

ORDINANCE NO. 3676

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO AMEND SECTION 2-175 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 ADDRESSING THE MANNER IN WHICH LOCAL PREFERENCES SHALL APPLY WITH RESPECT TO THE AWARD OF CONSTRUCTION CONTRACTS AND THE PURCHASE OF SUPPLIES AND EQUIPMENT WHICH ARE WHOLLY FUNDED BY THE CITY OF CUMBERLAND."

WHEREAS, Section 2-175 of the Code of the City of Cumberland provides for the granting of local preferences in the award of contracts for the purchase of supplies or capital equipment which are competitively bid;

WHEREAS, by Charter Amendment Resolution passed March 30, 2010, to be effective May 19, 2010, the Mayor and City Council initiated an amendment to Section 154 of the Charter for the purpose of extending the local preference applicable to supplies and capital equipment contracts to all contracts that are completely funded by the City; and

WHEREAS, in order to implement the aforesaid Charter Amendment Resolution, certain amendments to Section 2-175 of the Code are required.

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that Section 2-175 of the Code of the City of Cumberland (1991 Edition) be and is hereby amended in the following manner (note: strikeouts signify deleted text and underlined text is newly added language):

**Sec. 2-175. - Local preference in the awarding of contracts requiring competitive bid.**

SEP 28 2010

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~~(a)~~ In any instance where competitive bidding is required pursuant to the provisions of section 2-171(a), an award shall be made to a vendor resident in the city, provided that such bid does not exceed the lowest qualified bid from a nonresident vendor by more than three (3) percent of the latter bid and that such resident bidder has made written claim for such preference at the time that bid was submitted and except when, in the judgment of the Mayor and City Council of Cumberland, the granting of such preference would operate to the disadvantage of the city. In the event that no award is made to a vendor resident in the city pursuant hereto, then, and in that event, an award shall be made to a vendor resident in the county, provided that such bid does not exceed the lowest qualified bid from a nonresident bidder by more than two (2) percent of the latter bid, and that such resident vendor has made written claim for such preference at the time the bid was submitted, and except when, in the judgment of the Mayor and City Council of Cumberland, the granting of such preference would operate to the disadvantage of the city.

~~(b)~~ (a) In any instance where competitive bidding is required pursuant to the provisions of section 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, an award shall be made to a vendor resident in the city, provided that such bid does not exceed the lowest qualified bid from a nonresident vendor by more than seven (7) percent of the latter bid and that such resident vendor has made written claim for such preference at the time that bid was submitted and except when, in the judgment of the Mayor and City Council of Cumberland the granting of said preference would operate to the disadvantage

of the city. In the event that no award is made to a vendor resident in the city pursuant hereto, then, and in that event, an award shall be made to a vendor resident in the county, provided that such bid does not exceed the lowest qualified bid from a nonresident bidder by more than five (5) percent of the latter bid, and that such resident vendor has made written claim for such preference at the time the bid was submitted, and except when, in the judgment of the Mayor and City Council of Cumberland, the granting of such preference would operate to the disadvantage of the city.

~~(e)~~ (b) 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.

~~(d)~~ (c) 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.

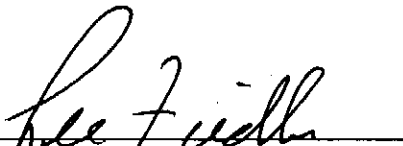
~~(e)~~ (d) The preferences provided to residents of the city and county provided under this section shall be deemed to be waived unless a vendor seeking the benefit of those provisions certifies under the penalties of perjury that it is qualified as a resident vendor under the terms of subsections (c)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

~~(f)~~ (e) In any instance where the provisions of any federal or state grant which might be

utilized to fund any purchase pursuant to the provisions of section 2-171(a) or 2-173 require it to be made upon competitive bid, and if the regulations of such federal or state grant prohibits the Mayor and City Council of Cumberland from acting as contemplated herein, the provisions of this section shall be considered to be without effect as to that particular instance, but shall remain applicable to all instances not involving such federal or state grants and regulations.

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall be effective upon the date of its passage.

Passed this 28th day of September, 2010.

  
Lee N. Fiedler, Mayor

ATTEST:

  
Marjorie A. Eirich, City Clerk

1st reading: 9/28/2010  
2nd reading: 9/28/2010  
3rd reading: 9/28/2010  
Effective: 9/28/2010