

# Mayor and Council Communication

DATE: 06/14/22

M&C FILE NUMBER: M&C 22-0439

LOG NAME: 13LOCAL PREFERENCE AMEND

**SUBJECT**

(ALL) Adopt an Ordinance Amending Chapter 2, Administration, Article I "In General", Section 2-14 of the City Code to Expand the Use of Local Preference in Lowest-Responsible Bidder Purchasing and Contracting to Follow State Law and to Allow Departments to Consider Local Preference when Awarding a Contract for Services using Best Value

**RECOMMENDATION:**

It is recommended that the City Council adopt the attached ordinance amending Chapter 2, Administration, Article I "In General" of the City Code, Section 2-14 to expand the use of Local Preference in lowest-responsible bidder purchasing and contracting to follow State Law and to allow departments to consider local preference when awarding a contract for services using best value.

**DISCUSSION:**

During the summer of 2021, the City Council requested information regarding Local Preference and how the City uses Local Preference when awarding procurements for goods and services, including capital improvements.

Texas Local Government Code Chapter 271 allows the City to consider the location of a bidder's principal place of business when awarding contracts for goods and services on the basis of lowest-responsible bidder. Local Preference allows the City to consider a bid from a bidder whose principal place of business is in the City and whose bid is within the 3%-5% (see chart below) of the lowest bid price received by the City from a bidder who is not a resident of the City. State Law establishes criteria of when Local Preference can apply based on the amount and type of contract amount.

When Local Preference was adopted in the City in 2013, the City Council adopted Local Preference based upon State Law for lowest-responsible bidder procurements with one change shown in the chart below.

Contract Amount	Goods and Real Property	Services (Non-Professional)	Construction
\$50,000 or less	No Preference	No Preference	No Preference
\$50,000.01-\$99,999.99	5% Preference	5% Preference	5% Preference (State Law) City Council adopted "No Preference"
\$100,000-\$499,999.99	5% Preference	5% Preference	No Preference
\$500,000 or more	3% Preference	No Preference	No Preference

After the Informal Report was presented to Council last fall, the City Manager's Office and the Departments that manage construction projects met to explore whether Local Preference for lowest-responsible bidder procurements should be expanded for construction projects between \$50,000 - \$100,000.00 and for Best Value procurements.

After the discussions, Staff recommends revising the local preference ordinance to follow State Law for lowest responsible bidder procurements as outlined above and allow a local preference to be used for a construction contract with a value of between \$50,000.01 and \$99,999.99 if the local vendor's bid is within 5% of the lowest bid.

In addition, because awarding more contracts to local businesses can provide additional value to the City in the form of increased local capacity that allows the City to: (1) maintain and expand an able and competitive pool of businesses from which to procure goods and services; (2) improve employment opportunities for City residents; and (3) increase tax revenues to the City. Staff recommends adopting the attached ordinance that will allow City Departments to consider Local Preference when awarding a contract for goods or services using Best Value when appropriate.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

**FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that approval of this recommendation will have no material effect on City funds.

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