ORDINANCE NO. 2012-05

AN ORDINANCE OF THE CITY OF SANTA CRUZ
ADDING CHAPTER 3.11 TO THE SANTA CRUZ MUNICIPAL
CODE PERTAINING TO LOCAL BUSINESS PREFERENCE

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. Chapter 3.11 is hereby added to the Santa Cruz Municipal Code to read as follows:

"Chapter 3.11
Local Business Preference Ordinance

Sections:

3.11.010 Purpose.
3.11.011 Authority.
3.11.012 Preference.
3.11.013 Local Business and Locally Owned Business Designation.
3.11.014 Exclusions.
3.11.015 Violations and Sanctions.

3.11.010 Purpose.
(1) Local businesses contribute significantly to the economic health of our City and to the quality of life of our citizens and visitors. The city encourages the growth of local businesses by means of increasing the participation of these businesses in the city's purchase of goods and services.

3.11.011 Authority.
(1) The City Manager, or his/her designee, shall be responsible for enforcement of this ordinance.

3.11.012 Preference.
(1) A two (2) percent evaluation preference will be applied to any competitive process for goods, supplies, equipment, materials, services, or professional services from a business designated as a local business.
(2) An additional four (4) percent evaluation preference will be applied to any competitive process for goods, supplies, equipment, materials, services or professional services from a business designated as a locally owned business.
(3) When a non-local business has submitted the lowest responsive responsible bid, and when one or more local businesses, as defined by this ordinance, have also bid, the local business' total bid amount will be reduced by the preference percentage of either two or four percent for bid comparison purposes. If the net amount is lower than the lowest bid, the contract will be awarded to the local business for the full amount of its bid. When a request for proposals is used, the preference will reduce only the price component of the evaluation criteria.

3.11.013 Local Business and Locally Owned Business Designation.
(1) A business shall comply with all of the following to be designated a local business:
  (a) The business shall have an office with at least one employee within the City of Santa Cruz.
  (b) The business shall not be delinquent with any payments to the City.

(c) The business shall hold a valid City of Santa Cruz business license.

(2) A business shall comply with the following to be designated as a locally owned business:

(a) The business shall meet the requirements for a local business designation.

(b) At least fifty (50) percent of the business' owners live in the County of Santa Cruz.

3.11.014 Exclusions.

(1) The provisions of this chapter shall not apply to:

(a) Purchases under the informal bid limit as set by Council Policy 29.1 "Formal and Informal Bid Limits."

(b) Sole source purchases.

(c) Construction projects.

(d) Urgent purchases necessary to protect public health, welfare or safety.

(e) Purchases made under a cooperative agreement.

(f) Purchases made by credit card, petty cash, or on claims.

(g) Purchases funded by outside agencies that prohibit the use of preferences.

(h) Professional services requests for proposals where price is not considered in the selection of which service provider to engage in negotiations.

In addition, City Council shall have the authority to waive application of the local business preference at its discretion.

3.11.015 Violations and Sanctions.

(1) Any business that submits false information or fails to disclose material information in order to qualify for the preference pursuit to this ordinance shall:

(a) pay the city any difference between the contract amount and what the city's cost would have been if the contract had been properly awarded, and

(b) be prohibited from bidding on any city contract or receiving any city contract for a period of three (3) years of the discovery of facts supporting the same.

3.11.016 Appeals.

Any business subject to a sanction may appeal it. Appeals shall be in writing and shall clearly state the basis for the appeal. Grounds not stated in the written appeal may not be considered.

(a) If the contract is under the formal bid limit, appeals shall be filed with the appropriate department within seven calendar days of the date of the city's written notice of the intention to impose sanctions. The department director will review the appeal and issue a written response within 14 calendar days. The decision of the department director shall be final.

(b) If the contract is over the formal bid limit, appeals shall be filed with the city clerk within seven calendar days of the date of the city's written notice of the intention to impose sanctions. City council will review the appeal and its decision shall be final."

Section 2. This Ordinance shall be in force and take effect thirty (30) days after final adoption.

PASSED FOR PUBLICATION this 13th day of March, 2012, by the following vote:

AYES: Councilmembers Madrigal, Beiers, Robinson, Coonerty, Terrazas, Vice Mayor Bryant; Mayor Lane.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Don Lane
Mayor

ATTEST: ss/Bren Lehr
City Clerk Administrator

PASSED FOR FINAL ADOPTION this 27th day of March, 2012, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2012-05 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz

_____
City Clerk Administrator