



1

OFFICE OF THE
CITY TREASURER

CITY OF SACRAMENTO
CALIFORNIA

800 TENTH STREET
SUITE ONE
SACRAMENTO, CA
95814-2688

THOMAS P. FRIERY
TREASURER

March 25, 1987
87045TPFlv:divord

916-449-5318
OPERATIONS

DONALD E. SPERLING
ASSISTANT TREASURER

916-449-5168
INVESTMENTS &
ADMINISTRATION

Budget and Finance Committee
Sacramento, California

916-448-3139
DEX TRANSCEIVER

Honorable Members in Session:

SUBJECT: Divest Ordinance Amendments

SUMMARY

Attached is a report to the full Council recommending amendments to the South Africa Divestment Ordinance #86-126.

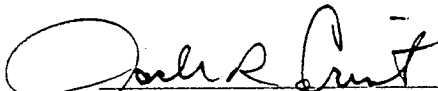
RECOMMENDATION

It is recommended that after hearing the attached report, the Budget and Finance Committee recommend approval of these amendments to the full Council.

Respectfully submitted,

THOMAS P. FRIERY
City Treasurer

RECOMMENDATION APPROVED



JACK R. CRIST, Deputy City Manager

April 7, 1987
All Districts



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City Council
Sacramento, California

Honorable Members in Session

SUBJECT: Divestment Ordinance Amendments

SUMMARY

This report recommends that the City Council amend the South Africa Divestment Ordinance (#86-126) to: 1) authorize the City Treasurer to use the Investor Responsibility Research Center (IRRC) publication to establish the list of companies with South Africa involvement; and, 2) include a waiver provision which is authorized for investment transactions but was omitted for the use of professional service firms and the purchase of commodities. (See Attachment A for proposed Ordinance amendment.)

BACKGROUND

Investments and Purchases - On December 30, 1986, the City Council passed Ordinance No. 86-126 which prohibits the deposit or investment of certain City funds in firms or financial institutions which are organized under the laws of South Africa or Namibia, or have business operations or business arrangements in South Africa or Namibia. This ordinance also prohibits the purchase of goods and services manufactured or produced in South Africa or Namibia and establishes a 5% preference program for those companies which are not on the Treasurer's list, which is referred to below.

Section 3(b) (1) of the ordinance states that the City Treasurer shall consult the Investor Responsibility Research Center publication in the preparation of a listing of firms involved in South Africa or Namibia.

In addition, Section 2(a) (3) (i) states that before any City funds can be deposited or invested in any financial institution, the City Treasurer shall obtain from each financial institution an affidavit certifying that it does not have any outstanding loan of the type listed in Section 2 before doing business with such financial institution.

In order to accomplish the task of obtaining affidavits from all financial institutions with which the City could potentially do business in the manner described above, it would be necessary to send approximately 17,000 letters requiring a temporary staff of eight (8) people working a total of 735 hours at a cost of over \$23,000. (See Attachment B.)

The proposed amendment would delete Section 2(a) (3) (i) and Section 2(a) (3) (ii). The effect of this deletion and the other proposed amendments would be to make the IRRC publication the official list of companies doing business in South Africa or Namibia with whom the City would be precluded from investing or depositing any City funds until such time as an affidavit were submitted changing the status of any company on the list.

In order to facilitate the timely implementation of this proposed amendment, the 267 companies currently identified by the IRRC have already been sent a City of Sacramento South Africa Divestment Affidavit in order that they may verify their placement on the list. It should be noted that the deletion of the sections identified above will not interfere with the original intent of Council to prohibit doing business with those firms which have the required amount of South African or Namibian involvement.

Professional Services and Commodities - Sections 4 and 5 of Ordinance No.86-126 prohibit the City of Sacramento from entering into any agreement for professional services with any business firm which is on the list promulgated by the City Treasurer (IRRC List) or from purchasing any commodity which is manufactured or produced in South Africa or Namibia.

Subsection (b) in both sections 4 (professional services) and section 5 (purchasing) allows for the application of a 5% preference to any firms not on the IRRC List which submit a bid to do business with the City. This remains the same as the original resolution. The application of the 5% preference will place those firms on the IRRC list at a competitive disadvantage when bidding for City business.

In most cases, contracting professional services and the purchase of commodities can be accomplished by using firms not on the IRRC List. However, because of the uniqueness of an occasional requirement or in order to ensure continuity within the City in terms of past practices where to change would be cost prohibitive (i.e., computer systems, fleet equipment, etc.) it may be necessary to continue a business relationship with a company on the list.

To be able to do this and still meet the requirements of the ordinance, the amendment includes the provision of a waiver in Sections 4 and 5. This proposed waiver is the same as is already included in the ordinance regarding institutions in Section 2(b).

The waiver stipulates that a company identified on the IRRC list may be engaged by the City if no other business is available which is capable of performing the desired function, or if the City would incur a significant financial loss as a consequence of the prohibitions of the ordinance or as a consequence of the need to comply with the time constraints of the ordinance.

FINANCIAL DATA

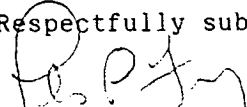
With the proposed changes to Ordinance #86-126 the original intent can be carried out at virtually no additional costs.

RECOMMENDATION

It is recommended that the City Council amend Ordinance No.86-126 to:

- 1) authorize the City Treasurer to use the IRRC publication to establish the list of companies with South African involvement; and,
- 2) include a waiver provision which is authorized for investment transactions but was omitted for the use of professional service firms and the purchase of commodities.

Respectfully submitted,


THOMAS P. FRIERY
City Treasurer

RECOMMENDATION APPROVED:


WALTER J. SLIPS, City Manager

April 14, 1987
All Districts

APPROXIMATE COST OF IMPLEMENTATION

<u>Financial Institution</u>	<u># of Firms</u>
Top 100 U.S. Banks	100
Insurance - Life/Health:	
California	59
U.S.	2070
Insurance - Property/Casualty:	
California	150
U.S.	2040
Banks - State Chartered	287
Banks - National	168
Banks - Representative Offices (foreign, etc)	92
Trust Companies - California	19
Investment Firms:	
California	633
U.S.	5360
S & P 500 companies	<u>500</u>
TOTAL NUMBER OF FIRMS	11,478
	=====

11,478 (first mailing) + 1/2 again = 17,217*.22 = \$3787.74

Envelopes 17,217/1000 = 18 * \$20/1000 = 360.00

Letterhead 17,217/1000 = 18 * \$43/1000 = 774.00

2nd page 17,217/500 = 35 * \$2.08/500 = 72.80

Computer input of addresses and further research
of approximately 160 hours @ \$8.50/hr = 1360.00

2 minutes per letter * 17,217/60 = 574 hrs (sending)

5 minutes per letter * 17,217/60 = 1435 hrs (responses)

all @ approx \$8.50/hr = 17,076.50

TOTAL APPROX COST 23,431.04

734 hrs/11 working days (2/11 to 2/25) = 8 people

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

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:

- (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 not apply to any only to those financial institutions which submits an affidavit in compliance with the following requirements: are on the list published by the City Treasurer pursuant to Section 3, subsection (b) of this ordinance.

~~(i) Before any City funds can be deposited or invested in any financial institution, the City Treasurer shall obtain from each financial institution an affidavit certifying that it does not have any outstanding loan of the type listed in subsection (a) of this section, or, in the alternative, the City Treasurer shall obtain from each financial institution an affidavit stating that the policy of the financial institution is to not make any such future loans until the system of apartheid is dismantled. The affidavit shall require the financial institution to notify the City Treasurer if it subsequently enters into any loan described in this subsection, or if the policy prohibiting such loans is changed.~~

~~(ii) The requirements of this section shall be satisfied by ensuring that no City funds are invested or deposited in financial institutions which fail to submit the affidavits required by this section.~~

(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.

~~(5) The prohibitions of this section shall not apply to a financial institution which:~~

~~(i) At the time of adoption of this ordinance or thereafter has outstanding loans of the type described in Section 2.(a)(1) or 2.(a)(2); and~~

~~(ii) Has, at the time of adoption of this ordinance or thereafter, adopted a written policy against making any loan of the type described in Section 2.(a)(1) or 2.(a)(2).~~

~~The City Treasurer shall report to the City Council deposits and investments in any financial institution covered by this exception. Said report shall be made with the report of waivers as required under Section 2.(b).~~

(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.

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.

(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.

~~(c)~~ (d) Applicability

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

~~(d)~~ (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.

~~(e)~~ (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.

~~(d)~~ (e) Applicability

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

~~(e)~~ (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:

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

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:

- (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.

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.

(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

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:

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK