TO:

BOARD OF SUPERVISORS

:MO.

SUBJECT:

INTERNAL OPERATIONS COMMITTEE

DATE:

MAY 15, 2006

ORDINANCE TO ENACT A LOCAL BID PREFERENCE PROGRAM

Contra Costa County

C.81

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

INTERNAL OPERATIONS COMMITTEE STAFF

GSD-PURCHASING AND MATERIALS MANAGER

GENERAL SERVICES DIRECTOR

COUNTY COUNSEL(FLANAGAN)

## RECOMMENDATIONS:

- RECALL that on September 13, 2005, the Board adopted Ordinance No. 2005-29 establishing a local bid preference program in order to encourage local businesses to provide goods to Contra Costa County through the County's purchasing program.
- RECALL that on the day of adoption, the Board directed the Purchasing Agent to implement the local bid preference program and to report back to the Internal Operations Committee in six months on the progress of the program.
- ACCEPT report prepared by the General Services Department on the County's experience with the local bid preference program.
- 4. ACKNOWLEDGE that although no awards have yet been made under the program, approximately 25% of the business opportunities governed by the ordinance equating to over \$1 million were awarded to local vendors based strictly on their low bids.

CONTINUED ON ATTACHMENT: YES	SIGNATURE: Julia Ruca)
APPROVEOTHER	RECOMMENDATION OF BOARD COMMITTEE
SIGNATURE(S) La GAYLE B. UHLKEMA, CHAIR	MARK DeSAULNIER
ACTION OF BOARD ON May 23, 2006 APPROVE	AS RECOMMENDED OTHER
VOTE OF SUPERVISORS  UNANIMOUS (ABSENT	I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.
AYES: NOES: ABSTAIN: ABSTAIN:	- Grewin
CONTACT: JULIE ENEA (925) 335-1077	ATTESTED: MAY 23, 2006  JOHN CULLEN, CLERK OF THE BOARD OF SUPERVISOR AND COUNTY ADMINISTRATOR

BY Kolskay DEPUTY

## BACKGROUND:

On August 10, 2004, the Board of Supervisors referred to Internal Operations Committee (IOC) the creation of a policy to grant a five percent preference to Contra Costa County vendors on all sealed bids or proposals except with respect to those contracts which state law requires to be granted to the lowest bidder, and review of an ordinance to be drafted by County Counsel to enact this policy. The 2004 IOC was unable to complete this referral and it was referred to the 2005 IOC for continuing work.

The IOC began working on this matter in April 2005, when it reviewed with County Counsel the legal issues related to the proposed policy and some alternative models for the ordinance. The IOC directed County Counsel to draft an ordinance that meets the following requirements:

- The preference would apply to the acquisition of materials, equipment and supplies in an amount in excess of \$25,000 not funded from federal sources.
- In most other respects, e.g., how the preference should be applied, what constitutes a local business, this county's ordinance should resemble Fresno County's ordinance. The Fresno County model favors the local vendor, but not at the expense of the obtaining the lowest offered price.
- Regarding certification of a local business, the burden shall fall to the vendor to self-certify at the time of award. If a vendor cannot or does not certify to be a local vendor, as defined, it does not get the award and the next lowest bid would be considered.

On August 16, 2005, the Internal Operations Committee proposed a new ordinance to enact a local bid preference program. Under the proposed ordinance, if the low bid is not a local vendor, any responsive local vendor who submitted a bid which was within five percent (5%) of the lowest responsive bid as determined by the purchasing agent shall have the option of submitting a new bid within 48 hours (not including weekends and holidays) of the County's delivery of notification. Such new bids must be in an amount less than or equal to the lowest responsive bid as determined by the purchasing agent. If the purchasing agent receives any new bids from the local vendors who have the option of submitting new bids within the 48-hour period, it shall award the contract to the local vendor submitting the lowest responsible bid. If no new bids are received, the contract shall be awarded to the original low bidder as announced by the purchasing agent.

The proposed ordinance defines a local vendor as any business which has its headquarters, distribution point, or locally-owned franchise located in or having a street address within the county for at least six months immediately prior to the issuance of the request for competitive bids, and holds a valid business license by a jurisdiction located in Contra Costa County.

Under the proposed ordinance, a vendor falsely certifying itself as local would be ineligible to conduct business with the County for a period not less than three months and not more than two years, as determined by the purchasing agent.

The Board of Supervisors, on August 16, 2005, introduced the proposed new ordinance, and on September 13, 2005 adopted it. At that time, the Board directed the Purchasing Agent to implement the local bid preference program and to report back to the Internal Operations Committee in six months on the progress of the program.

Attached is a memo from Purchasing & Materials Manager Kevin Berenson advising that although no awards have yet been made under the ordinance, about 25% of the business opportunities governed by the ordinance were awarded to local vendors based strictly on their low bids.