



# Memorandum

**TO:** RULES AND OPEN  
GOVERNMENT COMMITTEE

**FROM:** Vice Mayor Chappie Jones  
District 1

**SUBJECT: LOCAL/SMALL BUSINESS  
PREFERENCES**

**DATE:** March 30, 2022

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Approved

Date: **March 30, 2022**

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## **RECOMMENDATION**

- 1) Direct City Attorney to amend [Section 27.06.050\(g\) of the San José Municipal Code](#) “Procuring Minor Public Works Projects” to increase the preference provided if the Contractor is:
  - a. a Local Business Enterprise from 2.5% to 5%; and
  - b. a Local and a Small Business Enterprise from 2.5% to 5%.
- 2) Direct City Manager to update procurement preferences for Minor Public Works Contracts accordingly per the approved amendment.

Schedule this amendment for approval on the City Council Agenda of April 26, 2022.

## **BACKGROUND**

Section 27.06.050(g) of the San José Municipal Code allows for a local/small preference to be provided on Minor Public Works contracts. The purpose of a Small Business Enterprise (SBE) and Local Business Enterprise (LBE) preferences is to increase opportunity and assist small and local businesses when competing for the award of City contracts.

Per the [Annual Report](#) on Contracting with Local and Small Businesses in FY 2020-21 as presented to the City’s Community and Economic Development Committee (CED) on January 23, 2022, the program saw a decrease in the percentage of contracts awarded to local and local/small contractors for both Major and Minor Projects from the previous fiscal year. In addition, even though in 2019 the City approved administering local and small business preference to qualifying contractors on Minor Projects to help increase the award frequency to those contractors, it has yielded zero awards to local and small businesses for the past two fiscal years and since its implementation.

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**Subject: Local/Small Business Preferences**

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Initially in 2019 the City's LBE and SBE preferences for procurement of public works contracts were determined at 2.5% each (for a total of 5%) to align with the preferences for the procurement of goods and services as described in [Section 4.12.320](#) of the San Jose Municipal Code. However, it is apparent this preference does not make an impact for small businesses bidding for construction contracts, nor may it be attractive enough for them to bid.

Per my recommendation on [October 26, 2021](#) for the City Manager and City Attorney to evaluate this proposed increase, Public Works Director reported to CED that if this increase were in place, it would have changed the results of three out of 15 procurements, or it would have increased awards to small/local businesses by 20%. As we continue to evaluate and pivot in our strategy to improve outcomes for our small and local businesses, it is recommended to increase the City's SBE/LBE preferences, potentially for a total of 10% if the contractor is both a local and small business, for Minor Public Works Contracts and amend the municipal code accordingly.