

ORDINANCE NO. _____

An ordinance adding Article 23 to Division 10 of the Los Angeles Administrative Code establishing a Local and Local Small Business Enterprise Program for Los Angeles World Airports (LAWA) procurement of goods, equipment and services, including design and construction, when the contract involves an expenditure in excess of \$150,000.

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

Section 1. A new Article 23 is added to Division 10 of the Los Angeles Administrative Code to read as follows:

CHAPTER 1, ARTICLE 23

**LOS ANGELES WORLD AIRPORT LOCAL AND LOCAL SMALL 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 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.

This narrowly tailored preference program is fashioned to encourage businesses to compete for LAWA contracting opportunities, to locate business operations in the County and to encourage existing local businesses and local small businesses to refrain from relocating out of the County to less expensive areas.

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. **“City”** means the City of Los Angeles.
- D. **“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.
- E. **“Contractor”** means the person, business or entity awarded the Contract by the Awarding Authority.
- F. **“County”** means the County of Los Angeles.
- G. **“Designated Administrative Agency,”** or **“DAA,”** means the Department of Public Works, Bureau of Contract Administration.
- H. **“Local Business”** means a business entity that meets all of the criteria for a Local Business established under this Article.
- I. **“Local Small Business”** means a business that meets all the criteria for a Local Small Business established under this Article.
- J. **“LAWA”** means Los Angeles World Airports.
- K. **“Proposal”** means any response to a LAWA solicitation for Proposals pursuant to Charter Section 372.

L. **“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.

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

N. **“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.

O. **“Full-time employee”** means an employee that 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.

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 Los Angeles City or Los Angeles County 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. Setting Contract-Specific Requirements.

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

Sec. 10.49.5. 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 does not meet the Local Business and/or Local Small 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. 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.

Sec. 10.49.6. 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. 10.49.7. Failure to Maintain Compliance with Requirements.

A Contractor shall not alter a Local Business or Local Small Business Subcontract, either substituting the business Subcontracted or the amount of the Subcontract work, without the prior written consent of PSD. A Contractor that fails to maintain the Local Business or Local Small 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. 10.49.8. 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 or Local Small 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. 10.49.9. 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 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  for

RAYMOND ILGUNAS
Senior Assistant City Attorney

Date September 1, 2016

File No. _____