

ORDINANCE NO. 3807

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS SECTION 2-176 OF THE CODE OF THE CITY OF CUMBERLAND (1991 EDITION) PROVIDING FOR LOCAL PREFERENCES IN THE AWARDING OF CONTRACTS REQUIRING COMPETITIVE BIDDING FOR THE PURPOSE OF INCREASING THE LOCAL PREFERENCE FOR CITY BIDDERS AND CLARIFYING THE MANNER IN WHICH THE LOCAL PREFERENCES ARE APPLIED."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that Section 2-176 of the Code of the City of Cumberland (1991 Edition) be and is hereby repealed and reenacted to read as follows:

Sec. 2-176. - Local preference in the awarding of contracts requiring competitive bid.

- (a) *Amount/application of local preference.* In any instance where competitive bidding is required pursuant to the provisions of sections 2-171(a) or 2-173 and the contract is completely funded by the city, without contribution, in whole or in part, from any third parties, unless preference percentages are otherwise established by the mayor and city council, a local preference of eight percent (8%) shall apply for bidders who reside in the City and a local preference of five percent (5%) shall apply for bidders who reside in Allegany County, Maryland but outside of the city. The preference shall be implemented by multiplying the applicable percentage by the lowest or best bid deemed to be reasonable and in the best interests of the City and subtracting the product from the applicable local bidder's bid. Notwithstanding the foregoing, the local preference for commission-based contracts shall be one-half ($\frac{1}{2}$) of a percent for city residents and one-quarter ($\frac{1}{4}$) of a percent for county residents. The following examples illustrate the manner in which the preferences provided for herein are to be applied:

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Example No. 1

County bid is deemed to be low bid

Bid Amount	Applicable Preference	Calculation
\$100,000	County (5%)	\$100,000 - \$5,000 (5% of low bid of \$100,000) = \$95,000
\$105,000	City (8%)	\$105,000 - \$8,000 (8% of low bid of \$100,000) = \$97,000
\$110,000	No preference	\$110,000

Example No. 2

City bid is deemed to be low bid

Bid Amount	Applicable Preference	Calculation
\$100,000	No preference	\$100,000
\$105,000	City (8%)	\$105,000 - \$8,000 (8% of low bid of \$100,000) = \$ 97,000
\$105,000	County (5%)	\$105,000 - \$5,000 (5% of low bid of \$100,000) = \$100,000

(b) *Eligibility for local preference.*

(1) *Eligibility for city preference.* A vendor shall be deemed to be a resident of the city if it maintains an active bona fide place of business within the city and, in the case of a corporation or other association which is required to register with the state of Maryland in order to do business therein, it is duly qualified to do business and is in good standing under the laws of the state.

(2) *Eligibility for county preference.* A vendor shall be deemed to be a resident of the county if it maintains an active bona fide place of business within the city and, in the case of a corporation or other association which is required to register with the state of Maryland in order to do business therein, it is duly qualified to do business and is in good standing under the laws of the state.

(3) *Written application required.* The preferences provided to residents of the city and county under this section shall be deemed to be waived unless a vendor seeking the benefit of those provisions certifies under the penalties of perjury that it is qualified as a resident vendor under the terms of subsections (b) (1) or (b) (2) above and said certification is included in the vendor's bid submissions.

(4) *Payment of taxes required.* In order to receive the preferences provided for in this section, city residents' City of Cumberland and Allegany County real and personal property taxes must be paid current through the date of the submission of bids and county residents' Allegany County real and personal property taxes must be paid current

through that date. Such taxes shall not be deemed to be current if they are unpaid, in whole or in part, as of the date interest begins to accrue on the unpaid balance thereof in accordance with Ann. Code of Md., art. Tax-Property, §§ 10-102 and 10-103.

- (c) In any instance where a grant is utilized to fund a purchase which is required to be made upon competitive bidding pursuant to section 2-171(a) or 2-173, this section shall be of no effect if the terms and conditions applicable to such grant prohibit local preferences.

[Note: A text edited version showing the changes made is attached hereto as Exhibit A.]

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect on July 6, 2016.

Passed this 5th day of July, 2016.



Brian K. Grim, Mayor

ATTEST:


Marjorie A. Woodring, City Clerk

1st reading: June 21, 2016
2nd reading: July 5, 2016
3rd reading: July 5, 2016

EXHIBIT A

[Note: Additions to the Charter are underscored and deletions are stricken through.]

Sec. 2-176. - Local preference in the awarding of contracts requiring competitive bid.

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Example No. 1

County bid is deemed to be low bid

Bid Amount	Applicable Preference	Calculation
\$100,000	County (5%)	\$100,000 - \$5,000 (5% of low bid of \$100,000) = \$95,000
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City bid is deemed to be low bid

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\$105,000	City (8%)	\$105,000 - \$8,000 (8% of low bid of \$100,000) = \$97,000
\$105,000	County (5%)	\$105,000 - \$5,000 (5% of low bid of \$100,000) = \$100,000

(b) *Eligibility for local preference.*

(1) *Eligibility for city preference.* A vendor shall be deemed to be a resident of the city if it maintains an active bona fide place of business within the city and, in the case of a corporation or other association which is required to register with the state of Maryland in order to do business therein, it is duly qualified to do business and is in good standing under the laws of the state.

(2) *Eligibility for county preference.* A vendor shall be deemed to be a resident of the county if it maintains an active bona fide place of business within the city and, in the case of a corporation or other association which is required to register with the state of Maryland in order to do business therein, it is duly qualified to do business and is in good standing under the laws of the state.

(3) *Written application required.* The preferences provided to residents of the city and county under this section shall be deemed to be waived unless a vendor seeking the benefit of those provisions certifies under the penalties of perjury that it is qualified as a resident vendor under the terms of subsections (b) (1) or (b) (2) above and said certification is included in the vendor's bid submissions.

(4) *Payment of taxes required.* In order to receive the preferences provided for in this section, city residents' City of Cumberland and Allegany County real and personal property taxes must be paid current through the date of the submission of bids and county residents' Allegany County real and personal property taxes must be paid current through that date. Such taxes shall not be deemed to be current if they are unpaid, in whole or in part, as of the date interest begins to accrue on the unpaid balance thereof in accordance with Ann. Code of Md., art. Tax-Property, §§ 10-102 and 10-103.

(c) In any instance where a grant is utilized to fund a purchase which is required to be made upon competitive bidding pursuant to section 2-171(a) or 2-173, this section shall be of no effect if the terms and conditions applicable to such grant prohibit local preferences.