

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Section 10.49 of the Los Angeles Administrative Code adding a Local-State Disabled Veterans Business Enterprise preference to the existing Los Angeles World Airport's Local Business and Local Small Business Program.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 23 of Chapter 1, Division 10 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

**CHAPTER 1, ARTICLE 23**

**LOS ANGELES WORLD AIRPORT'S LOCAL BUSINESS,  
LOCAL SMALL BUSINESS AND LOCAL-STATE DISABLED  
VETERANS BUSINESS ENTERPRISE PROGRAM**

**Sec. 10.49. Purpose.**

The City has a proprietary interest in leveraging, to the greatest extent possible, the money it spends at the Los Angeles World Airports (LAWA) when contracting with businesses for goods, equipment and services to and for the benefit of the City and its residents. The City has a proprietary interest in leveling the playing field among those businesses competing for LAWA contracts, to decrease local unemployment and to increase LAWA revenues.

Significant benefits are associated with a Local Business and Local Small Business Enterprise Program. These include an increase in local jobs and expenditures in the local private sector. Preference programs are especially helpful in regions where unemployment tends to be higher than in other regions. Los Angeles County and City have been slow to recover from the 2008 economic recession and employment growth in the County and City has not been as robust as in other regions.

Historically, many of the larger cities within the County, especially the City of Los Angeles, experience labor costs that are among the highest in the nation. Los Angeles area labor costs are higher than the labor costs found in neighboring states. Business space in the Los Angeles metropolitan area is more costly than comparable space in other California counties and other states. On a national level, Los Angeles is one of the two most expensive metropolitan areas in the western United States in which to do business as a result of the local tax and fee structure. Corporations in California are subject to a corporate tax that is among the highest in the nation. These conditions create a very expensive climate in which local businesses must compete against businesses outside the County. This heightened cost of doing business in the County has an especially significant impact on local small businesses, which often operate with smaller profit margins and fewer financial resources to offset business costs. Local businesses and local small businesses confront cost structures that are weighted much

heavier, in terms of labor and costs of doing business, than competing firms that are located in neighboring counties or states.

Disabled Veterans Business Enterprise Programs serve the purpose of rewarding veterans for their sacrifice of military service, encouraging patriotic service among civilians, helping to ease the transition from military service to civilian life, and attracting loyal and well-disciplined people to government contracting opportunities. Disabled Veterans Business Enterprise Programs are beneficial to veterans, the local community and the entities implementing these programs by encouraging the establishment of new businesses; providing new growth opportunities for existing businesses; developing new, local employment opportunities for disabled veterans; recognizing and utilizing skills unique to veterans to encourage business success; promoting job creation and income for local employees; and increasing business tax revenue.

This narrowly tailored Local Business, Local Small Business and Local-State Disabled Veterans Business Enterprise Program is fashioned to encourage businesses to compete for LAWA contracting opportunities, establish and maintain local operations, and to discourage existing local businesses from relocating to different, less expensive areas of California and the nation.

#### **Sec. 10.49.1. Definitions.**

The following definitions shall apply to this Section:

- A. **“Awarding Authority”** means LAWA’s Board of Airport Commissioners (BOAC), authorized to award or enter into any Contract, as defined in this Article.
- B. **“Bid”** means any response to a LAWA solicitation for bids pursuant to Charter Section 371.
- C. **“BOAC”** means Board of Airport Commissioners.
- D. **“City”** means the City of Los Angeles.
- E. **“Contract”** means a written agreement involving consideration in excess of \$150,000 for the purchase of goods, equipment or services, including design and construction, by or for the benefit of the City or its residents or LAWA.
- F. **“Contractor”** means the person, business or entity awarded the Contract by the Awarding Authority.
- G. **“County”** means the County of Los Angeles.
- H. **“Designated Administrative Agency,”** or **“DAA,”** means the Department of Public Works, Bureau of Contract Administration.

I. **“Full-time Employee”** means an employee who worked during the last 12 months, at least 40 hours per week or the minimum number of hours defined in their Employee Handbook or union Memorandum of Understanding as a full-time employee. Compensated time off shall be considered part of the hours worked.

J. **“Local Business”** means a business entity that meets all of the criteria for a Local Business established under this Article.

K. **“Local Small Business”** means a business that meets all of the criteria for a Local Small Business established under this Article.

L. **“Local-State Disabled Veterans Business”** means a business that meets all of the criteria for a Local-State Disabled Veterans Business under this Article.

M. **“LAWA”** means Los Angeles World Airports.

N. **“Proposal”** means any response to a LAWA solicitation for Proposals pursuant to Charter Section 372.

O. **“State”** means the State of California.

P. **“Subcontract”** means a written agreement between a Contractor and a Subcontractor for the purchase of goods, equipment or services, including design and construction, by or for the benefit of the City or its residents or LAWA.

Q. **“Subcontractor”** means the person, business or entity awarded a Subcontract by a Contractor.

R. **“Virtual Office”** means either a non-physical business location or a physical business location that is not 100 percent dedicated to the named business operation.

#### **Sec. 10.49.2. Criteria for Local Business.**

A Local Business for purposes of this Article must satisfy all of the following criteria, as certified by the DAA:

A. The business occupies workspace within the County. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the County. The business cannot satisfy this requirement by operating as a virtual office;

B. The business must submit proof to the City demonstrating that the business is in compliance with all applicable laws relating to licensing and is not delinquent on any County or City taxes; and

C. The business must submit proof to the City demonstrating one of the following:

(1) That at least 50 of the full-time employees of the business perform work within the boundaries of the County at least 60 percent of their total, regular hours worked on an annual basis; or

(2) That at least half of the full-time employees of the business work within the boundaries of the County a minimum of 60 percent of their total, regular hours worked on an annual basis; or

(3) That the business is headquartered in the County. For purposes of this Article, the term “headquartered” shall mean that the business physically conducts and manages its operations from a single, physical location in the County.

**Sec. 10.49.3. Criteria for Local Small Business.**

A Local Small Business for purposes of this Article shall satisfy all of the following criteria, as certified by the DAA:

A. Certified by the DAA as a Local Business consistent with Section 10.49.2; and

B. Certified by the DAA as a Small Business Enterprise Proprietary or a small business pursuant to LAWA’s Small Business Enterprise Program.

**Sec. 10.49.4. Criteria for Local-State Disabled Veterans Business.**

A Local-State Disabled Veterans Business for purposes of this Article shall satisfy the following criteria:

A. Demonstrate to the DAA that it is certified by the U.S. Department of Veterans Affairs or the U.S. Small Business Administration as a Service-Disabled Veteran-Owned Small Business or certified by the State of California as a Disabled Veteran Business Enterprise; and

B. Demonstrate to the DAA that it is a Local-State Business by showing:

(1) The business occupies workspace within the State. The business must submit proof of occupancy to the City by supplying evidence of a lease, deed or other sufficient evidence demonstrating that the business is located within the State. The business cannot operate as a virtual office;

(2) The business must submit proof to the City demonstrating that the business is in compliance with all applicable

laws relating to licensing and is not delinquent on any State, County or City taxes; and

(3) The business must submit proof to the City demonstrating one of the following:

(a) That at least 50 of the full-time employees of the business perform work within the boundaries of the State at least 60 percent of their total, regular hours worked on an annual basis; or

(b) That at least half of the full-time employees of the business work within the boundaries of the State a minimum of 60 percent of their total, regular hours worked on an annual basis; or

(c) That the business is headquartered in the State. For purposes of this Article, the term "headquartered" shall mean that the business physically conducts and manages its operations from a single, physical location in the State.

#### **Sec. 10.49.5. Setting Contract-Specific Requirements.**

LAWA Procurement Services Division shall review each potential Contract opportunity with the appropriate LAW A division and LAW A executive staff to determine whether and to what extent requirements for a Local Business, Local Small Business or Local-State Disabled Veterans Business Enterprise should be applied. If a Local Business, Local Small Business, and/or Local-State Disabled Veterans Business requirement is to be required, it shall be included in the solicitation for Bids or Proposals.

#### **Sec. 10.49.6. Meeting Contract-Specific Requirements.**

A Bid or Proposal may be rejected as non-responsive if at the time of submitting the Bid or Proposal the Contractor and/or Subcontractors identified by the Contractor as part of the Bid or Proposal do not meet the Local Business, Local Small Business and/or Local-State Disabled Veterans Business requirements established for that Contract opportunity. A Contractor may not satisfy the Local Business requirement by virtue of its own status as a Local Business. A Contractor shall satisfy the Local Business requirement only through the use of Subcontractors. A Contractor may satisfy the Local Small Business requirement if the Contractor itself is a Local Small Business. If a Contractor is not a Local Small Business, it shall satisfy the Local Small Business requirement through the use of Subcontractors. A Contractor may satisfy the Local-State Disabled Veterans Business requirement if the Contractor itself is a Local-State Disabled Veterans Business. If a Contractor is not a Local-State Disabled Veterans Business, it shall satisfy the Local-State Disabled Veterans Business requirements through use of subcontractors. Before the award of a Contract, BOAC may determine

that it is in LAWA’s best interest to award the Contract to a business that did not meet the requirements established for that Contract opportunity. BOAC shall include findings supporting its determination.

**Sec. 10.49.7. Applicability.**

This Article applies only to Contracts that involve the expenditure of funds entirely within LAWA’s control and shall not apply to contracts that involve the expenditure of funds beyond LAWA’s control, such as state and federal grant funds, unless the grants allow for a local preference requirement.

**Sec. 10.49.8. Failure to Maintain Compliance with Requirements.**

A Contractor shall not alter a Local Business, Local Small Business or Local-State Disabled Veterans Business Subcontract, either substituting the business Subcontracted or the amount of the Subcontract work, without the prior written consent of LAWA Procurement Services Division. A Contractor that fails to maintain the Local Business, Local Small Business or Local-State Disabled Veterans Business commitment established for a Contract shall be subject to a penalty up to ten percent (10%) of the amount of the applicable Subcontract. At the end of each project, before final calculation of any penalty, LAWA may withhold from the Contractor as disputed funds 150% of the estimated amount of any penalty. The remedies available to LAWA under this Subsection are cumulative to all other rights and remedies available to the City or LAWA under law.

**Sec. 10.49.9. Administration.**

The DAA shall have broad discretion to promulgate rules, as approved by BOAC, to implement and administer this Article. The DAA shall develop rules that address if and how a joint venture can seek Local Business, Local Small Business or Local-State Disabled Veterans Business status. The DAA and/or LAWA may audit a Contractor’s compliance with the provisions of this Article. The DAA shall investigate a violation of a requirement of this Article. The Contractor and Subcontractor shall cooperate with the DAA and LAWA in the course of an audit or investigation.

**Sec. 10.49.10. Severability.**

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the Main Street entrance to the City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

HOLLY L. WOLCOTT, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  \_\_\_\_\_  
RAYMOND ILGUNAS  
Senior Assistant City Attorney

Date 4-13-17

File No. \_\_\_\_\_