

## ORDINANCE NO. 2301

AN ORDINANCE OF THE CITY OF SALISBURY TO AMEND SECTION 2.32.050 BY ADDING A SUBSECTION D WHICH ESTABLISHES A SMALL BUSINESS, VETERAN-OWNED SMALL BUSINESS AND DISABLED-VETERAN-OWNED SMALL BUSINESS PREFERENCES IN THE AWARD OF CITY CONTRACTS.

WHEREAS, the State of Maryland has enacted certain procurement preferences pursuant to the State Finance and Procurement Article, Annotated Code of Maryland and COMAR; and

WHEREAS, the City of Salisbury has concluded that it is in the best interest of city residents to permit the use of procurement preferences for certain types of businesses located in Salisbury, Maryland; and

WHEREAS, the City of Salisbury previously amended the city Charter, Section SC16-3, to allow preferences by the city in the evaluation of contracts for the construction of public works and the purchase of materials, services and supplies from businesses that qualify to receive preferences in contracts with the State of Maryland; and

WHEREAS, the City of Salisbury wishes to authorize the Director of Internal Services to begin utilizing certain procurement preferences in the competitive bidding process.

NOW, THEREFORE, BE IT ORDAINED by the City of Salisbury, Maryland that Section 2.32.050 of the City Code be amended by the addition of the following:

### D. Small Business Preference Program.

1. Applicability. The Small Business Preference Program applies to all competitive bidding conducted pursuant to this section by the City.
2. Procedures.
  - a. The director of internal services shall screen all procurements potentially eligible for a small business preference and shall determine which of those procurements is appropriate for preferences under these procedures. The director of internal services shall also determine which percentage preference is to be applied. The determination shall be based on the availability of qualified, certified small businesses and other appropriate factors.
  - b. The proposed small business procurement preference may not exceed a base percentage preference of five percent (5%) of the total contract value. A two percent (2%) preference may be added to the base percentage preference for veteran-owned small businesses and a three percent (3%) preference may be added to the base percentage preference for disabled-veteran-owned small businesses.
  - c. Any solicitation for a procurement designated for a small business preference shall include a statement that the procurement has been so designated and shall indicate the price preference percentage to be applied to that procurement.
  - d. Small Business preferences shall apply only to those businesses which meet the definition of a small business, veteran-owned small business, or disabled-veteran-owned small business under Maryland law and COMAR, and in the case of the City's small business preference program, any small business, veteran-owned small business or disabled-veteran-owned small business must also have its principal place of business within the city limits of Salisbury, Maryland or be at least 51% owned and controlled by an individual domiciled in Salisbury, Maryland.
  - e. The director of internal services shall maintain a list of all small businesses, veteran-owned small businesses and disabled-veteran-owned small businesses qualified under both state law and this Code to be designated as

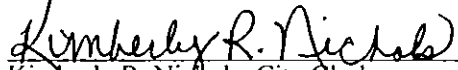
such. It is the responsibility of the small business and not the director of internal services, to request that its name be included on the list. The director will, however, verify whether each small business is qualified for inclusion on the list and demand whatever proof is required. If any business is found not qualified, the director of internal services will notify the business and afford it an opportunity to appeal the director's decision to the City Administrator. The decision of the City Administrator is final.

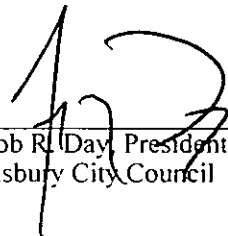
3. Direct Solicitation. When soliciting bids for a procurement designated for a small business preference, the director of internal services shall send a solicitation or notice of the solicitation to all certified small businesses on the list which are appropriate for the subject of the contract.
4. Evaluation. When a procurement under this code section has been designated for a small business preference, the procurement officer shall accept the most favorable responsive bid from a responsible small business if the bid does not exceed the most favorable responsive bid price received from a responsible bidder that is not certified as a small business by:
  - a. More than 5%;
  - b. More than 7% for a veteran-owned small business;
  - c. More than 8% for a disabled-veteran-owned small business; or
  - d. The predetermined percentage preference.

AND BE IT FURTHER ENACTED AND ORDAINED by the City of Salisbury, Maryland that the Ordinance shall take effect upon final passage.

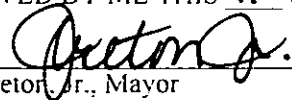
THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on this 8 day of September 2014, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Council on the 22 day of September, 2014.

ATTEST:

  
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Kimberly R. Nichols, City Clerk

  
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Jacob R. Day, President  
Salisbury City Council

APPROVED BY ME THIS <sup>24<sup>th</sup></sup> day of Sept, 2014.

  
\_\_\_\_\_  
James Ireton, Jr., Mayor

# City of Salisbury



MARYLAND

Salisbury



2010

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JENNIFER MILLER  
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JAMES IRETON, JR.  
MAYOR

M. THOMAS STEVENSON, JR.  
CITY ADMINISTRATOR

TERENCE ARRINGTON  
ASSISTANT CITY ADMINISTRATOR

TO: Tom Stevenson  
Terence Arrington

FROM: Jennifer Miller

DATE: July 11, 2014

RE: Establishing a Small Business Preference Program

The Procurement Division for the City of Salisbury would like to request a Council discussion to establish a Small Business Procurement Preference Program for select competitive bids. Such programs are implemented as a means of nurturing small businesses and local economies by providing both assistance and opportunity to participate in the City's competitive bidding process. By giving preference to local small businesses, the City can benefit beyond the value of the initial contract, as tax dollars are recycled into and thus expand the local economy.

The basis for the proposed Small Business Preference Program for the City of Salisbury is the State of Maryland Small Business Preference Program. Under this program, the Procurement Department would determine which competitively-bid procurements would most likely result in maximum small business participation based on the availability of qualified, certified small businesses. Concurrently, a percentage preference would be applied and this information would be designated in the bid documents and the solicitation notices. Such percentages would be as follows:

- 5% Small Business Preference
- 7% Veteran-Owned Small Business
- 8% Disabled-Veteran-Owned Small Business

The Procurement Department will accept the most favorable responsive bid from a responsible small business if the bid of the small business does not exceed the most favorable responsive bid received from a responsible bidder who is not a small business by the above percentages. The percentage preferences are established for the purpose of evaluation and thus do not change the actual price offered by the bidder. Price preferences as defined above are not cumulative and may not be combined under any circumstance.

The City would require the same certifications as the State to verify small business status. These certifications would include one or more of the following: registration as a small business with the Maryland DGS; currently verified and registered on [www.VetBiz.gov](http://www.VetBiz.gov); a copy of the DD Form 214; a copy of the Adjudication Letter from the U.S. Veterans Administration. If the bidder is requesting the application of a preference as noted in the bid document, it is the responsibility of the bidder to provide documentation that establishes the bidder's qualifications for the preference. Bidder's failure to provide this information with their bid proposal is grounds to deny the preference. A business is not entitled to any preferences unless the business, to the extent required by law:

- Has paid all taxes assessed by the State, County and City; and

- Holds current small business certification from the Maryland Department of General Services.

Where a procurement involves the expenditure of federal or state assistance, grant, or contract funds, the City of Salisbury shall also comply with federal and state laws as are mandatorily applicable and which are not presently reflected in the ordinance. Notwithstanding, where federal assistance, grant or contract funds are used in a procurement by the City of Salisbury, the City of Salisbury will defer to any requirements that are more restrictive than this proposed ordinance if the application of such would render the City of Salisbury ineligible to receive federal funds whose receipt is conditioned on compliance with mandatorily applicable federal or state law.