-in referral applications.

.5 Develop and implement equal opportunity training programs that meet State apprenticeship/trainee requirement for number of trainees versus journeypersons for each trade which relate to the Project

.6 Review and report on changes of subcontractors.

.7 Coordinate with City staff and designated City representatives for provision to Contractor and subcontractors training and information regarding discrimination and sexual harassment.

.8 Coordinate with City staff and designated City representatives on corrective action deemed necessary for complaints of discrimination and sexual harassment related to the Project.

.9 Coordinate monthly submittal to City staff and designated City representatives of invoices for progress payments to local Pasadena business.

.10 Compile and maintain accurate records of meetings, solicitations, advertisements, and awards so that upon request these will be provided to Owner.

.11 Prepare a final report for the Project, containing:

.1 A summary of efforts made by Contractor and subcontractors during the Project in support of equal opportunity.

.2 An evaluation of the successes and failures of those efforts toward compliance with meeting stated goals.

.3 Submit this report to City staff and designated City representatives by the end of the Project.

.12 Represent the Contractor at governmental meetings to discuss outreach activities, evaluations, and results of the Local Workforce Utilization Plan.

.13 Qualifications of the Outreach Coordinator shall be as follows:

.1 Possession of a baccalaureate degree from an accredited university or college, preferably with main course work in personnel, public, or business administration, social sciences, or a closely related field.

.2 At least three years of professional experience, within the past five years, in an equal opportunity program with major duties in at least three of the following activities.

a. Preparing work force studies and utilization plans.
b. Preparing employment-related outreach recruitment of targeted groups.
c. Coordinating training programs for managers and employees in the areas of Equal Opportunity Employment.
d. Coordinating training programs for managers and employees in the areas of local hiring, discrimination and/or sexual harassment.
e. Investigating, evaluating, and reporting on findings of employment discrimination and complaints of sexual harassment, as well as mediating corrections of identified valid complaints.

.3 Be familiar with and credible to a majority of locally based representative groups.

.4 Additional experience as described above may be substituted for the degree on a year-for-year basis.

.5 Fluency in other languages is desirable but not necessary.

.6 Application is made by written statements which contain the following:

a. Identifying information such as full legal name, current address, date of birth, driver's license number and state of issue, or California Identification Card number.
b. Specific details of the qualifying experience, including names and current telephone numbers of reference individuals.
c. Copies of all above-indicated degrees.
d. Coordinating training programs for managers and employees in the areas of discrimination and/or sexual harassment.
e. Investigating, evaluating, and reporting on findings of employment discrimination and complaints of sexual harassment, as well as mediating corrections of identified valid complaints.
f. Resume shall be submitted to City staff.

§ 15.1.6 Local Workforce Utilization Plan

Contractor shall, at a minimum, do the following:

.1 Contractor to develop a Local Workforce Utilization Plan which incorporates the detailed elements referenced in items A. through D. mentioned above.

.2 Contractor to prepare and submit such work plan to the City and or City Representative for comment and approval.

.3 Local Workforce Utilization Plan should be submitted to the City within 30 days after the Notice to Proceed.

.4 Contractor is to prepare monthly status reports which outline the results of the outreach work effort to date, with detailed information on the programs and level of attendance at each.

.5 Contractor to acknowledge that modifications to the outreach work plan will be required as the Project progresses and until target goals are achieved.

EXHIBIT B

3.68.095 Local employment—Public works contractors.

A. Findings. The City Council of the City of Stockton hereby finds that:

1. Unemployment rates in Stockton have been consistently higher than in California as a whole. Statistics indicate that the higher unemployment level in Stockton correlates to a higher number of families living in poverty and to a higher crime rate.

2. Due to the lack of **local** jobs, much of the work force residing in Stockton is forced to commute long distances to find work, causing increased traffic on state highways, increased pollution, increased use of gas and other fuels and other serious environmental impacts.

3. Because of the shortage of **local** jobs, many residents of Stockton must leave for work very early in the morning and return late in the evening, often leaving children and teenagers alone and unsupervised during the hours between school and the parents return from work outside the area.

4. Absentee parents and unsupervised youth can result in increased problems for families, communities and the City as a whole, including, but not limited to, increased crime, more frequent and more serious injuries, poor homework accomplishments, failing grades and increased high school drop out rates.

5. The City Council of the City of Stockton has concluded that the City needs an expanding employment base and that a policy that encourages contractors who receive City contracts or subsidies to hire residents of Stockton will benefit the City as a whole.

6. Such policy will provide job opportunities to Stockton residents, expand the City's employment base, lessen the drain on public assistance resources and reduce the impacts on the environment caused by high unemployment and long commuting times to jobs outside the area.

B. Declaration of Policy and Purpose.

1. It is the policy of the City of Stockton to ensure full and equitable opportunities for Stockton residents to participate in the employment opportunities that arise from public works contracts.

2. It is also the policy of the City of Stockton to increase the number of employed persons living in the City of Stockton in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist within the City.

3. In furtherance of this policy the City of Stockton has established a **local hiring** program to encourage the **hiring** and retention of Stockton residents for the work to be performed under public works contracts.

C. Scope and Goals.

1. Unless such a provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works or improvements, all City contracts for public works or improvements of estimated value or City subsidy of $100,000.00 or more shall contain provisions pursuant to which the contractor promises to make a good faith effort, with the assistance of **local** labor union **hiring** halls or community organizations designated by the City to employ qualified individuals who are, and have been for one year prior to the effective date of the contract, residents of Stockton in sufficient numbers so that no less than 50 percent of

the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Stockton residents.

2. Unless such provision would conflict with a State or Federal law or regulation applicable to a particular contract for a public works project, all City contracts for a public works project referenced in subsection (1) shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a viable apprenticeship program serving the San Joaquin Valley and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract.

(3) If, in response to a written request made at least **48** hours (excluding Saturday, Sunday and holidays) before the date on which one (1) or more apprentices are required, an apprenticeship program(s) does not dispatch any apprentice or dispatches fewer apprentices than requested to a contractor (that has agreed to employ and train apprentices in accordance with California Labor Code Section 1777.5) within 72 hours of such request (excluding Saturday, Sunday and holidays), that contractor shall be considered in compliance with the apprentice employment requirement for that trade or craft for a 90-day period from the request date, provided the contractor employs those apprentices who are dispatched. Where there is more than one (1) viable apprenticeship program for that trade or craft serving the San Joaquin Valley, a contractor, that is not a participant in or an affiliate of an apprenticeship program and receives fewer apprentices dispatched than requested, shall not be considered in compliance with the apprentice employment requirement unless the contractor has made a written request for the dispatch of apprentices from at least two **(2)** viable apprenticeship programs. A contractor, that is a participant in or an affiliate of an apprenticeship program, shall make dispatch requests to the program in which it is affiliated or participating.

4. In the event that no viable apprenticeship program exists for a particular craft or trade, the contractor shall be exempt from the requirements of this section with regard to that craft or trade.

5. A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio of not less than one (1) apprentice for each five (5) journeymen in the apprenticeship craft or trade classification that are employed on the public work contract unless to do so would result in apprentice employment in ratios below the minimum ratios prescribed by California Labor Code Section 1777.5 in which case apprentice employment shall be at least in the ratios prescribed by California Labor Code Section 1777.5.

6. This section shall not be construed so as to exempt a contractor from any otherwise applicable requirement imposed upon the contractor by the California Labor Code.

D. Good Faith Effort. A bidder or contractor who fails to meet the goal of having 50 percent of its work force be residents of Stockton shall, nevertheless, be deemed to have made a "good faith effort" to hire sufficient numbers of residents of Stockton if, prior to execution of the contract with the City, six *(6)* or more of the following employee recruitment activities have been undertaken and documented:

1. Placing a valid job order for existing and projected position vacancies with the **local** office of the State Employment Development Department, for no less than 10 consecutive calendar days;

2. Placing a valid job order for existing and projected position vacancies with Worknet of San Joaquin County, for no less than 10 consecutive calendar days;

3. Advertising existing and projected position vacancies, job informational meetings, job application workshops, job application centers and job interviews by posting notices which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous **local** authorized public places, including but not limited to the City Hall, schools, post offices, libraries, and senior citizens' centers;

4. Conducting a job informational meeting to inform the community of employment opportunities of

the contractor, to be held at a City or other public facility (may be combined with other contractors);

5. Providing ongoing assistance to Stockton residents in completing job application forms;

6; Conducting a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry, to be held at a City or other public facility (may be combined with other contractors);

7. Establishing a job application center located in the City of Stockton, where job applications may be obtained, delivered to and collected;

8. Conducting job interviews within 10 miles of the location designated for contract performance;

9. Advertising valid existing and projected position vacancies through the **local** media, such as community television network, **local** newspapers of general circulation, and trade papers or minority focus newspapers;

10. Telephone solicitation of known potential **local** subcontractors or employees;

11. Any other means of obtaining employees who are residents of Stockton that are reasonably calculated to comply with the goals of this section.

E. Required Documentation.

1. The contractor shall keep, and provide to the City, on standardized forms acceptable to the City, an accurate record showing the name, place of residence, hours employed and per diem wages and benefits of each person employed by the contractor, and the contractor's subcontractors, on the specific public works project, including full-time, part-time, permanent and temporary employees.

2. The contractor shall keep, and provide to the City, on forms acceptable to the City, an accurate record documenting the contractor's good faith efforts to comply with the **local** resident employment and apprentice employment provisions of this section. Said records shall include: a listing by name and address of all **local** recruitment sources contacted by the contractor; the date of the **local** recruitment contact and the identity of the person contacted; the trade and classification and number of employment referrals requested; the number of **local** residents employed **as** a result of the contact; and the identity and address of the person(s) employed pursuant to the contact.

F. Forms Submitted Under Penalty of Perjury. All forms required under this section shall attest to the veracity of the information set forth therein and shall be submitted under penalty of perjury.

G. Irresponsible Bidder Declaration. Should any contractor or subcontractor fail to abide by the good faith **local** resident employment and apprentice employment provisions of this section, the contractor or subcontractor may be declared by the City to be an irresponsible bidder on future projects pursuant to Section 3.72.010 of this code.

H. Binding on Subcontractors. The good faith **local** resident employment and apprentice employment provisions of this section shall bind the contractor both with respect to persons employed directly by the contractor and to all persons employed by the contractor's subcontractors. The contractor shall be responsible for assuring that all subcontractors document said compliance by submitting, and making available to the City, the forms required by this section.

I. Definitions. As used in this section, the following terms shall have the following definitions:

"Contract for public works or improvement" means any contract with the City for construction, alteration, demolition or repair work.

"Qualified individual" means an individual who is in a certified State or Federally approved apprenticeship program in an applicable trade or has become a journeyperson in his or her applicable trade.

"Resident of Stockton" means an individual who has been domiciled, as defined by Section 200(b) of the

California Elections Code, within the boundaries of Stockton for at least one (1) year immediately preceding the date of the award of contract by the City and who can verify his or her domicile upon request of the contractor or City by producing documentation such as a rent/lease agreement, telephone and utility bills or payment receipts, a valid California driver's license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within Stockton. For the purposes of this section, the following Zip Code areas are considered to be within Stockton: 95202,95203,95204,95205,95206,95207,95209,95210,95212,95215 and 95219.

"Viable apprenticeship program" means an apprenticeship program approved by the California Department of Apprenticeship Standards that has graduated apprentices annually for at least the past five (5) years. Any apprenticeship program that has been approved for less than 10 years shall be deemed a viable apprenticeship program provided that, following the fifth anniversary of its approval by the California Department of Apprenticeship Standards, it graduates apprentices each subsequent year.

J. Contracts – Bid Documents – Subcontracts.

1. Contracts and bid documents shall incorporate this section by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contract or subcontract.

2. All subcontracts shall expressly acknowledge the City's status as a third party beneficiary to that subcontract and further expressly acknowledge that the City, as a third party beneficiary, shall have the right to enforce the provisions of this section with regard to that subcontract or seek remedies available under this section should a party to the subcontract fail to comply with any of the provisions of this section that apply to the subcontract.

3. Contracts and bid documents shall require bidders, contractors and subcontractors to maintain records necessary for monitoring their compliance with this section.

K. Exceptions. The provisions of this section shall not apply:

1. Where the City determines that the contract is necessary to respond to a declared emergency which endangers the public health, welfare or safety and there is no time to apply the provisions of this section.

2. To City construction contracts or portions thereof, wherein the work is of a highly specialized nature as determined by the City Council when the contract specifications are approved. (Ord. 011-09 § 1, eff. 10-01-09)

Randi Johl

From: Randi Johl
Sent: Wednesday, January 19,2011 1:11 PM
To: Randi Johl
Subject: SRBX- Item 1-01- Strongly Opposed

From: Scott Whyte [mailto:scott@sacregionbx.com]
Sent: Wednesday, January 19,2011 12:38 PM
To: Alan Nakanishi; Phil Katzakian; Larry Hansen; JoAnne Mounce; Bob Johnson; Randi Johl
Subject: SRBX- Item I-01- Strongly Opposed

TO: Honorable Mayor Johnson and Councilmembers

FROM: Sacramento Regional Builders Exchange

DATE: January 19,2011

RE: **Item I-01- Strongly Opposed**

The Sacramento Regional Builders Exchange (SRBX), a commercial construction trade association representing over 3,000 member businesses, strongly opposes the drafting of a "local hire Ordinance" in the City of Lodi.

We agree that hiring local people is a noble goal, and an objective our organization works towards every day. However, trying to accomplish this goal in this manner has many drastic and serious flaws, which City Staff acknowledges within its report. Mandating construction companies to hire 50% of their workers locally is a high public safety risk. In a City of relatively small population, companies will be forced to hire residents who do not have the qualifications or safety training just to meet a city imposed quota.

The employing of people based on their residence and not the content of their character/qualifications is of violation of the United States Constitution (Equal Protection Clause, Commerce Clause). Not only will this practice invite a plethora of expensive law suits, but it will also drive up costs on projects because construction firms will be strictly limited from hiring the best available workforce. The outreach City Staff did with local construction companies underlines this concern.

We suggest a strong alternative that accomplishes the same goal, a "Regional Bid Preference". Regional Bid Preference is based on "local regional companies" no: "local individual workers". Secondly, it broadens the region to include multiple counties to ensure the City obtains enough qualified companies and workers for all bidding jobs. This will eliminate the public safety risk, cost less and keep tax dollars/wages local, and help employ workers within the region.

We urge Honorable Councilmembers to reject the formation of a restrictive local hire ordinance. However, see the pursuit of a "regional bid preference" as a favorable alternative.

Thank you for your time and consideration.

Sincerely,

Scott Whyte
Political Director
Sacramento Regional Builders Exchange
P: (916) 442-8991
F: (916) 446-3117

Attachment B

AGENDA ITEM I-1

CITY OF LODI
COUNCIL COMMUNICATION
™

AGENDA TITLE: Consider Introducing Ordinance Amending Lodi Municipal Code Chapter 3.20 – Purchasing System by Adding Section 3.20.106 "Local Hire Policy and Apprenticeship"

MEETING DATE: February 1, 2012

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Consider Introducing Ordinance Amending Lodi Municipal Code Chapter 3.20 – Purchasing System by adding Section 3.20.106 "Local Hire Policy and Apprenticeship."

BACKGROUND INFORMATION: On January 19, 2011, Council directed staff to return with a draft local hire ordinance following the San Joaquin County model after seeking input from contractors who have done business with the City of Lodi. Staff forwarded the attached draft in October 2011 and only received the one attached positive response.

The ordinance requires contractors to make a good faith effort to hire local labor on projects over $200,000 and submit a declaration outlining their efforts to so hire. Good faith efforts include posting vacancies with the State Employment Development Department, advertising at Worknet, providing local job fairs, conducting local interviews, and local advertising.

Accordingly, staff recommends that the City Council consider introducing the attached Ordinance entitled "Local Hire Policy and Apprenticeship."

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable

Stephen Schwabauer
City Attorney

APPROVED:
Konradt Bartlam, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE CHAPTER 3.20 – PURCHASING SYSTEM BY ADDING SECTION 3.20.106 "LOCAL HIRE POLICY AND APPRENTICESHIP"

==========

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Chapter 3.20 – Purchasing System is hereby amended by adding Section 3.20.106, "Local Hire Policy and Apprenticeship" to read as follows:

3.20.106 Local Hire Policy and Apprenticeship

A. Generally:

The City of Lodi suffers economically as evidenced by unemployment rates, and the Lodi City Council supports improving the economic well being of the City by increasing employment opportunities for citizens of Lodi and the surrounding communities.

The City of Lodi periodically awards construction contracts, which employ significant numbers of employees in various trades and many City and San Joaquin County residents possess the skills required of such construction efforts and are in need of employment.

B. Local Hire:

1. Bidders on construction projects shall complete a Bidder Local Hire Information Form and Checklist. The Form shall be submitted with all construction bids in excess of $200,000, which indicates the bidder's effort to employ local hire. A copy of the Local Hire Information Form and Checklist is attached as Exhibit A and shall be included in all bid packages with an Engineers Estimate over $200,000. Unless this provision conflicts with a state law, federal law, regulation or funding requirement, bidders who fail to establish a good faith local hire effort shall be rejected as non-responsive.

2. In the event that two or more bids are the same and the lowest, the City shall award the contract to the bidder that made the most significant effort to employ local residents as indicated on the bidder Local Hire Information form.

C. Local Apprenticeship Program

Unless the provision would conflict with a state law, federal law, regulation or funding requirements applicable to a particular contract for a public works project, City contracts for public works in excess of $200,000 shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a apprenticeship program serving the San Joaquin Valley and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor shall evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking apprentices from apprenticeship programs serving San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio

consistent with the provisions of the California Labor Code.

This section shall not be construed to exempt a contractor from any otherwise applicable requirement imposed upon the contractor by federal or state law.

Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ___day of _____, 2012.

_____
JOANNE L. MOUNCE
Mayor

Attest:

_____
RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held February 1, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

_____
RANDI JOHL
City Clerk

Approved as to Form:

_____
D. STEPHEN SCHWABAUER
City Attorney

EXHIBIT A

BIDDER LOCAL HIRE
INFORMATION FORM AND CHECKLIST

Bidders are required to complete and submit this Form and Checklist with their bid

Project Name:

_____

_____

Bidder's Name:

_____

_____
Address

_____

Bid Opening Date:_____

LOCAL HIRE INFORMATION	YES	NO
Contractor agrees to attempt to employ local hire in their workforce and the workforce of their subcontractors.		
Contractor agrees to purchase at least one display ad in a newspaper of general circulation in San Joaquin County announcing job opportunities on the construction project and encouraging local residents to apply.		

Contractor intends to secure his workforce from the following sources (please describe):

_____

_____

_____

_____

LOCAL HIRE INFORMATION CHECKLIST
CITY OF LODI

Please check all boxes that apply:

☐ Placed a valid job order for existing and projected position vacancies with the local office of the State Employment Development Department, for no less than 10 consecutive calendar days.

☐ Placed a valid job order for existing and projected position vacancies with Worknet of San Joaquin County, for no less than 10 consecutive calendar days.

☐ Advertised existing and projected position vacancies, job informational meetings, job application workshops, and job interviews by posting notices which identify the position(s) to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous local authorized public places, including but not limited to post offices and libraries.

☐ Conducted a job informational meeting to inform the community of employment opportunities of the contractor (may be combined with other contractors).

☐ Provided ongoing assistance to residents of Lodi and San Joaquin County in completing job application forms.

☐ Conducted a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry (may be combined with other contractors).

☐ Conducted job interviews within Lodi and San Joaquin County.

☐ Advertised valid existing and projected position vacancies through the local media, such as community television network, local newspapers of general circulation, and trade papers or minority focus newspapers.

☐ Any other means of obtaining employees who reside within Lodi and San Joaquin County that are reasonably calculated to comply with the goals of this policy. Please describe:

_____

_____

Please provide supporting documentation for all boxes checked. Sign and submit form and checklist with your bid.

I declare the above information is true and accurate and submitted under penalty of perjury.

By my signature below, I acknowledge that I have met the requirements of the City's local Hire Policy.

_____ _____

Owner/Authorized Representative (Signature) Name of firm

_____ _____

Name and Title (Print)

Construction Contract Documents
Instructions to Bidders

Proposed language to be included in the Construction Contract Documents

INSTRUCTIONS TO BIDDERS

Bids: Bids, to receive consideration, shall be made in accordance with the following instructions.

Local Hire: The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy. Bidder's attention is directed to the following provisions relating to this policy:

a. For purposes of this policy only, the definition of contractor is limited to the total workforce of the prime or principal contractor and all subcontractors who will work in San Joaquin County under the construction contract.

b. A "local hire" is defined as an employee whose residence is within San Joaquin County at the time of opening of bids for the project.

c. Bidders are to complete the "Bidder Local Hire Information Form and Checklist".

With respect to application of the local hire policy, bidders attention is directed to the following:

1. The Lodi City Council hereby adopts a policy to strongly encourage, within the constraints of federal and state law, the employment of County residents on City funded construction projects.

2. Bidders on construction projects will be required to complete a Local Hire Information Form to be submitted with construction bids in excess of $200,000, which indicates the bidder's effort to employ local hire.

3. In the event that two or more bids are the same and the lowest, the City shall award the contract in accordance with the best intended effort of the bidder to employ local residents as indicated on the bidder Local Hire Information Form.

    a. Contracts estimated by the City to be less than $200,000 do not have a local hire goal.

    b. Contracts estimated by the City to cost $200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.

Apprenticeship Program:

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works project, City contracts for public works in excess of $200,000 shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a apprenticeship program serving the San Joaquin County and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor may evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking

apprentices from apprenticeship programs serving the San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio consistent with the provisions of the California Labor Code or Federal requirements as applicable for federal aid contracts. This section shall not be construed to exempt a contractor from any other applicable requirement imposed upon the contractor by federal or state law.

Construction Contract Documents Instructions to Bidders

Proposed language to be included in the Notice Inviting Bids

NOTICE INVITING BIDS

The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy.

a. Contracts estimated by the City to be less than $200,000 do not have a local hire goal.

b. Contracts estimated by the City to cost $200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.

Attachment C

Chapter 3.20 PURCHASING SYSTEM [1]

Sections:

3.20.010 Purpose.
3.20.015 Definitions.
3.20.020 Purchasing officer—Established.
3.20.030 Purchasing officer—Powers.
3.20.040 Delegation of purchasing authority.
3.20.045 State and local agency contracts.
3.20.060 Requisitions.
3.20.070 Bidding.
3.20.075 Professional/technical services contracts.
3.20.076 Contract authority.
3.20.077 Electronic hardware and software.
3.20.080 Purchase orders.
3.20.085 Professional services agreements.
3.20.090 Use of unencumbered funds required.
3.20.095 State and federal grants.
3.20.100 Formal contract procedure.
3.20.105 Public works projects.
3.20.106 Local hire policy and apprenticeship.
3.20.110 Open market procedure.
3.20.115 Split transactions.
3.20.120 Inspection and testing of purchases.
3.20.130 Vehicle purchases and disposition exemption.
3.20.135 Procurement cards.
3.20.140 Restrictions.
3.20.150 Penalty for violation.

3.20.010 Purpose.

In order to establish efficient procedures for the purchase of supplies, services, and equipment, to secure for the city supplies, services, and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases, the city's purchasing system is set forth in this chapter.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.015 Definitions.

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

A.

"Best value" is associated with determining the greatest worth and benefit to the city based on a number of factors, including

1. Cost;
2. Quality of the product or service;
3. Delivery lead time;
4. Ability of the manufacturer or contractor to provide services, supplies, or equipment as required, and parts, repairs, maintenance and support after the sale;
5. The character, integrity, reputation, judgment, and experience of the manufacturer, contractor, or supplier.

B. "Bid" may mean a competitive sealed (formal) bid processed in accordance with Section 3.20.100, or an informal bid processed in accordance with Section 3.20.110 herein.

C. "Contract" means a written or oral agreement to expend money on a product or service including but not limited to purchase orders, formal contracts, invoices, and oral orders.

D. "Department" or "using department" means any of the departments of the city government.

E. "Emergency" shall mean an unforeseen circumstance or combination of circumstances calling for immediate action to procure materials, supplies, equipment, or services in order to make repairs, safeguard lives or property, or maintain public health or welfare, as a result of extraordinary conditions created by war, disease, weather, fire, or other catastrophic or unforeseen occurrence, or imminent or actual failure of any plant, equipment, structure, street, or public work.

F. "Equipment" shall mean items of property which are maintained on inventory as fixed assets. These items are durable and have a fixed, predetermined life expectancy.

G. "Professional services," as used in this section, shall mean all services which (1) are of an advisory nature, (2) provide a recommended course of action or personal expertise, or (3) have an end product which is basically a transmittal of information either written or verbal and which is related to the governmental functions of city administration and management and city program management or innovation, and which are obtained by awarding a services contract, a grant, or any other payment of funds for services of the above type. In general, "Professional services" are provided by qualified professionals in such disciplines as accounting, architectural, engineering, environmental, financial, legal, and medical fields.

H. "Professional services agreement" means the agreement entered into between the service provider and the city for services, as opposed to goods and materials, in a form created by the city attorney.

I. "Public project" shall mean a project for the erection, improvement, painting, or repair of public buildings and works; work in or about streams, rivers, lakes, or embankments for protection against overflow; street, sewer, water, and electrical distribution system work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers. (Public Contract Code § 20161)

J. "Purchases" shall mean legal transactions (including lease and rental) by which the city acquires supplies, equipment, materials, and contractual services.

K.

"Purchasing authority" shall mean any department head authorized to purchase or otherwise enter into contracts for the city under provisions of Part 3.20.040 herein.

L. "Procurement cards" shall mean bank issued credit cards assigned to positions specified by resolution of the city council.

M. "Responsible bid" shall mean an offer, submitted by a responsible bidder to furnish supplies, equipment, materials, or services in conformity with the bid instructions, specifications, delivery terms and conditions, and other requirements contained in the Invitation for Bids.

N. "Responsible bidder" shall mean a bidder who is financially responsible and has the resources, judgment, skill, ability, capacity, integrity, and reliability required and necessary to perform the requirements set forth in the bids, and which will assure good faith performance.

O. "Responsive bid" is a bid that conforms in all material respects to the invitation for bids.

P. "Services" shall mean the furnishing of labor, time, or effort performed by specially trained and experienced persons, firms, or corporations rendering professional work and advice in such disciplines as the maintenance or repair of buildings or grounds, equipment or machinery, or other city-owned or operated property. Such term shall not include services rendered by city officers or employees, nor professional or technical services as defined elsewhere in this section.

Q. "Shall" denotes the imperative.

R. "Supplies" shall mean property, including but not limited to materials, required to perform a department's routine functions.

S. "Technical services" shall mean design, installation, diagnostic, or repair services for electrical, electronic, data/telecommunications, mechanical, and/or control systems and their components. These services are distinguished from general repair and maintenance services by their requirements for technical training and/or professional certification.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.020 Purchasing officer—Established.

There is established the position of purchasing officer. The purchasing officer shall be appointed by the city manager and shall be the head and have general oversight of the purchasing functions of the city. The duties of the purchasing officer may be combined with those of any other office or position.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.030 Purchasing officer—Powers.

The purchasing officer shall have the responsibility and authority to:

A. Purchase or contract for supplies, services, and equipment required by any city department in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the purchasing officer shall adopt for the internal management and operation of the purchasing function of the city and such other rules and regulations as shall be prescribed by the city council or city manager;

B.

Negotiate and recommend execution of contracts for the purchase of supplies, services, and equipment;

C. Act to procure for the city the needed quantity and quality in supplies, services, and equipment at least expense to the city;

D. Discourage uniform bidding (wherein bidders conspire to submit the same cost for a given job or tangible item), and endeavor to obtain as full and open competition as possible on all purchases;

E. Prepare rules governing the purchase of supplies, services, and equipment for the city;

F. Prepare and recommend to the city council revisions and amendments to this chapter;

G. Keep informed of current developments in the field of purchasing, prices, market conditions, and new products;

H. Prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations;

I. Oversee the inspection of all supplies, services, and equipment purchased to insure conformance with specifications;

J. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any department or which may become unsuitable for city use;

K. Maintain a bidders' list, vendors catalog file, and records necessary for the efficient operation of the purchasing function;

L. The foregoing responsibilities and authorities may be delegated by the purchasing officer to departmental purchasing authorities (as defined herein) under this purchasing policy.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.040 Delegation of purchasing authority.

The city manager, in accordance with Lodi Municipal Code Section 2.12.060(T), may authorize in writing any department head (hereinafter "purchasing authority") to purchase or contract for, or to delegate to qualified staff members the authority to purchase or contract for specified supplies, services, and equipment independently; but shall require that such purchases or contracts be made in conformity with the procedures established by this chapter, and shall further require periodic reports from the department on the purchases and contracts made under such written authorization.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.045 State and local agency contracts.

The bidding process described in this chapter may be waived when advantageous for the city and authorized by the city manager for purchase of supplies, equipment, or contractual services awarded in accordance with formally adopted bidding or negotiation procedures approved by the governing boards of other California public agencies. Purchases or contracts in excess of twenty thousand dollars shall require the approval of the city council.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.060 Requisitions.

City departments shall submit requests for supplies, services, and equipment to the purchasing officer, or designee, electronically or by standard requisition forms, for the purposes and within the limits of funds appropriated therefore.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.070 Bidding.

Purchases of supplies, services, equipment, and the sale of personal property shall be by bid procedures pursuant to Sections 3.20.100 and 3.20.110. Bidding shall be dispensed with only (1) bid in cases of emergency as defined in this chapter, and therefore requires that an order be placed with the best available source of service or supply, (2) when the amount involved is less than two thousand five hundred dollars (but competitive quotes shall be obtained if it is in the city's best interest to do so), (3) when the commodity can be obtained from only one vendor, due to (a) product standardization by resolution of the city council, or (b) need for branded replacement parts or supplies for equipment of like brand; (4) when professional or technical requirements preclude competitive bidding, pursuant to Section 3.20.075 of this chapter, or (5) when the city council determines that the purchase or method of purchase would be in the best interests of the city.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.075 Professional/technical services contracts.

The following professional services contracts are specifically exempt from the advertising and bidding requirements of Section 3.20.070:

Contracts for:

1. Legal defense, legal advice, or legal services;
2. Architectural and engineering services, including, but not limited to construction management, aerial photography, laboratory, and material testing services;
3. Accounting and financial services;
4. Real estate appraisals;
5. Transportation services consultants;
6. Safety, environmental, or hazardous material consultants;
7. Workshops, seminars, and conferences;
8. Computer consulting services.

Such contracts shall be awarded on the basis of professional qualifications and experience, quality of service, past performance, and negotiated prices.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.076 Contract authority.

The city manager shall have the contracting authority set forth in Section 2.12.060(T) of this code.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.077 Electronic hardware and software.

Acquisition of electronic hardware and software shall be by negotiation, requests for proposal, or competitive bids, and award shall be based on 'best value' criteria as established by Section 3.20.15, under direction of the information systems manager, and set forth in the terms of the negotiation, Request for Proposals, or bid. Alternatively, purchase of electronic hardware and software may be made in accordance with Section 3.20.045. Electronic software purchases shall also be made in accordance with the City of Lodi Administrative Polices - Information Systems - Section 5 Software Selection and Acquisition.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.080 Purchase orders.

Purchases of supplies and equipment in an amount of two thousand five hundred dollars or more shall be made only by written contract or by purchase orders. Purchase orders should not be used to procure services, except as noted in Section 3.20.085.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.085 Professional services agreements.

Services, as opposed to goods or materials, shall be procured using a professional services agreement as created, and revised as needed, by the city attorney. Purchase orders, with the appropriate terms, conditions, and insurance requirements, may be used in lieu of a professional services agreement when the nature of the service is that of a one-time service. On-going, recurring services shall be procured using a professional services agreement.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.090 Use of unencumbered funds required.

Except in cases of emergency, the purchasing officer or purchasing authority shall not issue any purchase order or otherwise contract for supplies, services, or equipment unless there exists an unencumbered appropriation in the fund account against which the purchase is to be charged.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.095 State and federal grants.

Where a procurement involves the expenditure of state or federal grant funds the procurement process shall comply with such state or federal laws and authorized regulations which are mandatorily applicable and which are not presently reflected in this code.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.100 Formal contract procedure.

Purchases of supplies, equipment, contractual services, public projects, and sales of personal property of an estimated value greater than twenty thousand dollars shall follow the formal contract procedure:

A. Specifications and plans shall be subject to review and approval by the city council prior to the solicitation of bids.

B. The advertisement for bids will be conducted as provided for in the Government Code.

C. Notice Inviting Bids. Notice inviting bids shall include a general description of the articles to be purchased or sold, or work to be performed, and shall state where bid forms and specifications may be secured and the time and place for opening of bids.

1. Published Notice. Notice inviting bids shall be published at least ten calendar days before the date of opening of the bids. Notice shall be published at least once in a newspaper of general circulation, printed and published in the city, or if there is none, it shall be posted in at least three public places in the city that have been designated by ordinance as the places for posting public notices.

2. Bidders' List. The purchasing officer shall also solicit sealed bids from all responsible prospective suppliers whose names are on the bidders' list.

3. Internet Posting. The purchasing officer may also advertise pending bids for purchases or sales on the city's web page.

D. Bidder's Security. When required by law or deemed necessary by the purchasing officer, bidder's security may be prescribed in the notice inviting bids. Bidders shall be entitled to the return of their bid security; except that a successful bidder shall forfeit all or part of his or her bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is responsible for the delay. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. Thereafter, if the city council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

E. Bid Opening Procedure. Sealed bids shall be submitted to the purchasing officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be available for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.

F. Rejection of Bids. In its discretion, the city council may reject any and all bids presented and, if it is in the city's best interest to do so, readvertise for bids.

G. Award of Contracts. After evaluation of bids, contract shall be awarded by the city council to the lowest responsible bidder except as otherwise provided in this chapter. In determining the lowest responsible bid, considerations shall include but not be limited to such factors as (1) whether any portion of the state sales tax payable on the article which is the subject of the bid will be rebated to the city by reason of awarding such contract to a person or firm domiciled within the city, (2) total life-cycle costs, and/or (3) residual value.

H. Tie Bids. If two or more bids received are for the same total amount or unit price, with quality, service, and factors considered in Section 3.20.100(E) above, being equal and if the public interest will not permit the delay of readvertising for bids, the city council may accept the lowest bid determined by toss of a coin performed at a time as soon after the bid opening as is possible.

I. Performance Bond. The city council shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessity to protect the best interests of the city. If the city council requires a performance bond, the form and amount of the bond shall be described in the bidding documents.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.105 Public works projects.

Public works projects in excess of five thousand dollars shall be bid pursuant to the procedures of the Public Contracts Code Section 20162). Public works projects under twenty thousand dollars may be advertised for and contracted by staff as authorized under this chapter. Public works contracts over twenty thousand dollars shall be approved by council. Public works project bid disputes, rejections, and other exceptions shall be agendized for council action regardless of contract value.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.106 Local hire policy and apprenticeship.

A. Generally. The city of Lodi suffers economically as evidenced by unemployment rates, and the Lodi city council supports improving the economic well being of the city by increasing employment opportunities for citizens of Lodi and the surrounding communities.

The city of Lodi periodically awards construction contracts, which employ significant numbers of employees in various trades, and many city and San Joaquin County residents possess the skills required of such construction efforts and are in need of employment.

B. Local Hire:

1. Bidders on construction projects shall complete a bidder local hire information form and checklist. The form shall be submitted with all construction bids in excess of two hundred thousand dollars, which indicates the bidder's effort to employ local hire. A copy of the local hire information form and checklist is attached [by reference] as exhibit A and shall be included in all bid packages with an engineer's estimate over two hundred thousand dollars. Unless this provision conflicts with a state law, federal law, regulation, or funding requirement, bidders who fail to establish a good faith local hire effort shall be rejected as non-responsive.
2. In the event that two or more bids are the same and the lowest, the city shall award the contract to the bidder that made the most significant effort to employ local residents as indicated on the bidder local hire information form.

C. Local Apprenticeship Program. Unless the provision would conflict with a state law, federal law, regulation, or funding requirements applicable to a particular contract for a public works project, city contracts for public works in excess of two hundred thousand dollars shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in an apprenticeship program serving the San Joaquin Valley and approved by the state department of apprenticeship standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor shall evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking apprentices from apprenticeship programs serving San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio consistent with the provisions of the California Labor Code.

This section shall not be construed to exempt a contractor from any otherwise applicable requirement imposed upon the contractor by federal or state law.

(Ord. No. 1857, § 1, 2-15-2012)

Editor's note—

It should be noted that exhibit A is not set out at length herein but is on file and available for inspection in the office of the city clerk.

3.20.110 Open market procedure.

Purchases of supplies, equipment, contractual services and sales of personal property of an estimated value in the amount of twenty thousand dollars or less may be made in the open market without observing the formal contract procedure prescribed by Section 3.20.100.

A. Minimum Number of Informal Bids or Quotations. Open market purchases shall, wherever possible, be based on at least three informal bids or quotations, and shall be awarded to the lowest responsible bidder.

B. Request for Quotations. The purchasing officer or purchasing authority shall solicit informal written bids or quotations from prospective vendors by written request, by telephone or by electronic data interchange. Quotations or informal bids shall be in writing for amounts greater than two thousand five hundred dollars.

C. Quotations and written informal bids shall be submitted to the requestor, who shall keep a record of all quotations, bids, and open market orders for a period of one year after the submission of quotations or the placing of orders. This record, while so kept, shall be open to public inspection.

D. The purchasing officer or purchasing authority may reject any and all informal bids, offers and quotations when, in his or her discretion, it shall be in the best interest of the city to do so.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.115 Split transactions.

No person shall willfully split a single transaction into two or more transactions for the purposes of evading the bidding requirements of this section. (Public Contract Code § 10329, 20163)

(Ord. No. 1849, § 2, 9-7-2011)

3.20.120 Inspection and testing of purchases.

The purchasing officer or purchasing authority shall assure the inspection of supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications set forth in the order or contract. The purchasing officer shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.130 Vehicle purchases and disposition exemption.

The purchase and disposition of fleet vehicles and other specific equipment governed by the city's fleet policies and procedures, as adopted by resolution of the city council, is exempt from the provisions of this chapter.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.135 Procurement cards.

The city council shall select a vendor to provide procurement cards for use by city staff. Purchases in accordance with this policy shall be authorized to be paid for with such cards. The city council shall approve issuance of procurement cards to specified staff positions by resolution for the efficient operations of the city. Authorized limits for individual and aggregate transactions shall be in accordance with the transaction and contract limits set forth in this chapter. The purchasing officer shall be responsible for preparing rules and procedures governing the use of procurement cards.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.140 Restrictions.

If any department purchases or contracts for any supplies, equipment or contractual services made contrary to the provisions of this chapter, the purchase or contract shall be void and of no effect. The head of the department making the purchase transaction shall be personally liable for the amount of the purchase or contract, or, if already paid for out of city funds, the amount thereof may be recovered in the name of the city in appropriate action therefore.

(Ord. No. 1849, § 2, 9-7-2011)

3.20.150 Penalty for violation.

Any person who violates, or permits a violation of this chapter is guilty of an infraction which may be punishable as provided in Chapter 1.08 of this code.

(Ord. No. 1849, § 2, 9-7-2011)

FOOTNOTE(S):

--- (1) ---

Editor's note—*Ord. No. 1849, § 2, adopted Sept. 7, 2011, repealed the former Ch. 3.20, §§ 3.20.010—3.20.150, and enacted a new Ch. 3.20 as set out herein. The former Ch. 3.20 pertained to similar subject matter and derived from Ord. 1763, § 2(part), adopted 2005.* *(Back)*

Attachment D

MEMORANDUM, City of Lodi, Public Works Department

To: Interim City Manager

From: Public Works Director

Date: April 15, 2014

Subject: Contracting Services With Local Businesses

At the February 11, 2014 meeting, the following request for information was logged by the City Clerk.

Council Member Johnson, in concurrence with Mayor Pro Tempore Hansen and Council Member Mounce, requested information regarding utilizing local businesses for City projects, power washing or repainting downtown areas, and bidding for the Hutchins Street Square carpet replacement project.

The City Council adopted a local hire ordinance encouraging City contractors to employ local workers. An excerpt of the Local Hire Information Form and Checklist is provided below. A copy of the form is provided as Attachment A. The Local Hire Ordinance text can be found in LMC Section 3.20.106. Local businesses are defined as businesses within the County as specified in the local hire ordinance. Council adopted a local hire ordinance in 2012. As indicated in the City Attorney's staff report provided in Attachment B leading up to the ordinance, local mandates or preferences are subject to legal challenge.

Local Hire: The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy. Bidder's attention is directed to the following provisions relating to this policy:

a. For purposes of this policy only, the definition of contractor is limited to the total workforce of the prime or principal contractor and all subcontractors who will work in San Joaquin County under the construction contract.

b. A "local hire" is defined as an employee whose residence is within San Joaquin County at the time of opening of bids for the project.

c. Bidders are to complete the "Bidder Local Hire Information Form and Checklist".

Lodi Purchasing Requirements are located in the LMC Section 3.20. A summary of the Purchasing Requirements is provided in Attachment C. A summary is provided below.

Purchases up to $2,500	Bidding is discretionary	Department approval
Purchases $2,500 - $10,000	Three written quotes required	Department approval
Purchases $10,000 - $20,000	Three written quotes required	City Manager approval
Purchases over $20,000	Formal bid process	Council approval
Public Works Projects $5,000 - $15,000	Formal bid process	Department approval
Public Works Projects over $15,000	Formal bid Process	Council approval

Bidding for the Hutchins Street Square carpet replacement project would need to follow the purchasing procedures for a project expected to cost more than $20,000. The Hutchins Street Square Foundation is providing approximately one-half of the funding for the new carpet and has firmly requested the new carpet match the old carpet. The old carpet was a custom weave and special "casino" grade carpet. To insure a carpet specialist was contracted to do this project, staff deferred to the US Communities contracting service and selected the company, Empire Today, that recently completed the City Hall carpet replacement project. The rationale is that City staff are not specialists in carpet replacement projects and inexperienced in preparing technical specifications for this type of work.

Regarding the cleaning of the downtown area sidewalks, the former City Manager advised this activity had been the responsibility of the DLBP and was now the responsibility of the Visit Lodi group that took on the other DLBP activities. The City contracts for regular cleanup of the downtown streets and sidewalk using United Cerebral Palsy teams. It is not advisable to paint the downtown sidewalks as this would create a worse maintenance condition than bare concrete.

A listing of projects awarded to local contractors by various Public Works divisions over the past three years is provided in Attachment D. Other departments were not surveyed to determine their projects awarded to local contractors.

Please let me know if you have any questions.

F. Wally Sandelin
Public Works Director

FWS/pmf

Attachments

Attachment A

EXHIBIT A

BIDDER LOCAL HIRE
INFORMATION FORM AND CHECKLIST

Bidders are required to complete and submit this Form and Checklist with their bid

Project Name:

_____

_____

Bidder's Name:

_____

_____
Address

_____

Bid Opening Date:_____

LOCAL HIRE INFORMATION	YES	NO
Contractor agrees to attempt to employ local hire in their workforce and the workforce of their subcontractors.		
Contractor agrees to purchase at least one display ad in a newspaper of general circulation in San Joaquin County announcing job opportunities on the construction project and encouraging local residents to apply.		

Contractor intends to secure his workforce from the following sources (please describe):

_____

_____

_____

_____

LOCAL HIRE INFORMATION CHECKLIST
CITY OF LODI

Please check all boxes that apply:

☐ Placed a valid job order for existing and projected position vacancies with the local office of the State Employment Development Department, for no less than 10 consecutive calendar days.

☐ Placed a valid job order for existing and projected position vacancies with Worknet of San Joaquin County, for no less than 10 consecutive calendar days.

☐ Advertised existing and projected position vacancies, job informational meetings, job application workshops, and job interviews by posting notices which identify the position(s) to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous local authorized public places, including but not limited to post offices and libraries.

☐ Conducted a job informational meeting to inform the community of employment opportunities of the contractor (may be combined with other contractors).

☐ Provided ongoing assistance to residents of Lodi and San Joaquin County in completing job application forms.

☐ Conducted a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry (may be combined with other contractors).

☐ Conducted job interviews within Lodi and San Joaquin County.

☐ Advertised valid existing and projected position vacancies through the local media, such as community television network, local newspapers of general circulation, and trade papers or minority focus newspapers.

☐ Any other means of obtaining employees who reside within Lodi and San Joaquin County that are reasonably calculated to comply with the goals of this policy. Please describe:

_____

_____

Please provide supporting documentation for all boxes checked. Sign and submit form and checklist with your bid.

I declare the above information is true and accurate and submitted under penalty of perjury.

By my signature below, I acknowledge that I have met the requirements of the City's local Hire Policy.

_____ _____

Owner/Authorized Representative (Signature) Name of firm

_____ _____

Name and Title (Print)

Construction Contract Documents
Instructions to Bidders

Proposed language to be included in the Construction Contract Documents

INSTRUCTIONS TO BIDDERS

Bids: Bids, to receive consideration, shall be made in accordance with the following instructions.

Local Hire: The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy. Bidder's attention is directed to the following provisions relating to this policy:

a. For purposes of this policy only, the definition of contractor is limited to the total workforce of the prime or principal contractor and all subcontractors who will work in San Joaquin County under the construction contract.

b. A "local hire" is defined as an employee whose residence is within San Joaquin County at the time of opening of bids for the project.

c. Bidders are to complete the "Bidder Local Hire Information Form and Checklist".

With respect to application of the local hire policy, bidders' attention is directed to the following:

1. The Lodi City Council hereby adopts a policy to strongly encourage, within the constraints of federal and state law, the employment of County residents on City funded construction projects.

2. Bidders on construction projects will be required to complete a Local Hire Information Form to be submitted with construction bids in excess of $200,000, which indicates the bidder's effort to employ local hire.

3. In the event that two or more bids are the same and the lowest, the City shall award the contract in accordance with the best intended effort of the bidder to employ local residents as indicated on the bidder Local Hire Information Form.

    a. Contracts estimated by the City to be less than $200,000 do not have a local hire goal.

    b. Contracts estimated by the City to cost $200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.

Apprenticeship Program:

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works project, City contracts for public works in excess of $200,000 shall contain provisions pursuant to which each contractor or subcontractor shall make a good faith effort to employ apprentices who are enrolled in and participating in a apprenticeship program serving the San Joaquin County and approved by the State Department of Apprenticeship Standards. This apprenticeship requirement shall apply for each apprenticable craft or trade in which the contractor employs workers in performing any of the work under the contract. A contractor may evidence its good faith effort by complying with California Labor Code Section 1777.5 and the implementing regulations and seeking apprentices from apprenticeship programs serving the San Joaquin County.

A contractor employing apprentices pursuant to this section shall employ apprentices in a ratio consistent with the provisions of the California Labor Code or Federal requirements as applicable for federal aid contracts. This section shall not be construed to exempt a contractor from any other applicable requirement imposed upon the contractor by federal or state law.

Construction Contract Documents Instructions to Bidders

Proposed language to be included in the Notice Inviting Bids

NOTICE INVITING BIDS

The City of Lodi has adopted a policy goal to strongly encourage local hire and apprenticeship participation in the construction workforce in accordance with City Council policy.

a. Contracts estimated by the City to be less than $200,000 do not have a local hire goal.

b. Contracts estimated by the City to cost $200,000 or more require the successful bidder to demonstrate their attempts to employ local hire.

Attachment B

AGENDA ITEM I-1

CITY OF LODI
COUNCIL COMMUNICATION
™

AGENDA TITLE: Provide Staff Direction Regarding Drafting Local Hiring Ordinance

MEETING DATE: January 19,2011

PREPARED BY:, City Attorney's Office

RECOMMENDED ACTION: Provide staff direction regarding drafting local hiring ordinance.

BACKGROUND INFORMATION: The City Attorney's office was asked by Mayor Pro Tempore Mounce to research and present initial options for a local hiring ordinance. It is important to recognize at the outset however, that there are a number of legal impediments to the most direct form of a local hiring program: simply requiring contracts to be awarded only to businesses located in the city, or businesses that have a specified percentage of employees residing in the city.

There are a number of legal obstacles to such ordinances. Public Contracts Code Section 20162 requires General Law cities such as Lodi to award Public Works contracts (generally meaning the construction, repair, or improvement of a public building, or public infrastructure) to the lowest bidder. The Code makes no exception based on a preference for local residents. Moreover, a number of courts have concluded that local hiring ordinances may violate the Equal Protection Clause, the Commerce Clause of the U. S. Constitution, and the California Constitution's right to work and travel. *(United Bldg & Construction Trades v. City of Camden* 79 L.Ed 2d 249 (1984) and *Cooperrider v. Civil Service Commission* 97 Cal App 3d 495 (1979).)

The Charter City of San Francisco's local hiring ordinance survived constitutional challenge however, because it was allegedly designed to remedy the competitive disadvantages faced by businesses housed in San Francisco (namely high cost) and not by a general desire to favor local residents over those outside the City and County of San Francisco. *(Associated General Contractors v. City and County of San Francisco* 813 F. 2d 922 (9th Cir. 1987).

To address these ehaiienges some cities Rave adopted ordinances that require good-faith efforts by contractors to hire workers who reside locally. Typically these ordinances do not require a quota, but instead operate similarly to the Disadvantaged Business Outreach requirements frequently imposed as a condition of federal funding and familiar to many large-scale contractors. Simply put, a contractor and its subcontractors are required to advertise locally in an effort to hire local workers for the public project, and are required to supply evidence that it has done so. Examples of such programs from Pasadena and Stockton are attached as exhibits A and B.

Given Lodi's smaller population, staff requests direction regarding both the goal percentage for local hires and the definition of local residents. It may be unrealistic to assume that Lodi alone has a sufficient supply of plumbers, framers, masons and other trades to supply 50-percent of the work force for a major public project. It is unknown whether a number of contractors that would commonly be considered local, such as A.M. Stephens, F&H Construction, Ford, DSS, and Diede Construction, employ a sizeable number of local workers. One alternative is to broaden the definition of local resident to San Joaquin

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APPROVED: _____
Konradt Bartlam, City Manager

County, or another geographic area. Informal discussions with employees of these firms suggest that between 20 and 40 percent of their workers actually reside in Lodi and most felt they would have a hard time finding sufficient workers residing in Lodi to meet a 50-percent goal. At this stage, staff suggests that Council first give direction regarding whether it desires to pursue a local hiring preference. If Council does want to pursue the ordinance, staff recommends Council direct Public Works, Electric Utility, and the City Attorney's office to conduct open meetings with the construction industry. The meetings will be intended to explore concerns regarding the ordinance to insure that however it is ultimately crafted it operates effectively. Staff will then return with further recommendations if Council desires to pursue the ordinance.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Stephen Schwabauer
City Attorney

Attachment C

Purchasing Instructions

For purchasing supplies, material or equipment follow one process below.

For a one-time only professional service (with/without materials) follow the instructions on pages 2-3.

Account Payable instructions on page 4.

For a professional service agreement follow instructions on pages 5-7.

Pertaining Ordinances on pages 8-18.

Purchases up to $2,500	Purchases $2,500 up to $10,000	Purchases $10,000 up to $20,000	Purchases over $20,000
Bidding is discretionary	Minimum of 3 written quotes required	Minimum of 3 written quotes required	Formal Bid process & Council approval
Procurement Card (preferred), Petty Cash ($300 limit) or Vendor Account	JD Edward Requisition	JD Edward Requisition	JD Edward Requisition (note Resolution number)
	Submit to Compliance Review email, attach supporting documentation	Submit to Compliance Review email, attach supporting documentation & a Recommendation for Contract Award	Submit to Compliance Review email
	Return to department for printing, signatures according to signing authority, distribution & record retention	Return to department for printing, signatures according to signing authority, distribution & record retention	Return to department for printing, department head signature, distribution & record retention
		Send purchase order to City Manager for final approval — over $15,000 for PW	
		Send copy of final purchase order & Recommendation to Purchasing Technician for Quarterly Report	

Purchase Order Distribution:
Vendor – White with Terms & Conditions
Accounting – Green & Goldenrod with final invoice

Attachment D

Public Works Formally Bid Projects

Year	Project Description	Contractor	Location
2012	Roget Park Improvements	Hemington Landscape Services	Lodi
2012	ADA Improvements Various Locations	AM Stephens	Lodi
2012	Hutchins Street Reconstruction	AM Stephens	Lodi
2012	Grape Bowl Scoreboard Installation	Gary's Signs	Lodi
2012	City Hall Parking Lot Reconstruction	AM Stephens	Lodi
2012	Grape Bowl Improvements Phase 3	Diede Construction	Woodbridge
2012	Central Plume Remediation Operations	Diede Construction	Woodbridge
2012	Geotechnical Services	Neil O. Anderson Geotechnical	Lodi
2013	Zupo Field Fence Replacement	Golden Bay Fence	Stockton
2013	Mills Avenue Overlay	Knife River Construction	Stockton
2013	Water Meter Program Phase 3	Knife River Construction	Stockton
2013	GrapeLine Bus Stop Improvements	AM Stephens	Lodi
2013	Multi-Modal Station Driveway Replacements	AM Stephens	Lodi
2013	ADA Improvements Phase 2	AM Stephens	Lodi
2013	DeBenedetti Park ADA Improvements	AM Stephens	Lodi
2013	MSC Security Wall and Solar Installation	Diede Construction	Lodi
2013	Asphalt Rubber Cape Seal	Intermountain Slurry Seal	French Camp
2013	Katzakian Park Restroom Repairs	Brad Poser Construction	Lodi
2013	Alley Improvement Project	AM Stephens	Lodi
2013	Traffic Stripes Various Locations	Chrisp Company	Stockton
2013	Sidewalk Repair, Miscellaneous Concrete	Popuch Concrete Company	Lodi
2013	Ham Lane Overlay Project	Teichert Construction	Stockton
2013	Central Plume Remediation Operation	Diede Construction	Woodbridge
2013	White Slough Fencing Project	Stockton Fence	Stockton
2013	Janitorial Services	ABM	Stockton
2013	Geotechnical Services	Neil O. Anderson Geotechnical	Lodi
2014	Lodi West Wall Replacement	John D. Wait Masonry	Lodi
2014	Geotechnical Services	Neil O. Anderson Geotechnical	Lodi

Public Works Miscellaneous Projects

Transit Bus Stop Cleaning	Stamos	Lodi
Library Canopy Demolition	Lenzi Brothers	Lodi
Downtown Cleaning	United Cerebral Palsy	Lodi
Security Services Transit Facilities	US Security	Stockton
Grade Separation Surveys	Baumbach and Piazza Engineers	Lodi
Pest Control Services	A1 Pest Control	Stockton
Alarm System Monitoring	Alamo Alarm	Lodi
Various Notices and Advertising	Lodi News Sentinel	Lodi
City Vehicle Washing	Prime Shine	Lodi
Heating Ventilation Air Conditioning Services	ICR	Lodi
Heating Ventilation Air Conditioning Services	Comfort Air	Lodi
Traffic Control Various Events	Farwest Safety	Lodi
White Slough Addition Architect	Wenell Mathias Bowe	Stockton
Grape Bowl Marketing Renderings	Dela Monica Snyder	Lodi

City Hall Annex Architect	Wenell Mathias Bowe	Stockton
Library Renovation Phases 1 - 3	Wenell Mathias Bowe	Stockton
City Hall Annex Roof Repairs	Munoz Roofing	Acampo
Various City Roof Repairs	Baker Roofing	Lodi
Various Rolling Door Repairs	Overhead Door Company	Stockton
Radio Services Public Works	LaRue Communications	Lodi
Sacramento Street Structural Engineering	Mike Smith Engineers	Lodi
Solid Waste Services	Waste Management	Lodi
Transit Bus Stop Shelters	Valley Iron Works	Lodi
Vehicle Purchases	Sanborn Chevrolet	Lodi
Mailing Services	Pre-Sort	Lodi
Printing Services	Duncan Press	Lodi
Printing Services	Abrahamsons Printing	Lodi
Structural Engineering Services	Siegfried Engineers	Stockton
Electrical Engineering Services	Bockman and Woody	Stockton
Electrical Engineering Services	Stockton Electric	Stockton
Electrical Engineering Services	Sunridge Electrical	Lodi
Supplies and Materials	Costco	Lodi
Supplies and Materials	Orchard Supply	Lodi
Supplies and Materials	Lowes	Lodi
Supplies and Materials	Staples	Lodi
Auto parts and repairs	Graffigna Brothers	Lodi
Auto parts and repairs	Clutch Brake Exchange	Stockton
Auto parts and repairs	Big Valley Ford	Stockton
Auto parts and repairs	Stockton Dodge	Stockton
Auto parts and repairs	Pine Auto	Lodi
Auto parts and repairs	Car Quest	Lodi
Auto parts and repairs	O'Reillys	Lodi
Auto parts and repairs	Auto Zone	Lodi
Auto parts and repairs	Pape Machinery	French Camp
Auto parts and repairs	Thomas Auto Body	Lodi
Auto parts and repairs	Factory Motor Parts	Stockton
Auto parts and repairs	Stockton Filter	Stockton
Auto parts and repairs	Ag Industrial Manufacturing	Lodi
Auto parts and repairs	Brannon Tire	Stockton
Auto parts and repairs	Tokay Tire	Lodi
Auto parts and repairs	Lodi Tire	Lodi
Auto parts and repairs	Don's Muffler	Lodi
Miscellaneous plumbing repairs	ABC Plumbing	Lodi
Miscellaneous plumbing repairs	Henderson Brothers	Lodi

The City of Lodi

Public Works

Engineering

Local Bidding Policies

Shirtsleeve Meeting

August 5, 2014

Local Hiring Ordinance

1. Projects larger than $200,000
2. Contractor submits form and checklist with bid
3. Contractor states what will be done if awarded project
4. Initiates local hire effort after award of contract
5. Reference to tie breaker needs to be corrected

Public Works – Utilities

Purchasing Flow Chart

Start

Is your project less than $2,500?

Yes

- Departmental Purchase
- Bidding is discretionary

No

Is your project between $2,500 & $10,000?

Yes

- Requires 3 written quotes (minimum)
- Professional Service Agreement Required
  - PSA Signed by Department Head
  - Insurance Requirements from Risk Management
  - Business License
- If one time service, may do Service Purchase Order
  - Insurance Requirements from Risk Management
  - Business License

No

Is your project between $10,000 & $20,000?

Yes

- Requires 3 written quotes (minimum)
- Recommendation for Award
- Professional Service Agreement Required
  - PSA Signed by Department Head/City Manager
  - Insurance Requirements from Risk Management
  - Business License

No

Is your project over $20,000?

Yes

- Requires Request for Bids/Proposals
- Requires City Council Approval to go to bid
  - Bid Specifications & Plans
  - Insurance Requirements from Risk Management
  - Business License
  - Bid Bond Required
  - Faithful Performance/Material Bonds Required (Unless material purchase only)
- Requires Advertising
  - Submit Ad text to paper Wednesday prior to first advertising date
  - Schedule Bid Opening at least 10-14 days after first advertising
- Construction contracts over $200,000 subject to Local Hire Ordinance

Exemptions

1. Legal services
2. Architectural and engineering services
3. Accounting and financial services
4. Real estate appraisals
5. Transportation services consultants
6. Safety, environmental or hazardous materials consultants
7. Workshops, seminars, and conferences
8. Computer consulting services

Other

- Public Works contracts larger than $5,000 must be formally bid

Other Agencies' Contracts

- Publicly bid
- Wide variety of products
- Pricing fair, reasonable and competitive
- Meet state, local and federal purchasing requirements
- Saves time and resources for the City
- US Communities, California Association for Consolidated Transportation (CalACT), California Multiple Award Schedules (CMAS)

Contracts Awarded to Local Firms

- 5 of 12 in 2012
- 19 of 39 in 2013
- 4 of 9 in 2014
- Various annual on-call maintenance contracts
- Numerous local material suppliers

Questions?