

**TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. OF 2021**

**A LOCAL LAW AMENDING CHAPTER 24 OF THE TOWN CODE  
ENTITLED “GOVERNMENTAL OPERATIONS”**

**BE IT ENACTED** by the Town Board of the Town of North Hempstead, as follows:

**Section 1. Legislative Intent.**

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 24 of the Town Code entitled “Governmental Operations” in order to establish a preference for Service Disabled Veteran Owned Businesses (SDVOB) by authorizing the Town to award contracts (which are not subject to General Municipal Law section 103) for goods and services to a bidder, proposer or offeror (hereinafter, collectively “bidder”) other than the lowest responsible bidder where such other bidder is certified by the State of New York as a SDVOB. The purpose of this local law is to help support Service Disabled Veteran Owned Businesses.

**Section 2.**

Chapter 24 of the Town Code is hereby amended as follows:

**Article XII. Service Disabled Veteran Owned Businesses Preference.**

**§ 24-85 through § 24-89 (Reserved)**

**§ 24-90 Legislative intent.**

**A. This Town Board finds that there is a public benefit to rewarding veterans for their sacrifice of military service by promoting Service Disabled Veteran Owned Businesses. It is the purpose and intent of the Town Board to amend Chapter 24 of the Town Code entitled “Governmental Operations” in order to provide a preference to eligible Service Disabled Veteran Owned Businesses to encourage and promote the use of these businesses by increasing their participation in Town contracting opportunities.**

**§ 24-91 Definitions.**

**As used in this article, the following terms shall have the meanings indicated:**

**A. BIDDER**

**Any business providing a bid, offer, quote, estimate, proposal or other response to the Town for the purpose of offering or providing goods or services to the Town other than in response to a public bid as required pursuant to section 103 of the**

General Municipal Law.

**B. CONTRACT**

Any claim, account, demand against or agreement with, upon sufficient consideration, the Town of North Hempstead or any divisions, departments, agencies, or entity thereof, express or implied, for the rendering or performance of personal or professional services and shall include extensions, modifications, renewals, or amendments. The term "contract" shall not include any such agreement which is awarded pursuant to General Municipal Law 103 or collective bargaining agreements.

**C. SERVICE DISABLED VETERAN-OWNED BUSINESS or SDVOB**

A business that maintains a current certification as a service-disabled veteran-owned business enterprise by the New York State Office of General Services Division of Service-Disabled Veterans' Business Development and meets the criteria set forth in Article 17-B of the Executive Law.

**§ 24-92 SDVOB Preference**

- A. In the case of all purchases to be made and all contracts to be awarded, except contracts awarded pursuant to section 103 of the General Municipal Law, the Director of Purchasing and the Commissioner of the Department of Public Works may grant a SDVOB preference and effect such purchase from, or award such contract to, a responsible bidder other than the lowest responsible bidder where such other bidder qualifies as a SDVOB as defined herein.
- B. The Town Board, by resolution, shall amend the Procurement and Payment Policy to provide the Division of Purchasing and the Department of Public Works additional guidelines to implement the provisions of this article.
- C. Any entity deemed eligible to qualify for a local preference pursuant to Chapter 24, Article XI, may utilize such local preference in addition to the qualifying SDVOB preference.

**§ 24-93 Subcontractors.**

A. Use of a subcontractor that qualifies as a SDVOB as defined herein, will qualify a contractor not otherwise qualified to receive a preference under this article, for a purchase or a contract to be awarded. To be eligible for the preference, qualifying subcontractors must perform a commercially useful function.

**(1) A subcontractor is deemed to perform a commercially useful function if the subcontractor does all of the following:**

**(a) Is responsible for the execution of a distinct element of the work of the contract;**

**(b) Carries out its obligation by actually performing, managing, or supervising the work involved;**

**(c) Performs work that is normal for its business services and functions;**

**(d) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and**

**(e) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.**

**(2) A subcontractor shall not be considered to perform a commercially useful function if the subcontractor's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of a SDVOB.**

**B. Contractors utilizing a qualifying SDVOB subcontractor, shall take all reasonable steps to ensure that its SDVOB subcontractor is able to successfully perform its subcontract responsibilities.**

**C. The Town reserves the right to cancel or terminate a purchase or contract awarded based upon a preference given pursuant to this subsection, where the qualifying subcontractor is unable to perform its subcontract responsibilities, or where the Town determines that the subcontractor is not performing a commercially useful function.**

**§ 24-94 Applicability.**

**A. This article applies to contracts, other than those awarded pursuant to section 103 of the General Municipal Law, which are awarded on or after June 1, 2021.**

**B. This article shall not apply in the following situations:**

**(i) Where the preference created by this section would violate federal or state law or any existing contract;**

**(ii) Where external funding sources do not permit local preference**

**purchasing allowances;**

- (iii) **Where the goods or services being purchased are available through a cooperative purchasing program or through piggybacking as described in the Town's procurement policy or state law;**
- (iv) **Where the Town Board waives the requirements of this article by resolution when it deems appropriate; and**
- (v) **Where the goods and services are subject to mandatory competitive bidding rules of section 103 of the General Municipal Law.**

**§ 24-95 Sanctions.**

**Any contractor or subcontractor who makes false representations to the Town in an effort to obtain a preference pursuant to this article shall be suspended from participating as a contractor or subcontractor, or supplier in any Town contract or project for a period of two (2) years. The Town shall not award a contract to any contractor who uses the services of an entity that is suspended for violating this section during the period of the entity's suspension.**

**§ 24-96 Severability.**

**If any clause, sentence, paragraph, subdivision, section or part of this article or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this article, or in its application to the person, individual, corporation, firm,, partnership, entity, or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.**

**Section 3.**

This Local Law shall take effect immediately upon filing with the Secretary of State.