9:05AM-D
3-06-07

City of
FRESNO

Mike Dages
Council Member
District 5

MEMO

Staff Members:

Sal Quintero
Council Assistant

Jessica Shoopman
Staff Assistant

Rosa Vasquez
Staff Assistant

Susana Gomez
Staff Assistant

DATE: January 23, 2007

TO: Council Members

FROM: Council Member Mike Dages M.D
District 5

SUBJECT: Bill- (For Introduction) Amending Section 3-101 and 3-505 repealing Subsection (h) of Section 3-105, and repealing and adding Section 3-109.1 of the Fresno Municipal Code relating to local preference in competitive procurement processes.

Local preference to Fresno businesses and businesses within a 25 mile radius is important to our local economy. I want to keep as much tax dollars as possible here in the local area and not send our tax dollar out of state or to another community.

In the past we could use our local preference ordinance if the bidder from the local area within $1,000.00 of another bidder. I would like to extend this, which is allowed under the law, to 5%.

Example: Bid from out of town is $500,000.00 and a local business bid is $525,000.00. The City Council may award the bid to the local business because it is within the 5% preference. The 5% not to exceed $250,000.

Presented to City Council
Date 1/23/07
Disposition Bill B-3 intro, laid over

Presented to City Council
Date 1/30/07
Disposition Bill B-11 intro, laid over, (max amended)

Presented to City Council
Date 2/6/07
Disposition Cont to 3/6/07

Assessing the Economic Impact of a Local Preference Ordinance in the City of Fresno

DRAFT

Center for Economic Research and Education of Central California
Research Working Paper No. 2007-02

January 2007

Dr. Antonio Avalos*
aavalos@csufresno.edu

and

Dr. Edward Birdyshaw*
ebirdyshaw@csufresno.edu

Department of Economics
California State University, Fresno

CERECC
Center for Economic Research and Education of Central California

* The findings, interpretations, and conclusions are the authors' own responsibility and do not necessarily represent any position of the California State University, Fresno

I. Introduction

In several cities, counties, and states around the U.S., the procurement decision process contains provisions that give preference to local businesses as a means to support the local economy. One common way to give local preference occurs in the bidding process, where a jurisdiction gives preference to a local company if a bid from this business is within a certain percentage of the lowest non-local bid. The rationale behind this policy is relatively simple. Giving preference to local businesses means that a larger amount of dollars will be spent locally by the city which, as a result of the multiplier effect, will in turn result in additional sales, jobs, income, and ultimately tax revenue.[1] Obviously, although the basic idea is appealing from the tax revenue perspective, it is also possible that these additional benefits be only modest—or even nullified—because the city may not be buying from the lowest cost or most efficient supplier. Nevertheless, the principle of granting local preferences derives from the belief that additional dollars spent locally will generate economic activity beyond the value of the initial contract, even if this local contract implies higher costs to the city.

The main goal of this brief report is to provide an assessment of the potential benefits and costs of establishing a local preference ordinance in the City of Fresno. The ordinance under consideration would give preference to local businesses if their bids are within 5% of the lowest non-local bid. The aim is to provide a better understanding of the merits and drawbacks of implementing the local preference ordinance in the City of Fresno. Only then can policy makers, tax payers and voters, make informed decisions regarding the impact of such policy on the local economy.

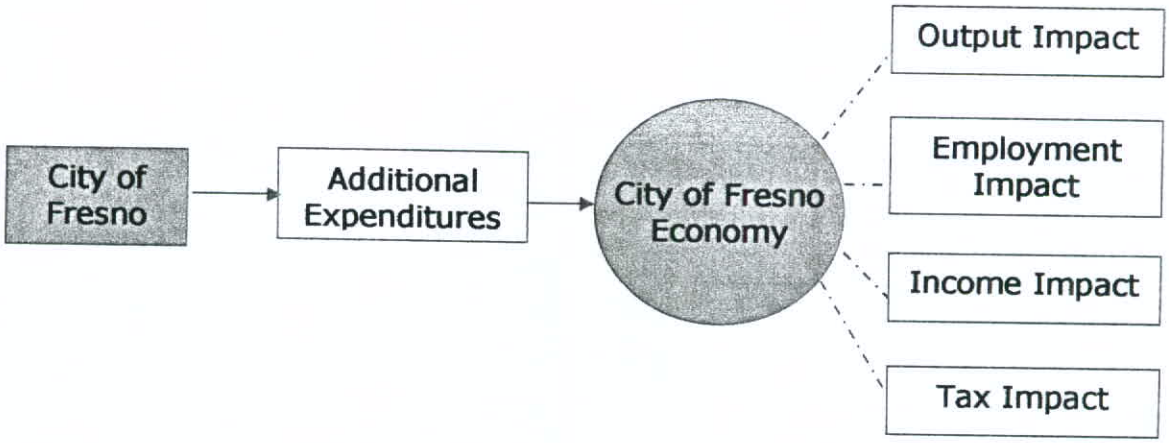
2. Scope and Methodology

This report assesses the potential benefits and costs of establishing the aforementioned local preference ordinance. Measurable benefits include the increase in income as well as the additional jobs supported by the policy, increased sales that businesses experience when families react to increases in their disposable income, and increased sales tax revenues. Measurable costs include the direct costs of the local preference ordinance to the City of Fresno resulting from higher contract costs, as well as

[1] For a more technical description of the multiplier effect, see the Appendix.

the indirect costs to taxpayers who are ultimately responsible for City expenditures.. In other words, this study examines the impact of additional expenditures by the City of Fresno in the local economy measured in four different areas: 1) additional labor income, 2) additional output (sales), 3) the number of jobs that the City supports directly and indirectly, and 4) the additional local and state tax revenue generated by additional City expenditures. Figure 1 illustrates the conceptual framework of this report.

Figure 1: Conceptual Framework



The merits of the proposed local preference ordinance are investigated using detailed information about the interactions between firms, industries, and social institutions within the Fresno City economy to quantify the impact of the ordinance in terms of output, income, employment and tax revenue. The main tool utilized in this study is the IMPLAN input-output system, which allows users to build economic models to estimate the impacts of economic changes in their states, counties, or communities. For this analysis, the economic change–and driver of the model–is the increased amount of dollars locally spent by the City of Fresno. The impacted area is the City of Fresno.[2]

[2] For a more complete description of the IMPLAN system and its application to this analysis see the Appendix.

3. Data and Main Assumptions

All data used in this economic impact study are for the 2005 and 2006 fiscal years and were provided by the office of Fresno City Councilmember Mike Dages. In the 2005 fiscal year, 65 formal bids were awarded by the City of Fresno for a total of $67,883,306. Of these 43 were public works projects for a total of $56,246,276, 21 were product bids for a total of $11,237,626 and one was an RFP for a total of $199,404. Local vendors received 69% of the bids with a value of $46,701,482.

In the 2006 fiscal year, 61 formal bids were awarded by the City of Fresno for a total of $54,511,149. Of these 42 were public works projects for a total of $27,182,832, 15 were product bids for a total of $8,510,898, four were RFPs for a total of $18,813,418. Out of this total, 67% of the bids were awarded to local vendors for a total of $36,522,469.

Given the available data, it is impossible to determine how many bids would be won by local bidders if the local preference ordinance in the City of Fresno was implemented. Therefore, this study estimates the economic impact of the local preference ordinance under three different scenarios. 1) Maximum impact: All bids are won by local bidders if the local preference ordinance was implemented. 2) Intermediate impact: 50% of the currently awarded bids to non-local vendors are won by local bidders if the local preference ordinance was implemented. 3) Minimal impact: 25% of the currently awarded bids to non-local vendors are won by local bidders if the local preference ordinance was implemented. Under each scenario it is assumed that the local bid is fully 5% more expensive than the non-local bids. This assumption will likely result in an upward bias in both costs and benefits, although the bias should be slightly smaller for benefits due to the nature of the multiplier effect.

Data reported implies that $20,981,824 was awarded to non-local bidders in FY 2005 while $17,988,680 was awarded to non-local bidders in FY 2006. Notice that both amounts represent annual leakages from the local economy and therefore do not create a multiplier effect. These are the resources that the local preference ordinance is intended to keep within the local economy which will in turn result in increased economic activity in the form of additional sales, jobs, income and ultimately tax revenue. Since two years of data are available, the average from the two years will be used. Thus, for the purposes

of this study, it is assumed that $19,485,252 is awarded to non-local bidders annually in the City of Fresno.

4. Cost Estimation

Estimating the additional costs of the local preference ordinance is straightforward under the three scenarios proposed. Since the cost of the projects must be incurred by paying to either local or non-local bidders, the amount awarded can increase by a maximum of 5% if the local preference ordinance is approved. Therefore, the additional costs under each scenario are as follows: $974,262 for the maximum impact scenario, $487,131 for the intermediate impact scenario, and $243,565 for the minimal impact scenario. Undoubtedly, this extra cost implies that the city may not be buying from the lowest cost or most efficient supplier. Therefore, if contract prices increase, the city will have to decide among cutting services, raising taxes to pay for the higher contract costs or some combination of the two. However, the costs of the ordinance must be weighed against its benefits to have a complete assessment of the potential impact of the local policy.

It is possible that there are additional costs whose estimation is beyond the scope of this report. For example, many states have enacted reciprocal preference laws wherein an additional percentage is added to out-of-state vendors when that state has a local preference law. Generally the percentage added to the out-of-state vendor's bid is determined by the magnitude of the bid preference in the other state. The idea is to protect local vendors from out-of-state competition when the other state discriminates against local vendors. If reciprocal preference laws become pervasive at the state or local level, the result will be higher prices for all consumers—governments, households, and consumers. Also, granting a preference for local vendors has the effect of increasing demand for those vendors' goods and services. If sales to local government comprise a large fraction of a particular vendor's business, then this increased demand may result in higher prices to other consumers within the region. Given the data available, we have not estimated the potential costs of these outcomes although our expectation is that the impact would be small or negligible.

5. Benefits estimation

Estimating the benefits of the local preference ordinance is a bit more complicated. The amount awarded to local bidders (and therefore the additional resources spent locally) will be larger as a result of the local preference ordinance. Thus, the increased economic activity will depend on the scenario under consideration. The additional amounts that would be spent locally under each scenario are as follows: $20,459,514 for the maximum impact scenario, $10,229,757 for the intermediate impact scenario, and $5,114,878 for the minimal impact scenario. These additional resources spent in the economy of the City of Fresno generate additional sales and income for local firms and residents. The economic ripple effect can also generate new jobs in the industries positively affected. That is, the local preference ordinance can also create a few jobs in industries not directly affected by it. The potential economic impact of the local preference ordinance is presented in Table 1.

Table 1: Economic Impact of the Local Preference Ordinance: Three Scenarios

Maximum Impact					
	Direct	Indirect	Induced	Total	Multiplier
Output	$20,459,514	$5,170,237	$7,583,324	$33,213,075	1.62
Income	$8,524,208	$2,112,433	$2,626,667	$13,263,308	1.56
Employment	179	54	84	317	1.77

Intermediate Impact					
	Direct	Indirect	Induced	Total	Multiplier
Output	$10,229,757	$2,585,119	$3,791,662	$16,606,538	1.62
Income	$4,262,104	$1,056,217	$1,313,334	$6,631,655	1.56
Employment	90	27	42	159	1.77

Minimal Impact					
	Direct	Indirect	Induced	Total	Multiplier
Output	$5,114,878	$1,292,559	$1,895,831	$8,303,268	1.62
Income	$2,131,052	$528,108	$656,667	$3,315,827	1.56
Employment	45	13	21	79	1.76

The impact analysis under the maximum impact scenario shows that the additional $20.45 million spent by the City of Fresno could produce a total of $33.21

million in terms of output. Output is measured by the total value of purchases by intermediate and final consumers. Therefore output can also be thought as a value of sales, plus or minus inventory. Under this scenario, additional expenditures could support a total of 317 jobs in the City of Fresno. The employment multiplier, derived by dividing total jobs by the number of direct jobs, is 1.77. The total effect in terms of labor income created could amount to $13.26 million. Labor income includes salary, wage and proprietor income, which directly impact people's spending capacity.

Under the intermediate impact scenario the additional $10.22 million spent by the City of Fresno could produce a total of $16.60 million in terms of output. Under this scenario, additional expenditures could support a total of 159 jobs in the City of Fresno. The total effect in terms of labor income created could amount to $6.63 million. Finally, under the minimal impact scenario the additional $5.11 million spent by the City of Fresno could produce a total of $8.30 million in terms of output. Under this scenario, additional expenditures could support a total of 79 jobs in the City of Fresno. The total effect in terms of labor income created could amount to $3.31 million.

Additional resources spent in the economy of the City of Fresno generate additional sales and income for local firms and residents, which subsequently lead to further spending and income in an economic ripple effect. This additional spending and income can also generate additional tax revenue. Table 2 shows the tax impact for the intermediate impact. IMPLAN does not produce separate reports for the state and local government. Thus, these estimates include total estimated tax revenue for both levels of government. To obtain the tax impact under the maximum impact scenario, the estimates presented in the table must be doubled (to reflect the fact that 100% of bids are won by local bidders) and to obtain the tax impact under the minimal impact scenario, the estimates presented in the table must cut by half (to reflect that only 25% of the currently awarded bids to non-local vendors are won by local bidders).

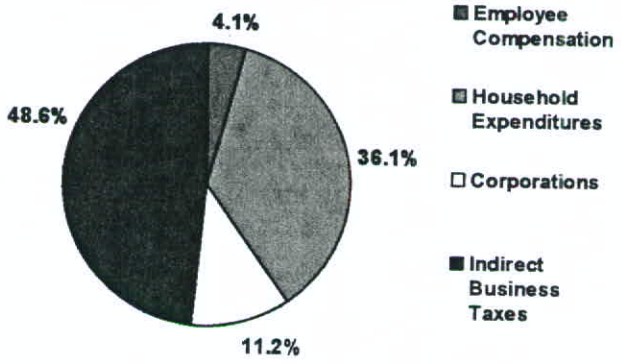
Table 2: Tax Impact of the Local Preference Ordinance: Intermediate Impact

Tax Impact: Intermediate Impact		Employee Compensation	Household Expenditures	Corporations	Indirect Business Taxes	TOTAL
State and Local Taxes	Corporate Profits Tax			$28,687		$28,687
	Dividends			$64,053		$64,053
	Indirect Bus Tax: Motor Vehicle License				$3,115	$3,115
	Indirect Bus Tax: Other Taxes				$31,440	$31,440
	Indirect Bus Tax: Property Tax				$149,533	$149,533
	Indirect Bus Tax: S/L NonTaxes				$18,127	$18,127
	Indirect Bus Tax: Sales Tax				$199,272	$199,272
	Indirect Bus Tax: Severance Tax				$56	$56
	Personal Tax: Estate and Gift Tax					
	Personal Tax: Income Tax		$179,359			$179,359
	Personal Tax: Motor Vehicle License		$7,457			$7,457
	Personal Tax: NonTaxes (Fines- Fees		$94,361			$94,361
	Personal Tax: Other Tax (Fish/Hunt)		$1,176			$1,176
	Personal Tax: Property Taxes		$3,802			$3,802
	Social Ins Tax- Employee Contribution	$7,977				$7,977
	Social Ins Tax- Employer Contribution	$25,877				$25,877
TOTAL		$33,855	$297,795	$92,741	$401,543	$814,293

Note: The tax impact for the maximum impact scenario is obtained by doubling the numbers in the table. The tax impact for the minimal impact scenario is obtained by cutting by half the numbers in the table.

The relative impact contribution to tax revenue from the four components of value added–employee compensation, household expenditures, corporations and indirect business taxes–can be seen in Figure 1. Almost 50% of state and local tax revenue comes from indirect business taxes making the greater contributor. Also significant is the contribution of household expenditures, which contributes in more than 36% to state and local tax revenue.

Figure 1. Relative Tax Impact Contribution by Component of Value Added



A deeper analysis of the indirect business taxes category reveals that the main source of revenue for state and local government impacted would be the sales tax, which accounts for almost 25% of the additional total state and local tax revenue generated by the local preference ordinance, if implemented. This result is not surprising when considering that sales taxes are levied as a percentage of the total amount spent at retail stores, which is the sector subject to the largest sales impact.

6. Final Comments

Based on the estimates presented, and purely from the fiscal impact perspective, it seems that a local preference ordinance on the City of Fresno would produce a small negative effect. That is, the ordinance would imply higher expenditures than revenues for the City. For example, under the minimal impact scenario, where the costs for the City would be $243,565, estimates of the additional sales and property tax amount to only $178,391 (a marginal deficit of $65,174). However, when also considering the increased economic activity in the City in the form of additional sales, jobs and income, the ordinance seems more appealing as a policy instrument. Even under the minimal impact scenario estimates indicate that the ordinance could generate as much as $3.31 million in additional labor income and could support 79 additional jobs. The additional cost to the City of $65,174 under the minimal scenario seems insignificant when compared to the benefits that the ordinance could bring. Furthermore, the additional $5.11 million spent by the City under this minimal scenario could produce a total of $8.30 million in terms of additional sales among local business. In other words, additional dollars spent locally would generate economic activity beyond the value of the initial contract, even if this local contract implies higher costs to the city.

Appendix

The Multiplier Effect

The total impact of the local preference ordinance on the City of Fresno, also known as the multiplier effect, is equal to the sum of three components: the direct effect, the indirect effect and the induced effect. The direct effect is the immediate upshot caused by the additional dollars spent by the City. Due to the interactions between firms, industries, and social institutions that naturally occur within the local economy, the direct effect initiates a series of iterative rounds of income creation, spending and re-spending that result in indirect and induced effects. The indirect effects are changes in production, employment and income that result from the inter-industry purchases triggered by the direct effect. Finally, induced effects arise due to changes in household income and spending patterns caused by direct and indirect effects. Since the total impact of workers' expenditures is a multiple of the initial expenditures, the total effect is expressed as a multiplier effect, that is, the sum of the direct, indirect and induced effects. Therefore, the total impact of additional expenditures by the City on the local economy is larger than the initial expenditures. For example, an output multiplier of 1.5 indicates that for every additional million dollars spent (direct expenditure) an additional 0.5 million dollars is generated within the regional economy. Similarly, an employment multiplier of 1.6 indicates that for each job created by direct expenditure, an additional 0.6 full time jobs are created or supported.

The IMPLAN System

The IMPLAN computer software package consists of procedures for estimating local input-output models using associated databases, which are techniques for quantifying interactions between firms, industries, and social institutions within a local economy. The economic data for IMPLAN come from the system of national accounts for the United States based on data collected by the U. S. Department of Commerce, the U.S. Bureau of Labor Statistics, and other federal and state government agencies. Data are collected for 509 distinct producing industry sectors of the national economy corresponding to the North American Industry Classification System (NAICS). National and county level data are the basis for IMPLAN calculations of input-output tables and multipliers for local areas.

IP
1/30/07

City of
FRESNO

TO MAYOR/COUNCIL FYI
Date 1/26/07 By Souza

Becky Klisch
City Clerk

RECEIVED
2007 JAN 26 PM 4:11
CITY CLERK, FRESNO CA

DATE: January 25, 2007

TO: HONORABLE MAYOR ALAN AUTRY
COUNCIL PRESIDENT HENRY T. PEREA
COUNCIL MEMBERS

THROUGH: ANDREW T. SOUZA, City Manager
BRUCE A. RUDD, Assistant City Manager

FROM: KENNETH A. NERLAND, Director
General Services Department

SUBJECT: IMPACT OF 5% LOCAL BID PREFERENCE TO $250K CAP IN CITY PROCUREMENT

The current Local Preference Ordinance allows a 5% preference for the purchase of materials, supplies and/or equipment when the lowest bid is less than or equal to $250,000 which means the local preference amount is less than or equal to $12,500.

For public works construction projects, a one-half of one percent (0.5%) preference is currently extended when the lowest bid is less than or equal to $200,000 which means the local preference amount is less than or equal to $1,000.

For contracting for professional consulting services, a 5% local preference is extended with a primary preference for a local business with secondary preference to a non-local firm who forms an association with a local firm for the project with a benefit of greater than 15% of the total contract amount to the local firm. There is no limit.

A "Local Business" for the purpose of the local preference definition is a business "with a fixed primary or branch office within a twenty-five mile radius of Fresno City Hall". This radius includes vendors from nearby cities such as Clovis, Sanger, Madera and Selma.

In order to determine the impact of a 5% local preference for bids less than or equal to $5,000,000 which means the local preference amount is less than or equal to $250,000, staff examined the 126 formal bids awarded in FY05 & 06 (refer attachment). These bids totaled $122,194,455 in value of which $83,223,951 was awarded to local vendors or 68% of total bids were awarded locally.

Staff assessed the FY05 and 06 bid awards to determine the impact of a 5% local preference for bids up to $5,000,000 for product/equipment bids and public works construction projects. Doing so would have changed bid awards to Fresno firms based on local preference from an extra cost of $17,953 under the current ordinance to an additional premium of $194,973.

During FY05 and FYO6 $177,020 is the added cost that would have been incurred by the City if a 5% local bid preference with a $250,000 cap had been in place.

Attachments - Formal Bid Award Recap for FY05 & 06

c: Jan Smith, Purchasing Manager

Formal Bid Award Recap for FY05 & 06

FY05

- 65 Formal Bids were awarded for at total of **$67,683,306**
  - 43 were Public Works projects for a total of $56,246,276
  - 21 were Products bids for a total of $11,237,626
  - 1 were RFP's for a total of $199,404

- 69% of the bids were awarded to local vendors for a total of $46,701,482

- 5% local preference at current cap of $12,500 was applied to one product bid which changed the award to a local vendor with an additional cost to the City of **$5,227**.

- If the proposed $250,000 cap had been mandated, one additional product bid would have been eligible for a 5% local preference for an additional cost to the City of **$77,934.**

- If the proposed $250,000 cap had been mandated, only four public works bids would have been eligible for a 5% local preference. Of these, two bid awards would have been changed for an additional cost to the City of **$99,086.**

- The total additional cost to the City of 5% local preference with $250,000 cap would have been **$177,020**.

FY06

- 61 Formal Bids were awarded for a total of **$54,511,149**
  - 42 were Public Works projects for a total of $27,186,832
  - 15 were Products bids for a total of $8,510,898
  - 4 were RFP's for a total of $18,813,418

- 67% of the bids were awarded to local vendors for a total of $36,522,469

- 5% local preference at current cap of $12,500 was applied to three product bids which changed the awards to local vendors with an additional cost to the City of **$12,726**.

- If the proposed $250,000 cap had been mandated, no other product bids would have been eligible for 5% local preference consideration.

- If the proposed $250,000 cap had been mandated, only two public works bids would have been eligible for a 5% local preference and in both cases application of the preference would have resulted in no change in the bid awards.

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SECTIONS 3-101 AND 3-505, REPEALING SUBSECTION (h) of SECTION 3-105, AND REPEALING AND ADDING SECTION 3-109.1 OF THE FRESNO MUNICIPAL CODE, RELATING TO LOCAL PREFERENCE IN COMPETITIVE PROCURMENT PROCESSES.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 3-101 of the Fresno Municipal Code is amended to read:

SECTION 3-101. PURCHASES. The purchasing agent, under the supervision and direction of the Chief Administrative Officer or his/her designee, shall be the officer in charge of the purchasing function and shall have general charge of purchases of materials, supplies, equipment, services, and/or public works construction for the use of all departments and branches of the city government, except where otherwise provided by state law or ordinance. Purchases involving the expenditure of city moneys in an amount for which advertised bidding is required by Section 3-105 shall be by contract as provided in said section. ~~The purchasing agent, in his/her discretion, may extend a preference to a local business in the purchase of materials, supplies, equipment and/or public works construction for which advertised bidding is not required by Section 3-105, provided that such preference is applied in the same manner as described in subsection (h) of Section 3-105.~~

SECTION 2. Subsection (h) of Section 3-105 of the Fresno Municipal Code is repealed.

SECTION 3. Section 3-109.1 of the Fresno Municipal Code is repealed.

SECTION 4. Section 3-109.1 is added to the Fresno Municipal Code to read:

SECTION 3-109.1. LOCAL PREFERENCE IN CONTRACTING FOR SERVICES, EQUIPMENT, MATERIALS, SUPPLIES AND ANY PUBLIC WORK OF IMPROVEMENT.

(a) The Council finds and declares all of the following:

(1) The City of Fresno is experiencing historical high rates of unemployment.

(2) The severe negative impact is compounded in the city economy with the employment reduction in the local development and utility industries.

(3) The United States Supreme Court has declared a job policy for residents to be a legitimate policy.

(4) Funds spent locally, with local businesses, recirculate through the local economy approximately four times, generating jobs, taxes and consumer spending.

(5) The provisions that the Council seeks to enact in this section as the city's restrictions on the use of its own funds as a participant in the marketplace are simply a self-imposed limitation on the city's power to contract.

(6) The provisions that the Council seeks to enact in this section have a rational relationship to the legitimate governmental purpose in that a local preference for services, equipment, materials, supplies and any public work of improvement will stimulate the local economy and reduce

unemployment.

(b) Except for those contracts funded by the federal or state government when such funding would be jeopardized because of this preference, the Council authorizes the purchasing agent to extend a preference to a local business as expressly set forth herein. For purposes of this section, "local business" shall mean a business with a fixed primary or branch office within the County of Fresno, and which fixed primary or branch office was established prior to the city inviting bids or proposals for the respective purchase.

(c) Notwithstanding subsection (a) of Section 3-105 and subsection (b) of Section 3-103 of this Code, the city shall, in contracting for equipment, materials, supplies or any public work of improvement pursuant to Sections 3-105 or 3-109, or subsection (c) of Section 3-502 of this Code, extend a five percent (5%) preference for a local business in award of the contract consistent with each of the following:

(1) The amount of the preference shall be equal to the amount of the percentage applied to the lowest responsive and responsible bid; provided, however, in no event shall the amount of the preference exceed two hundred and fifty thousand dollars ($250,000).

(2) If the bidder submitting the lowest responsive and responsible bid is not a local business, and if a local business has also submitted a responsive and responsible bid, and, with the benefit of the preference, the local business's bid is equal to or less than the original lowest responsive and responsible bid, the city shall award the contract to the local business at its submitted bid price.

(d) Notwithstanding subsection (g) of Section 3-109, the city shall, in contracting for (i) services pursuant to Section 3-109 of this Code, or (ii) any public work of improvement pursuant to subsections (a) or (b) of Section 3-502 of this Code; extend a five percent (5%) preference for a local business consistent with each of the following:

(1) The amount of the preference shall be equal to the amount of the percentage applied to the lowest proposal price; provided, however, in no event shall the amount of the preference exceed two hundred and fifty thousand dollars ($250,000).

(2) If the proposer submitting the lowest proposal price is not a local business, and if a local business has also submitted a proposal, and, with the benefit of the preference, the local business's proposal price is equal to or less than the original lowest proposal price, the city in judging whose proposal provides the best value on the basis of specified criteria, including price, shall consider the local business's price with the benefit of the preference. Any award of the contract to the local business will be at its submitted or best and final proposal price, whichever is applicable.

(e) The respective bidder or proposer shall certify, under penalty of perjury, that the bidder or proposer qualifies as a local business. The preference is waived if the certification does not appear on the respective bid or proposal.

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SECTION 5. Section 3-505 of the Fresno Municipal Code is amended to read:

SECTION 3-505. ESTABLISHMENT OF PRE-QUALIFICATION AND SELECTION PROCESS. The City Manager or his/her designee may establish a competitive pre-qualification and selection process for Design-Build Entities that specifies the pre-qualification criteria, as well as recommends the manner in which the winning Design-Build Entity will be selected. ~~The pre-qualification criteria for the purchase of the public work of improvement shall include whether the Design-Build Entity or any Design-Build Entity Member is a local business. For purposes of this article, "local business" shall mean a business with a fixed primary or branch office within a twenty-five mile radius of Fresno City Hall, located at Twenty-six Hundred Fresno Street in the City of Fresno, and which fixed primary or branch office was established prior to the city requesting proposals or inviting bids for the respective purchase.~~

SECTION 6. If any section, subsection, subdivision, paragraph, sentence or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, paragraph, sentence and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences or phrases had been declared invalid or unconstitutional.

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SECTION 7. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2007.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2007

Mayor Approval/No Return: _____, 2007

Mayor Veto: _____, 2007

Council Override Vote: _____, 2007

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Senior Deputy

NAA:eb [39440v3eb/Ord] 01/30/07

KAWEAH CONSTRUCTION CO.

GENERAL ENGINEERING CONTRACTORS

335 North Thorne Avenue
Fresno, CA 93706
P.O. Box 4378
Fresno, CA 93744

CALIFORNIA CONTRACTOR'S NO.130865

Phone: (559) 268-1540
Fax: (559) 268-0420
www.lylesgroup.com

FEB - 7 2007

February 1, 2007

Fresno City Hall
2600 Fresno Street
Second Floor
Fresno, California 93721-3600

Attention: Councilmember Xiong, District 1
Councilmember Calhoun, District 2
Councilmember Sterling, District 3
Councilmember Westerlund, District 4
Councilmember Dages, District 5
Council President Duncan, District 6
Councilmember Perea, District 7

Subject: Proposed Local Preference Ordinance

Honorable Councilmembers:

Kaweah Construction Co. is local Fresno construction firm that has performed many projects for the City of Fresno over our 55 year history. All of these projects have been bid and awarded by the City on a "level playing field" for all contractors. We support continuation of this fair approach to bidding and do not support the proposed local preference now being considered by the City Council.

We bid and construct projects throughout the state and have competed many times with other "local" contractors who have been granted a local preference. Our experience has been that such local preferences tend to:

- Undermine the time proven concept of award to the "lowest, responsive and responsible" bidder
- Add unnecessary complexity to the bid process and award procedure

- Tend to discourage outside competition resulting in fewer bids which in turn results in greater project costs for the City

- Invite circumvention by firms that "establish" satellite offices in an attempt to achieve a "local" status

- Cost the taxpayers more money for a lesser quality product

Local preferences by one city or county will also encourage other cities and counties to adopt similar local preferences. This will affect our firm in a negative manner since we need to bid on these projects (outside of the Fresno area) to maintain a volume of work to support our field employees. Many of our employees live locally in Fresno and potentially would be without a job if we lost a project because of a local preference in another city.

In conclusion, we feel that any type of preferential treatment is not consistent with the concept of fair and equal treatment of all bidding contractors and is not in the best interest of the City or local taxpayers.

Thank you for taking the time to consider our opinion and concern regarding this local preference issue that is currently under consideration by the Council.

KAWEAH CONSTRUCTION CO.

Scott Richards
President

Progress Through Performance

W. M. LYLES CO.

P.O. BOX 4377, FRESNO, CALIFORNIA 93744-4377
TELEPHONE (559) 441-1900
FAX (559) 441-1290
www.lylesgroup.com

FEB - 1 2007

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Fresno City Hall
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Attention: Councilmember Xiong, District 1
Councilmember Calhoun, District 2
Councilmember Sterling, District 3
Councilmember Westerlund, District 4
Councilmember Dages, District 5
Council President Duncan, District 6
Councilmember Perea, District 7

Telephones:

LOCATIONS

BAKERSFIELD
661 387-1600
COLUSA
530 458-6000
FRESNO
559 237-2200
TEMECULA
951 693-0700
VISALIA
559 651-1450
CALIFORNIA
CONTRACTOR'S
LICENSE NO.
422390

Regarding: Proposed Local Preference Ordinance

Honorable Councilmembers:

In our 62 year history, W.M. Lyles Co. has appreciated the opportunity to have bid for, and constructed many projects with the City of Fresno. Our corporate and district offices have been located in the District 3 area for over 30 years with immeasurable contributions to the City, it's economy and our union labor force.

To the important matter at hand, we do not support the proposed local preference ordinance. I understand that this position may run counterintuitive coming from a Fresno based company that would be "helped" by such an ordinance. However; we stand as solid supporters of the historically proven and current competitive procurement process utilized by the City of Fresno and countless other public agencies throughout the State. The application of **any** type of preference, including to local companies, opens up possibilities of retribution type ordinances from other municipalities (where we also work), potential manipulation to take advantage of such an ordinance as well as other legal concerns in competitive bidding.

The current system correctly follows California State Public Contract Code and awards projects to the lowest, responsive and **responsible** bidder. I have intentionally added emphasis to **responsible**. I think most of you would agree that the criteria of **responsibility** needs more attention than it has been given in the past. There have recently been several City solicitations that indicate some progress, or at least increased

appreciation, on this front and I applaud those efforts. On a related note, I have noticed a real push in both the private and public sectors toward "best value" based thinking rather than a purely low bid mentality.

On behalf of Michael Burson, President and CEO of W.M. Lyles Co., I appreciate your consideration of our opinions in this important matter. Please feel free to contact me if you have any further questions or comments.

Sincerely,

By: _____
Todd R. Sheller
Vice President

with enclosures

cc: Mr. Paul Schramm, City of Fresno Purchasing

315 North Thorne Avenue
P.O. Box 4348
Fresno, California 93744

American Paving Co.

Tel. (estimating): (559) 268-9886
Fax (estimating): (559) 268-2908
Tel. (accounting): (559) 487-7960
Fax (accounting): (559) 487-7949

February 1, 2007

FEB - 7 2007

Fresno City Hall
2600 Fresno Street
Second Floor
Fresno, California 93721-3600

Attention: Councilmember Xiong, District 1
Councilmember Calhoun, District 2
Councilmember Sterling, District 3
Councilmember Westerlund, District 4
Councilmember Dages, District 5
Council President Duncan, District 6
Councilmember Perea, District 7

Regarding: Proposed Local Preference Ordinance

Honorable Councilmembers:

We appreciate the opportunity to have bid for, and constructed many projects with the City of Fresno for many years. Just in the last several years we have successfully completed: No Neighborhood Left Behind #29, intersection improvements at Shaw & Fresno, Shaw & First, Shaw & West, Shaw & Blackstone, Cedar & Shields, Butler & Orange, and Herndon & Valentine, Al Radka Park, Nielsen Park, MacMichael Trail, Promenade Parking Lot, Holmes Playground, and Parking Lot modifications at FYI Airport, to name a few. City of Fresno projects that we are currently constructing, or will be soon, include improvements at Victoria West Park and Herndon Ave. widening from Cedar to Willow. Furthermore, NNLB #71 is scheduled to be awarded to us at the February 6, 2007 Council meeting.

To the matter at hand, we do not support the proposed local preference ordinance. I understand that this position may run counterintuitive coming from a Fresno based company that would only be "helped" by such an ordinance. However, we stand as solid supporters of the historically proven and current competitive procurement process utilized by the City of Fresno and countless other public agencies. The application of **any** type of preference, including to local companies, only opens up the possibilities of retribution type ordinances from other municipalities (where we also work), potential manipulation to take advantage of such an ordinance, and the list goes on.

The current system awards projects to the lowest, responsive and **responsible** bidder. I have intentionally added emphasis to **responsible**. I think most of you would agree that the criteria of **responsibility** needs much more attention than it has been given in the past. There have recently been several City solicitations that indicate some progress, or at least increased appreciation, on this front. On a related note, we have noticed a real push on both the private and public side to "best value" based thinking other than a purely low bid mentality.

We appreciate your consideration of our opinions of this matter. Feel free to contact me if you have any questions or comments.

Sincerely,

John D. Sloan *(resident of District 6)*
President & CEO

with enclosures

cc: Alan Autry, Mayor
Paul Schramm, Purchasing

GRANITE CONSTRUCTION COMPANY SINCE 1922

February 5, 2007

Brian Calhoun
Councilmember District 2
City of Fresno

FEB - 5 2007

Re: Local Preference to Fresno Businesses

Dear Councilmember Calhoun,

I am writing on behalf of Granite Construction Company to express opposition to the proposed changes to the Fresno Municipal Code related to local preference in the competitive procurement processes. Although the proposed changes would actually benefit Granite Construction Company in the short term, we do not think they are necessary and may actually result in unintended negative consequences for Fresno and its local businesses.

While well intentioned, local preferences undermine the "lowest responsible bidder" process and act to reduce competition. Contractors and vendors from outside the established local boundaries will choose not to bid on projects with a local preference. At the request of these same contractors and vendors, other local municipalities will adopt reciprocal preferences, which will harm Fresno businesses that work outside the local area. The net result is fewer projects being built because each one will cost more. The cost impacts may be well in excess of the 5% local preference, because the existence of a local preference will decrease the number of companies willing to submit a bid.

Granite Construction Company is a leading civil engineering contractor and construction materials supplier in California. Our Central Valley Office is located within an Enterprise Zone in Southwest Fresno. We share your concern that some of our tax dollars may be leaving the Fresno area, but we believe a local bidders preference is a step in the wrong direction.

Sincerely,

Todd A. Hill

Todd A. Hill
Branch Manager

Central Valley Branch
2716 Granite Court
Fresno, CA 93706
(559) 441-5700
FAX (559) 441-5791