

ORDINANCE NO. 2009- 1698

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SOLANO ADDING SECTION 22-24 TO, AND REPEALING CERTAIN PORTIONS OF SECTION 22-25 OF, THE SOLANO COUNTY CODE RELATING TO A LOCAL PREFERENCE IN PURCHASING

The Board of Supervisors of the County of Solano ordains as follows:

Section 1. Findings

The Board of Supervisors finds as follows:

1. Local businesses that seek to enter into contracts with the County of Solano are at a competitive disadvantage with businesses from other areas because of the higher costs of doing business in the County. The higher costs of doing business in the County are reflected in an analysis of first quarter 2008 mean wage data from the California Employment Development Department (EDD), included in the staff report authored by the County Administrator's Office and presented to the Board of Supervisors with this ordinance. According to this analysis, for over half of 22 comprehensive job classifications, the County's mean wage was larger than that of Stockton's, Sacramento's, and Napa's, for a majority of the occupations within each classification (as measured by metropolitan statistical area).
2. The public interest would best be served by encouraging businesses to locate and remain in the County of Solano through the provision of a minimal "good faith" preference to local businesses in the awarding of County contracts. Among other things, local businesses provide jobs to County residents, generate revenue for the County, and contribute to the social fabric of the community.

Section 2. Section 22-24 Added

Section 22-24 is added to the Solano County Code to read as follows:

Sec. 22-44. Local business preference

- (a) For purposes of this section, a "local business" means a business enterprise, including but not limited to a sole proprietorship, partnership, or corporation, which has the following:
 - (1) a valid business license issued from the County or a political subdivision within the County; and
 - (2) its principal business office, or a satellite office with at least one full-time employee, located in the County.

- (b) Where competitive bidding is utilized pursuant to section 22-23, and the lowest responsible bidder is not a local business, the purchasing agent shall provide the lowest responsible local business bidder, should one exist and its bid is within five percent (5%) of the lowest responsible bidder, with notice and an opportunity to reduce its bid to match that of the lowest responsible bidder. Notice shall be by telephone and either facsimile or electronic mail. The local business shall have five (5) business days after the date of such notice to match the lowest bid, in writing. Should the local business so match, it shall be deemed the lowest responsible bidder for purposes of sections 22-23 and 22-25 and receive the award.
- (c) Should the lowest responsible local business bidder decline to match as set forth in subsection (b), the purchasing agent shall provide the next lowest responsible local business bidder, should one exist and its bid is within five percent (5%) of the lowest responsible bidder, with the same notice and opportunity to match the bid of the lowest responsible bidder as in subsection (b). This process shall continue as necessary, until an award is made under section 22-25 either to a responsible local business bidder within five percent (5%) of the lowest responsible bidder, or the lowest responsible bidder itself.
- (d) In instances where a local business and a non-local business submit equivalent, lowest responsible bids, the purchasing agent shall give preference to the local business.
- (e) No contract awarded to a local business under this section shall be assigned or subcontracted in any manner that permits more than fifty (50) percent or more of the dollar value of the contract to be performed by an entity that is not a local business.
- (f) In submitting a bid subject to this section, a local business shall affirm its compliance with subsection (a) on a form to be provided by the purchasing agent.
- (g) The purchasing agent shall provide adequate notice of the provisions of this section to prospective bidders.
- (h) This section is made expressly inapplicable to public works or other projects to the extent the application would be prohibited by state or federal law.

Section 3. Section 22-25(a)(9) Repealed

Section 22-25(a)(9) of the Solano County Code is repealed.

Section 4. Section 22-25(c) Repealed

Section 22-25(c) of the Solano County Code is repealed.

Section 5. Severability

If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, including but not limited to being preempted by state or federal law, that provision shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof nor other applications of the ordinance which can be given effect without the invalid provision or application.

Section 6. Effective Date

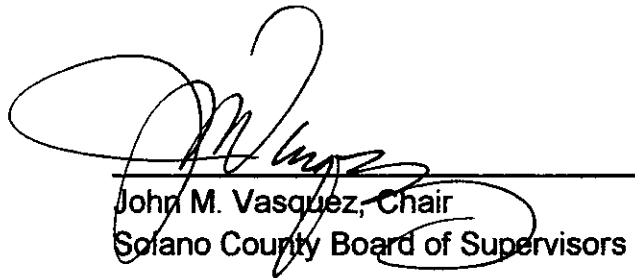
This ordinance shall become effective thirty days after its passage.

Section 7. Publication

A summary of this ordinance shall be published once within fifteen days after its adoption, in the Fairfield Daily Republic, a newspaper of general circulation in Solano County.

Passed and adopted by the Solano County Board of Supervisors on May 26, 2009, by the following vote:

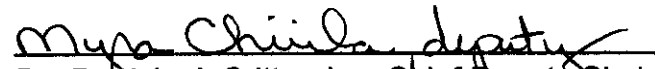
AYES: Reagan, Seifert, Spring, and Chair Vasquez
NOES: Kondylis
EXCUSED: None



John M. Vasquez, Chair
Solano County Board of Supervisors

ATTEST:

Michael D. Johnson, Clerk
Board of Supervisors


By: Patricia J. Crittenden, Chief Deputy Clerk

Introduced: May 5, 2009
Adopted: May 26, 2009
Effective: June 26, 2009