

ORDINANCE NO. 27136

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING THE SAN JOSE MUNICIPAL CODE BY ADDING A NEW CHAPTER 4.06 AND AMENDING SECTION 4.12.117 OF AND ADDING SECTION 4.12.118 TO CHAPTER 4.12 AND AMENDING SECTIONS 4.13.135 AND 4.13.040 OF CHAPTER 4.13 OF TITLE 4 TO ESTABLISH CONTRACTING PREFERENCES FOR LOCAL AND SMALL BUSINESSES

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Title 4 of the San José Municipal Code is hereby amended by adding a new chapter to be numbered and entitled and to read as follows:

**Chapter 4.06
Contracting Preferences for Local and Small Businesses**

4.06.010 Local Business Enterprise

As used in this Title, "Local Business Enterprise " means a business enterprise, including but not limited to a sole proprietorship, partnership, or corporation, which has a legitimate business presence in the County of Santa Clara. Evidence of legitimate business presence in San Jose shall include:

- A. Having a current San Jose business tax certificate; and
- B. Having either of the following types of offices operating legally within the County of Santa Clara:
 - 1. The contractor's principal business office; or
 - 2. The contractor's regional, branch or satellite office with at least one full-time employee located in the County of Santa Clara.

4.06.020 Small Business Enterprise

As used in this Title, "Small Business Enterprise" means a Local Business Enterprise that has Thirty-Five (35) or fewer total employees.

4.06.030 Requirements for the Contracting of General and Professional Services

- A. Three (3) competitive proposals shall be obtained, if practicable, on all contracts for general and professional services with a payment amount exceeding Five Thousand Dollars (\$5,000).
- B. Contracts or purchase orders for general and professional services shall be made or awarded on the basis of the most advantageous proposal to the City.

E. A credit of two and one-half percent (2.5%) of the cost bid by bidders meeting the definition of "Small Business Enterprise" set forth in Section 4.06.020.

SECTION 3. Chapter 4.12 of Title 4 of the San José Municipal Code is hereby amended by adding a new section to be numbered and entitled and to read as follows:

4.12.118 Local Vendor

As used in this Chapter, "Local Vendor" means a vendor who qualifies as a Local Business Enterprise as defined in Section 4.06.010 of Chapter 4.06 of this Code.

SECTION 4. Section 4.12.135 of Chapter 4.12 of Title 4 of the San José Municipal Code is hereby amended to read as follows:

4.12.135 Open Market Purchasing Procedure

- A. Open market purchases of supplies, materials and equipment which exceed Five Thousand Dollars (\$5000) shall, whenever practicable, be based on at least three (3) price quotations and shall be awarded on the basis of the price quotation most advantageous to the City. Price quotations may be solicited by any reasonable means including but not limited to mail, telephone, fax, e-mail or posting on the City's web site for bids. A record of open market purchases and price quotations shall be maintained by the Director.
- B. In addition to the factors set out in Sections 4.12.115 and 4.12.117, the most advantageous price quotations to the City for an open market purchase shall be based on consideration of:
1. Quality and performance of the supplies, materials and equipment;
 2. Ability of the vendor to perform the transaction;
 3. Ability of the vendor to complete the transaction within the time specified;
 4. Quality of the vendor's performance on prior purchase by the City or others;
 5. Ability of the vendor to provide future maintenance, repair parts and service;
 6. Capacity and experience of the vendor.
- C. If an award in excess of Five Thousand Dollars (\$5,000) is made to a vendor other than the vendor submitting the lowest price quotation, written reasons for the award decision shall be prepared and will be kept as a part of the record of the transaction.

PASSED FOR PUBLICATION OF TITLE this 4th day of May, 2004 by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, DANDO,
GREGORY, LeZOTTE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE
City Clerk