



Meeting Date: 11/01/2011

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s) _____	<input checked="" type="checkbox"/> Report
<input type="checkbox"/> Res. No(s) _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Alan Holmberg, City Attorney

Agenda Item No. **2-1**

Reviewed By: City Manager *[Signature]* City Attorney *[Signature]* Finance *[Signature]* Other (Specify) _____

DATE: October 20, 2011

TO: City Council

FROM: Alan Holmberg, City Attorney

SUBJECT: Preferences for Small Local Businesses

RECOMMENDATION

That City Council approve the first reading by title only and subsequent adoption of an ordinance providing certain monetary preferences for small local businesses in connection with trade service and public works contracts.

DISCUSSION

On September 27, 2011, City Council heard a report from the City Attorney concerning the City's ability to adopt preferences for small local businesses in connection with trade service and public works contracts. The report concluded that an ordinance providing for such preferences could be adopted, subject to state and federal statutory or program restrictions.

City Council provided comments as to the content of such an ordinance.

Based on those comments, and discussions with public works and finance staff, the attached ordinance is proposed for City Council consideration.

The ordinance defines a small local business as a business with \$20 million or less revenue per year and less than 100 employees. At least fifty percent (50%) of the employees of the business must be Oxnard residents for a business to qualify as a small local business. The business must have its principal offices in Oxnard for at least three years prior to the bid submitted on the contract for which it is seeking a preference. The ordinance contains guidelines for determining whether the principal office of the business is located in the City, and provides discretion to the City Manager to make this and other determinations as to whether a business qualifies as a small local business.

The ordinance also provides for a "sliding scale" of preference amount, depending on the amount of the lowest bid on the contract in question. For contracts up to \$250,000, the preference is five percent

(5%), for each \$100,000 increment thereafter, the preference drops by one percent (1%). For contracts over \$650,000, there would be no preference.

FINANCIAL IMPACT

The precise financial impact cannot be determined at this time. While this preference would result in a higher cost to the City if the low bidder is not a local small business, because of the sliding scale and limitation on the size of the contract, it is not anticipated that the impact would be significant.

AH:rs

Attachment #1 - Ordinance

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO.

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA,
ESTABLISHING A SMALL LOCAL BUSINESS
PURCHASING PREFERENCE PROGRAM

WHEREAS, the unemployment rate in the City of Oxnard has in recent years consistently been higher than the unemployment rate of other cities in the County and in the State; and

WHEREAS, the Council finds it necessary, desirable, and in the best interests of the City to establish a small business and local business preference program in order to attract businesses to Oxnard and to increase employment and reduce the competitive barriers faced by small local businesses; and

WHEREAS, the City is authorized by its municipal affairs authority and state law to establish such a program.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. In determining the lowest responsible bidder for any City purchase of goods or trade services or public works construction contract that is \$250,000 or less, and when responsibility and quality are equal, a credit of five percent (5%) of the bid submitted by the lowest responsible bidder meeting specifications shall be given to a bidder that meets the definition of a "Small Local Business" as defined in this ordinance; for bids between \$250,001 and \$350,000, the credit shall be 4%; for lowest responsible bids between \$350,001 and \$450,000, the credit shall be 3%; for lowest responsible bids between \$450,001 and \$550,000, the credit shall be 2%; for lowest responsible bids between \$550,001 and \$650,000, the credit shall be 1%. No credit shall be given when the lowest responsible bid exceeds \$650,000.

Part 2. "Small Local Business" shall mean a business entity that has for at least thirty six (36) months immediately preceding submittal of its bid held a current business license issued by the city and maintained its principal business office within the city's geographic boundaries, and that employs fewer than one hundred (100) employees at least fifty percent (50%) of whom are Oxnard residents and has average annual gross receipts of twenty million dollars (\$20,000,000) or less over the preceding three years.

Part 3. The City Manager or his designee shall determine whether a business is a Small Local Business under this ordinance, including whether the principal office of the business is in the city and whether employees are residents of the city. The City Manager's determination shall be final and not appealable under any provision of the City Code. The principal business office shall mean the place where the principal officers or owners generally transact business and the

place to which reports are made and from which orders and payments are made, and the place which the business represents to government authorities as its principal office or principal place of business. Subject to audit by the City Manager, City residency may be established by submission with the bid of an employee list showing all employee addresses accompanied by a statement under penalty of perjury affirming that the employees have granted permission for the use of their addresses.

Part 4. The City Manager may adopt such regulations as the City Manager determines are appropriate to implement to process of this ordinance.

Part 5. The provisions of this ordinance shall not apply when the Small Local Business preference described herein is contrary to or precluded by requirements of State or federal law or contrary to or precluded by requirements of a State of federal funding source or program providing assistance to the City for the particular project.

Part 6. Within fifteen days (15) after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City.

Part 7. Ordinance No. _____ was first read on _____, 20____, and finally adopted on _____, 20____, to become effective thirty days thereafter.

AYES:

NOES:

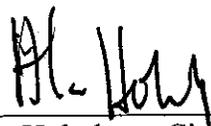
ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

APPROVED AS TO FORM:

Daniel Martinez, City Clerk



Alan Holmberg, City Attorney