



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: An Ordinance **Allowing** Consideration of State Sales Tax Rebates *in* Determining "Lowest **Responsible** Bidder".

MEETING DATE: May 6, 1992

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration of the attached draft ordinance specifying that the 1% sales tax rebate received by the City for goods sold by firms domiciled in Lodi be **considered** in determining "lowest responsible bidder" for City contracts.

BACKGROUND: Based on recent discussions, the attached draft ordinance has been prepared. **It** allows the City to determine the "lowest responsible bidder" for City contracts with reference to the 1% sales tax rebate the City receives on the sale of goods by firms domiciled in Lodi.

In my opinion, this is different that a true "local preference" statute which I continue to believe would be impermissible (see 64 Ops AG 670). A "local preference" ordinance gives local businesses a stated percentage preference (such as 3 - 5 %) on all bids to supply goods or services to a local government agency. This would mean that a city could actually end up paying **more** under a local preference if it went to the second low bidder who resided in the City. For example, if a 5% preference is given to local bidders, the City could pay up to \$1,050 to a local business for an item which an out-of-town vendor offered for \$1,000. On the other hand, using the 1% rebate factor, a local bidder's price would have to be less than 1% over the next low bidder in order to be successful. If both bidders' price was \$1,000, the local business would get the contract because the City would actually have paid only \$990 out-of-pocket after the 1% sales tax rebate.

I believe this is consistent with public policy stated in City of Inglewood, et al. v. Superior Court (1972) 7 Cal. 3d 861 which says it is in the public's interest to have contracts awarded " . . . without favoritism and at the lowest price consistent with reasonable quality." (emphasis added)

APPROVED \_\_\_\_\_

THOMAS A. PETERSON  
City Manager

Title: An Ordinance Allowing Consideration of State Sales Tax Rebates in  
Determining "Lowest Responsible Bidder".  
Date: May 6, 1992  
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FUNOING: (None required)

Respectfully submitted.

  
\_\_\_\_\_  
Bob McNatt  
City Attorney

BM/vc

attachment

ORDINANCE NO. 1549

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
AMENDING LODI MUNICIPAL CODE SECTION 3.20.100(E)  
SPECIFYING CRITERIA FOR DETERMINATION OF "LOWEST RESPONSIBLE BIDDER"

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

SECTION 1. Lodi Municipal Code Section 3.20.100(E), Formal contract procedure, is hereby amended to read as follows:

"E. Award of Contracts. Contracts shall be awarded by the City Council to the lowest responsible bidder except as otherwise provided in this chapter. In determining the lowest responsible bidder, considerations shall include but not be limited to such factors as 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 of Lodi."

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. 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 thirty days from and after its passage and approval.

Approved this            day of

JAMES W. PINKERTON, JR. \_\_\_\_\_  
Mayor

Attest :

ALICE M. REIMCHE  
City Clerk

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State of California  
County of San Joaquin, ss.

I, Alice M. Reimche, City Clerk of the City of Lodi. do hereby certify that Ordinance No. 1549 was introduced at a regular meeting of the City Council of the City of Lodi held May 6, 1992 and was thereafter passed. adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 1992 by the following vote:

- Ayes: Council Members -
- Noes: Council Members -
- Absent: Council Members -
- Abstain: Council Members -

I further certify that Ordinance No. 1549 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

ALICE M. REIMCHE  
City Clerk

Approved as to Form

BOBBY W. McNATT  
City Attorney



# CITY OF LODI

CARNEGIE FORUM  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

Date: May 6, 1992

Time: 7:30 p.m.

For information regarding this Public Hearing  
Please Contact:

Alice M. Reimche  
City Clerk  
Telephone: 333-8102

## NOTICE OF PUBLIC HEARING

May 6, 1992

NOTICE IS HEREBY GIVEN that on Wednesday, at the hour of 7:30 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing to consider the following matter:

- a) amending the Lodi Municipal Code Chapter 3.20 establishing criteria for determination of "Lowest Responsible Bidder".

All interested persons are invited to present their views and comments on this matter. Written Statements may be filed with the City Clerk at any time prior to the hearing scheduled herein. and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street. at or prior to the Public Hearing.

By Order Of the Lodi City Council:

Alice M. Reimche  
City Clerk

Dated: April 1, 1992

Approved as to form:

Bobby W. McNatt  
City Attorney