

RESOLUTION NO. 2017-

A RESOLUTION AMENDING THE LOCAL VENDOR
PREFERENCE POLICY TO INCREASE ITS APPLICABILITY TO
LOCAL VENDORS

WHEREAS, the City Council of the City of League City (the “City Council”) desires to use the City’s spending powers to promote fiscal responsibility and maximize the amount of citizen tax dollars that remain in the local economy for the benefit of its citizens; and

WHEREAS, the City Council finds that by using its spending powers to encourage local business capacity, the City will also increase the competitive business pool from which it procures its goods and services, thereby maximizing return on investment in the City’s fiduciary responsibility to its citizens; and

WHEREAS, the City Council finds that, when awarding contracts, the principal place of business of a vendor is a relevant criterion in providing best value for the City; and

WHEREAS, the City Council finds that the award of contracts to local area businesses benefits the economic vitality of the City and its residents by providing citizen employment opportunity, increased property values and additional tax revenue to the City; and

WHEREAS, Texas Government Code §2252.002 requires that cities give preferences to local businesses if there are out-of-state vendors that have bid on the contract and the out-of-state vendor is located in a state that discriminates against out-of-state vendors in its bid awards; and

WHEREAS, Texas Local Government Code §271.901 requires that cities give preferences to local vendors when there are two identical bids and one of the vendors a local vendor; and

WHEREAS, Texas Local Government Code §271.905 and §271.9051 allow the City to consider a vendor’s principal place of business in the award of certain contracts; and

WHEREAS, the City Council determines that for applicable contracts, local responsive and responsible vendors in specified contracting areas offer the City the best combination of contract price and additional economic development opportunities, including employment of City residents and increased tax revenue to the City; and

WHEREAS, the City Council finds that these determinations and conclusions meet the written determination required by Texas Local Government Code §271.905 and §271.9051 in the award of certain City contracts; and

WHEREAS, the City, as a major market participant in this area, can set an example for individuals and businesses alike by directing City Staff to adopt a policy to shop locally when and as it can in its own procurement activities;

WHEREAS, on November 10, 2015, the City Council passed Resolution 2015-54, which implemented a local vendor’s preference policy; and

WHEREAS, the City Council desires to further amend the policy to increase the policy's applicability to local vendors.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

Section 1. The facts and opinions in the preamble of this resolution are true and correct.

Section 2: The City's purchasing policy is hereby amended and replaced with the following language in substantially the same form:

A. Definitions.

1. *Local vendor* means a business with a Principal Place of Business within the corporate limits of the City of League City and who has submitted all appropriate documentation as required by the City's Purchasing Policy.
2. *Principal Place of Business* means the business must be either: (1) headquartered in the incorporated limits of the City; or (2) have an established place or places of business in the incorporated limits of the city from which a portion of the entity's workforce are regularly based, and from which a role in the entity's performance of a commercially useful function or a part of its operations is conducted. A location utilized solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, shall not be construed as a principal place of business.

B. Local Preference Policy.

1. **Purchases of \$100,000 or less:** In purchasing any personal property that is not affixed to real property or services (including construction services) with a value of \$100,000 or less, if the City receives one or more bids from a vendor that is a local vendor and whose bid is within **five percent (5%)** of the lowest bid price received by the City from a vendor who is not a local vendor, the City shall, subject to the exceptions listed in subsection E below, enter into a contract with:
 - a. The lowest vendor; or
 - b. The vendor that is a local vendor.
2. **Purchases over \$100,000 but less than \$3,333,333.33:** In purchasing any personal property that is not affixed to real property or services (including construction services) with a value over \$100,000 but less than \$3,333,333.33, if the City receives one or more bids from a vendor that is a local vendor and whose bid is within **three percent (3%)** of the lowest bid price received by the City from a vendor who is not a local vendor, the City shall, subject to the exceptions listed in subsection E below, enter into a contract with:
 - a. The lowest vendor; or
 - b. The vendor that is a local vendor

3. **Purchases of Professional Services:** In procuring architectural, engineering, land surveying services and other professional services under the Professional Services Procurement Act, Texas Gov't Code, § 2254.004, the Purchasing Department shall, when appropriate, consider the knowledge of local conditions as part of the qualifications determination.

C. Identical Bids.

1. If the City receives identical lowest bids from two vendors and one of the vendors is a local vendor, the City must select the local vendor.
2. If the City receives identical lowest bids from two or more local vendors, then the City must select one of the local vendors by the casting of lots.
3. The Mayor shall determine the procedure for the casting of lots for contracts that require City Council approval, which such procedure must include the casting of lots in the presence of the City Council. The City Manager shall determine the procedure for the casting of lots for all other contracts.

D. Out of State Vendors.

1. If the City receives a bid from a vendor not located in Texas, the City must give all vendors located in Texas the same advantage as the non-Texas vendor would have in its home state.
2. If the non-Texas vendor is from a state where in-state vendors are not given preference over Texas vendors, then no additional local preference will be given.

E. Local Preference Policy Exceptions.

1. This local vendor preference shall not apply to the following situations:
 - a. Any contract with a total price \$3,333,333.33 or more;
 - b. any contract funded in whole or part by the federal government or where the City acts a conduit for federal money;
 - c. the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. §153;
 - d. any contract that is sole-source or for emergency services;
 - e. any purchases obtained through cooperative purchasing programs or interlocal agreements; or
 - f. any contract where the City Manager or City Council has determined that it would not be in the best interest of the City.

2. This local vendor preference does not prohibit or otherwise restrict the City from rejecting all bids.

Section 3. All resolutions, ordinances and/or agreements and parts thereof in conflict herewith are repealed to the extent of the conflict only.

Section 4. It is hereby found and determined that the meeting at which this resolution was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

PASSED AND APPROVED the ____ day of _____, 2017.

PAT HALLISEY
Mayor

ATTEST:

DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:

NGHIEM V. DOAN
City Attorney