Ord. #5389

AN ORDINANCE TO AMEND CHAPTER 2, DIVISION 6. LOCAL SMALL BUSINESS DEVELOPMENT AND PROCUREMENT PROGRAM.

WHEREAS, the Memphis City Council recognizes that the success of local businesses ensures a thriving local economy, employment for our citizens and a strong tax base; and

WHEREAS, the Council wishes to implement policies to ensure that companies that employ our citizens and contribute to our economy and the success of Memphis have the opportunity to do business with city government.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,

That Chapter 2, Section 2-332 of the Code of Ordinances, be and is hereby amended to read as follows:

Sec. 2-332. Local small business development and procurement program.

(b) *Purpose and Intent.* The city of Memphis shall give a local preference to local businesses in the city limits Memphis, Tennessee in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar-value of proposal received in relation to such expenditures.

(1) Local Preference

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic Shelby County and Tennessee business license and shall also provide proof that Shelby County Personal Property Taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits of Memphis, Tennessee were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city of Memphis.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of ten thousand dollars ($10,000) or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the

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local preference. The local preference cost differential is not to exceed one hundred thousand dollars ($100,000.00).

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

(2) Local Presence

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five (5) percent differential or five (5) point assignment, then local presence will be considered for the procurement of goods and services over the amount of two million ($2,000,000.00) dollars.

b. Local presence will be demonstrated by the total number of individuals a business employs within Shelby County. For procurements, a five (5) percent differential which is not to exceed two hundred thousand ($200,000.00) shall be granted for the business that demonstrates the highest number of total employees located within Shelby County at the time of the bid response. For request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than twenty-five (25) local employees at the time of the bid response.

(3) Exceptions.

a. The local business preference or presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference. Nor shall the local preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference or local presence criteria to a particular purchase, contract or category of contracts for which the city of Memphis is the awarding authority may be waived upon written justification and recommendation of the city of Memphis to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further the preference or presence criteria established herein in

no way prohibit the right of the city of Memphis from giving any other preference permitted by law in addition to the preference authorized herein.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remained of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of: after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

KEMP CONRAD
Council Member

HAROLD COLLINS
Council Chairman

Attest:
Patrice Thomas, Comptroller

THE FOREGOING ORDINANCE
5389 PASSED
1st Reading 12-7-2010
2nd Reading 12-21-2010
3rd Reading 01-18-2011
Approved
Chairman of Council
Date Signed: 2/1/2011

Approved:
Mayor, City of Memphis
Date Signed: 2/15/2011

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.
Valerie C. Swipes
Comptroller