

ORDINANCE NO. 87-030

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

APR 21 1987

AN ORDINANCE AMENDING ORDINANCE NO. 86-126, RELATING TO DEPOSIT OR INVESTMENT OF CITY FUNDS IN OR WITH BUSINESSES, FIRMS OR FINANCIAL INSTITUTIONS WHICH ARE ORGANIZED UNDER THE LAWS OF SOUTH AFRICA OR NAMIBIA, HAVE BUSINESS OPERATIONS IN SOUTH AFRICA OR NAMIBIA, OR HAVE BUSINESS ARRANGEMENTS WITH SOUTH AFRICA OR NAMIBIA RESTRICTING THE PURCHASE OF COMMODITIES PRODUCED IN SOUTH AFRICA OR NAMIBIA, AND PROVIDING FOR SELECTIVE PURCHASE OF PRODUCTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION ONE.

Section 2 of Ordinance No. 86-126 is amended to read as follows:

SECTION 2. Institutions.

(a) Prohibited Transactions

(1) Subject to the provisions of Government Code §§ 53600, et seq., no City funds shall be deposited or remain deposited in any financial institution which has any outstanding loan to:

- (i) South Africa or Namibia, or
- (ii) any business firm organized under the laws of South Africa or Namibia, or
- (iii) any business firm for the express purpose of doing business with, conducting business operations in, or trading with any private or public entity located in South Africa or Namibia.

(2) Subject to the provisions of Government Code §§ 53600, et seq., no City funds shall be invested or remain invested in the stocks, bonds, securities, or other obligations of any financial institution which has any outstanding loan to:

ORDINANCE No. 87-030
APR 21 1987

- (i) South Africa or to Namibia, or
- (ii) any business firm organized under the laws of South Africa or Namibia, or
- (iii) any business firm for the express purpose of doing business with, conducting operations in, or trading with any private or public entity located in South Africa or Namibia.

(3) Notwithstanding the provisions of subsection (a)(1) and (a)(2) above, the prohibitions of this section shall apply only to those financial institutions which are on the list published by the City Treasurer pursuant to Section 3, subsection (b) of this ordinance.

(4) The prohibitions of this section shall not apply to City funds held by a bank or financial institution under a trust indenture or investment agreement, or which have otherwise been or are required to be invested or deposited by the City under a preexisting contractual obligation, provided that such indenture, agreement or contractual obligation shall not be extended beyond its current maturity date.

(b) Waiver

The prohibitions of Section 2(a)(1), (ii) and (iii) and 2(a)(2), (ii) and (iii) shall not apply if the City Treasurer, in his or her discretion, finds that:

- (1) no other financial institution is available which is capable of satisfactorily performing the desired function, or
- (2) the City will incur a significant financial loss as a consequence of the prohibitions contained in this ordinance, or as a consequence of the need to comply with the time constraints of this ordinance.

In such event, the City Treasurer shall endeavor to select that financial institution which best meets the following two criteria, subject to the provisions of Government Code §§53600, et seq.:

- (1) maintains policies that conform to the greatest extent with the intent of this ordinance, and
- (2) is most capable of providing a level of service or investment return equal to that which the City could have received if the prohibitions of this section had not been enacted.

ORDINANCE No. 87-030
APR 21 1987

The City Treasurer shall periodically report to the City Council each and every exercise of waiver implemented pursuant to this subsection. The City Treasurer shall within 120 days from the date of adoption of this ordinance develop rules and regulations which specifically address both the criteria and reporting procedures. Such rules and regulations shall be approved by the City Council.

(c) Compliance

(1) The withdrawal or divestiture required by this section shall be completed in accordance with the schedule set forth in Section 6 of this ordinance.

(2) The City Treasurer shall advise an affected financial institution that the withdrawal or divestiture of City funds is required by this ordinance, due to non-compliance with its provisions.

(3) Subject to the provisions of Government Code §§53600, et seq., if the City Treasurer determines that City funds have been deposited or invested in a financial institution as to which new investments or deposits could no longer be made due to the provisions of this ordinance, the City Treasurer shall require the withdrawal or divestiture of those funds within six (6) months after the date of such determination.

SECTION TWO.

Section 3 of Ordinance No. 86-126 is amended to read as follows:

SECTION 3. Direct Investment of City Funds.

(a) Prohibited Transactions

No City funds shall be invested in or remain invested in the stocks, bonds, securities or other obligations of:

(1) South Africa or Namibia, or

(2) any business firm organized under the laws of the Republic of South Africa or Namibia, or

(3) any business firm which has business arrangements with or has business operations in South Africa or Namibia.

ORDINANCE No. 87-030

(b) Implementation by Published List

(1) Within 120 days after the adoption of this ordinance, the City Treasurer shall file in the Office of the City Clerk and distribute to the Mayor, City Council, City Manager, Director of Finance, and the Director of General Services a listing of business firms and financial institutions which are described in subsection (a) of this section, and in subsection (a) of Section 2 of this ordinance. The City Treasurer shall consult the most recent annual report of the Investor Responsibility Research Center, entitled "U.S. and Canadian Investment in South Africa", United Nations reports, and other reliable sources in the preparation of the listing. The City Treasurer shall update and amend the listing annually, or more frequently as deemed necessary by the City Treasurer. The City Treasurer may comply with this provision by reference to any reliable publication which itself lists the firms described in subsection (a) of this section.

(2) The requirements of this section shall be satisfied by ensuring that no City funds are invested in any stocks, bonds, securities, or other obligations of any business firms which appear on the list prepared pursuant to the preceding subsection, or in any stocks, securities, or other obligations of South Africa or Namibia.

(c) Compliance

With respect to City funds currently invested in investments proscribed by this section, the divestiture required by this section shall be completed in accordance with the schedule set forth in Section 6 of this ordinance. When the City Treasurer determines that divestiture of City funds is required by this section, the City Treasurer shall so advise affected companies.

SECTION THREE.

Section 4 of Ordinance No. 86-126 is amended to read as follows:

SECTION 4. Use of Professional Service Firms.

(a) Prohibited Transactions

The City of Sacramento shall not enter into any agreement for the provision of professional services by any business firm which is on the list promulgated by the City

Treasurer pursuant to Section 3, subsection (b)(1) of this ordinance.

(b) Selective Contracting

Notwithstanding any contrary provision in the City Code, and subject to the provisions of the City Charter, the City Manager shall within 120 days from the date of adoption of this ordinance submit to the City Council for adoption an ordinance establishing a selective contracting procedure which awards a five percent (5%) preference to any bidding business firm whose name does not appear on the list promulgated by the City Treasurer pursuant to Section 3, subsection (b)(1) of this ordinance.

(c) Waiver

The prohibitions of Section 4(a) shall not apply if the City Manager, in his or her discretion, finds that:

- (1) no other business firm is available which is capable of satisfactorily performing the desired function, or
- (2) the City will incur a significant financial loss as a consequence of the prohibitions contained in this ordinance, or as a consequence of the need to comply with the time constraints of this ordinance.

In such event, the City Manager shall endeavor to select that business firm which best meets the following two criteria:

- (1) maintains policies that conform to the greatest extent with the intent of this ordinance, and
- (2) is most capable of providing a level of service equal to that which the City could have received if the prohibitions of this section had not been enacted.

The City Manager shall periodically report to the City Council each and every exercise of waiver implemented pursuant to this subsection. The City Manager shall within 120 days from the date of adoption of this ordinance develop rules and regulations which specifically address both the criteria and reporting procedures. Such rules and regulations shall be approved by the City Council.

(d) Applicability

This section shall apply only to those contracts awarded by the City Council. For those contracts not awarded by the City

ORDINANCE No. 87-030

Council, the City Manager shall within 120 days from the date of adoption of this ordinance promulgate an administrative instruction which requires that City departments meet the intent of this ordinance with respect to the award of professional service contracts.

(e) Compliance

Subsection (a) of this section shall become operative one hundred twenty (120) days after the date of adoption of this ordinance. Subsection (b) of this section shall become operative upon the effective date of the ordinance to be adopted pursuant to that subsection.

SECTION FOUR.

Section 5 of Ordinance No. 86-126 is amended to read as follows:

SECTION 5. Purchase of Commodities.

(a) Prohibited Transactions

The City of Sacramento shall not purchase any commodity which is manufactured or produced in South Africa or Namibia.

(b) Selective Purchasing

Notwithstanding any contrary provision in the City Code, and subject to the provisions of the City Charter, the City Manager shall within 120 days from the date of adoption of this ordinance submit to the City Council for adoption an ordinance establishing a selective purchasing procedure which awards a five percent (5%) preference to any bidding business firm whose name does not appear on the list promulgated by the City Treasurer pursuant to Section 3, subsection (b)(1) of this ordinance.

(c) Waiver

The prohibitions of Section 5(a) shall not apply if the City Manager, in his or her discretion, finds that:

(1) no other business firm is available which is capable of satisfactorily performing the desired function, or

(2) the City will incur a significant financial loss as a consequence of the prohibitions contained in this ordinance, or as a consequence of the need to comply with the time constraints of this ordinance.

In such event, the City Manager shall endeavor to select that business firm which best meets the following two criteria:

(1) maintains policies that conform to the greatest extent with the intent of this ordinance, and

(2) is most capable of providing a level of service equal to that which the City could have received if the prohibitions of this section had not been enacted.

The City Manager shall periodically report to the City Council each and every exercise of waiver implemented pursuant to this subsection. The City Manager shall within 120 days from the date of adoption of this ordinance develop rules and regulations which specifically address both the criteria and reporting procedures. Such rules and regulations shall be approved by the City Council.

(d) Contract Stipulation Required

Prior to the City Council awarding any contract to a business firm for the purpose of supplying a commodity to the City of Sacramento, the City shall require the business firm to stipulate, as a material condition of the contract, that the commodity offered for sale to the City of Sacramento is neither manufactured nor produced in South Africa or Namibia.

(e) Applicability

This section shall apply only to contracts awarded by the City Council.

(f) Compliance

Subsections (a) and (c) of this section shall become operative one hundred twenty (120) days after the date of adoption of this ordinance. Subsection (b) of this section shall become operative upon the effective date of the ordinance to be adopted pursuant to that subsection.

PASSED FOR PUBLICATION: April 14, 1987

ENACTED: April 21, 1987

EFFECTIVE: May 21, 1987


MAYOR

ATTEST:


CITY CLERK

ORDINANCE No. 87-030