

Ordinance No. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
REPEALING SECTION 2.32.035 OF THE MONTEREY COUNTY CODE RELATING
TO PREFERENCE FOR LOCAL SUPPLIERS.**

County Counsel Summary

This ordinance repeals Section 2.32.035 of the Monterey County Code relating to preference for local suppliers of goods and services for contracts awarded based on price. Section 2.32.035 currently provides a right of first refusal to local suppliers, allowing the local bidder who is within five percent of the lowest non-local bid to reduce its bid to the amount equal to the non-local bid and be awarded the contract. On August 28, 2012, the Monterey County Board of Supervisors adopted the Monterey County Local Preference Policy. The Monterey County Local Preference Policy provides, in part, that for contracts for goods or services in which price is the determining factor, the contract will be awarded to the local vendor at the original, higher bid price if the local vendor's bid is within five percent of a non-local bid. This portion of the newly adopted policy cannot be implemented to the extent that it conflicts with Section 2.32.035 of the County Code. Adoption of this ordinance repealing Section 2.32.035 will resolve this conflict and will enable the Monterey County Local Preference Policy to be implemented in full.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Section 2.32.035 of the Monterey County Code is repealed.

~~2.32.035 – Preference for local suppliers.~~

~~A.~~

~~General Requirements. Each local supplier funded in whole or in part by County funds, or funds which the County expends or administers, shall be eligible for a local preference as provided in this Section.~~

~~B.~~

~~Rights of First Refusal. Each local supplier who is within five percent of the lowest responsible bid and who is otherwise responsive and responsible to the call for bids shall be provided the opportunity to reduce the local supplier's bid to the amount equal to the amount of the lowest responsible bid, if the lowest responsible bid is submitted by other than a local supplier. The opportunity to reduce the amount of the bid shall be provided first to the lowest eligible local supplier and, if not accepted by such local supplier within five business days of the opening of bids, then to each successive eligible local supplier, in ascending order of the amount of bids, who is within five percent of the lowest responsible bid. In the event an eligible local supplier reduces the bid to the amount of the lowest responsible bid, the eligible local supplier shall be deemed to have provided the lowest responsible bid and shall be awarded the contract.~~

~~1.~~

~~The foregoing provisions apply only to competitive bids that require that contracts be awarded to~~

~~the lowest responsible bidder. For contracts awarded pursuant to requests for proposals or requests for quotations, the awarding authority may consider, as one of the factors in determining the most suitable proposal or quotation, whether or not the proposal or quotation is submitted by a local supplier.~~

~~C.~~

~~Definitions. For the purpose of this Section, the following terms have the meanings indicated:~~

~~1.~~

~~"Area" means Monterey County, San Benito County, and Santa Cruz County.~~

~~2.~~

~~"Bid" includes any competitive bid, whether formal or informal.~~

~~3.~~

~~"Local supplier" shall mean a supplier doing business in the area for not less than the past five consecutive years.~~

~~4.~~

~~"Supplier" shall mean a business or resident providing goods, supplies, or professional services.~~

SECTION 2. This ordinance shall become effective on the 31st day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dave Potter, Chair
Monterey County Board of Supervisors

A T T E S T :
GAIL T. BORKOWSKI
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

Wendy S. Strimling, Senior Deputy
County Counsel