

**CITY OF BISHOP
ORDINANCE NO. 532**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BISHOP, STATE OF CALIFORNIA, ADDING CHAPTER 3.26 TO THE BISHOP MUNICIPAL CODE TO PROVIDE CONTRACTING PREFERENCES FOR LOCAL AND SMALL BUSINESSES

The City Council of the City of Bishop ordains as follows:

SECTION 1. PURPOSE AND AUTHORITY

The purpose of this ordinance is to contribute to the economic and social well-being of all the citizens of the City by providing a contracting preference for local and small businesses. As a market participant and pursuant to Public Contract Code §2002, the City may award a contracting and purchasing preference to certain entities for the purposes of:

- 1) Encouraging City and regional economic development;
- 2) Assisting small businesses which by their nature are at a competitive disadvantage;
- 3) Leveling the playing field for local businesses whose costs of doing business in a very rural area exceed those of non-local businesses that have the efficiencies of scale and location, and;
- 4) Providing to the City local economic benefit which is not provided by non-local businesses.

SECTION 2. ADDITION OF CHAPTER 3.26 TO THE BISHOP MUNICIPAL CODE

Chapter 3.26 is added to the Bishop Municipal code to read as follows:

Chapter 3.26

CONTRACTING PREFERENCES

Sections:

- 3.26.010 Findings.
- 3.26.020 Definitions.
- 3.26.030 General Provisions.
- 3.26.040 Local Business and Small Business Preference.
- 3.26.050 Small Business Subcontracting Preference.
- 3.26.060 Limit on Contracting Preference.

3.26.010 Findings.

Businesses located in Inyo County, and especially the City, contribute to the economic and social well-being of all the citizens of the City. Such businesses provide convenient services within the City and provide employment for City citizens. Further, the payroll paid by and income earned by local businesses tend to be largely expended within the City, which enhances the business environment in the City and the well-being of its citizens. It is in the public interest to encourage a vibrant business environment in the City. Providing modest purchasing preferences businesses located in Inyo County, including the City, furthers the goal of building a healthy economy in the City. Further, providing contracting preferences for all small businesses is allowed by State law, expands the types of contracts for which preferences may be given, and benefits local small businesses, also furthering the goal of building and maintaining a healthy local economy.

Advantages of Preferences: This ordinance will help achieve the following:

- 1) Encouraging City and regional economic development;
- 2) Assisting small businesses which by their nature are at a competitive disadvantage;

- 3) Leveling the playing field for local businesses whose costs of doing business in a very rural area exceed those of non-local businesses that have the efficiencies of scale and location, and;
- 4) Providing to the City local economic benefit which is not provided by non-local businesses.

3.26.020 Definitions.

A. A Small Business is a business which is certified by the State of California or the Small Business Administration as a small business.

B. A Local Business is a business which:

1. Has its headquarters, distribution point, or locally-owned franchise located in or having a street address within Inyo County for at least six months immediately prior to the issuance of the request for competitive bids by the City; and
2. Holds any required business license by a jurisdiction located in Inyo County; and
3. Employs at least one full-time or two part-time employees whose primary residence is located within Inyo County, or if the business has no employees, shall be at least fifty percent owned by one or more persons whose primary residence is located within Inyo County.
4. Meets the conditions of sub-paragraph one through three of this subsection, but within Mono County, if no Inyo County local business submits a bid that is within five (5%) percent of the lowest bid submitted.

C. A Responsive Bid is a bid which responds to the requirements of the request for bids and is submitted by a responsible bidder.

3.26.030 General Provisions

A. The preferences provided in this chapter are intended to extend to the limit of the jurisdiction of the City under California law. Such preferences do not apply where prohibited Federal or State law. Such preferences do not apply where funding agencies prohibit such preferences as a condition of providing funding for the anticipated project. Where this Chapter provides preferences for multiple classes of entities, and one or more of those classes of entities are disallowed contracting preference by Federal or State law or by the funding agency, those disallowed entities will not be provided preferences, but the remaining classes of entities shall receive preferences.

B. Requests for bids or proposals issued by the City shall specify the applicable contracting preferences available pursuant to this Chapter.

3.26.040 Local Business and Small Business Preference.

Except as excluded by Section 3.26.030(A), for all contracts awarded by the City, if the lowest responsive bid is submitted by a local business or a small business, that business shall be awarded the contract. If the lowest responsive bid is not submitted by a local business or a small business, the lowest responsive bid submitted by a local business that is within five percent (5%) of the lowest responsive bid or by a small business that is within five percent (5%) of the lowest responsive bid shall be considered the low bid and that business shall be awarded the contract. To be eligible, a local business or a small business shall provide certification with its bid that it is such business as herein defined; otherwise its preference under this chapter shall be deemed conclusively waived.

3.26.050 Small Business Subcontracting Preference.

For public works and road construction contracts awarded by the City, where no entity qualifying under this chapter for a contracting preference submits a responsive bid that is the lowest or within five percent (5%) of the lowest responsive bid, there shall be a preference given to bids in which at least ten percent (10%) of the monetary value of the work to be performed is subcontracted to a small business or businesses. If such bid is the lowest responsive

bid, that contractor shall be awarded the contract. If such bid is not the lowest responsive bid, any such bid that is within five percent (5%) of the lowest responsive bid shall be considered the low bid, and that contractor shall be awarded the contract.

3.26.060 Limit on Contracting Preferences.

Contracting preferences under this Chapter shall not exceed \$10,000.00 for any one solicitation and award determination.

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional, without regard to whether any portion of this ordinance would be subsequently declared unconstitutional or invalid.

SECTION 4. EFFECTIVE DATE

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 36933. The City Clerk is hereby instructed and ordered to so publish this Ordinance together with the names of the City Council members voting for and against the same.

PASSED AND ADOPTED this 8th day of November, 2010.

/s/ Jeff Griffiths, Mayor

ATTEST: James M. Southworth, City Clerk

/s/ Denise Gillespie, Assistant City Clerk

STATE OF CALIFORNIA
COUNTY OF INYO

I, Denise Gillespie, Assistant City Clerk of the City of Bishop, do hereby certify that the whole number of members of the City Council of said City of Bishop is five (5); that the foregoing Ordinance No. 532 was duly passed and adopted by said City Council; approved and signed by the Mayor of said City; and attested by the City Clerk of said City, all at a regular meeting of said City Council, held on the 8th day of November 2010, and that the same was so passed and adopted by the following roll call vote:

AYES: Stottlemyre, Smith, Cullen, Dishion, Griffiths
NOES: None
DISQUALIFIED: None
ABSENT: None

WITNESS, my hand and the seal of the City of Bishop this 9th day of November 2010.

/s/ Denise Gillespie, Assistant City Clerk
CITY OF BISHOP