



Reception#: 801229  
 04/11/2011 02:30:07 PM Jean Alberico  
 1 of 5 Rec Fee:\$0.00 Doc Fee:0.00 GARFIELD COUNTY CO

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF GARFIELD )

At a regular meeting of the Board of County Commissioners for Garfield County, Colorado, held at the County Administration Building in Glenwood Springs on Monday, the 11 th day of April, 2011, there were present:

<u>Tom Jankovsky</u>	,	Commissioner
<u>Mike Samson</u>	,	Commissioner
<u>John Martin</u>	,	Commissioner Chairman
<u>Carolyn Dahlgren</u>	,	County Attorney
<u>Ed Green</u>	,	County Manager
<u>Jean Alberico</u>	,	Clerk to the Board

when the following proceedings, among others were had and done, to-wit:

**RESOLUTION NO. 11- 21**

A RESOLUTION REPEALING AND ADOPTING SECTION 5.7 OF THE GARFIELD COUNTY PROCUREMENT CODE: BID PREFERENCE--GARFIELD COUNTY RESIDENT BIDDER

WHEREAS, the Board of County Commissioners of Garfield County, Colorado ("BOCC") is charged with exercising the powers of the County as a body of politic pursuant to Section 30-11-103, C.R.S., as amended; and

WHEREAS, Section 30-11-107(1)(aa), C.R.S., as amended empowers the BOCC to establish policies and procedures regarding entering into contracts binding on the County and to delegate its powers to enter into such contracts pursuant to such policies and procedures; and

WHEREAS, the BOCC has previously adopted the Garfield County Procurement Code; and

WHEREAS, the BOCC seeks to encourage the sustainable creation of jobs in Garfield County; and

WHEREAS, the BOCC intends to give local businesses an advantage in the formal competitive solicitation/procurement process so that Garfield County money will be used by local businesses to support the local economy.

WHEREAS, the BOCC voted as a regularly scheduled meeting on November 1<sup>st</sup>, 2010 to amend the Garfield County Procurement Code under Section 5.7.

NOW, THEREFORE, BE IT RESOLVED by the BOCC, as follows:

exn

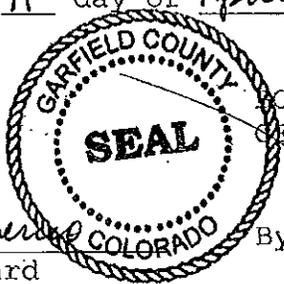
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1. Section 5.7 of Article IV of the Garfield County Procurement Code is hereby REPEALED.
2. The BOCC hereby ADOPTS Section 5.7 of Article IV of the Garfield County Procurement Code as set forth in Exhibit A.
3. The EFFECTIVE DATE of this resolution is November 1<sup>st</sup>, 2010 at which meeting the vote on adoption of the above-described section was as follows:

<u>John Martin</u>	<u>Aye</u>
<u>Mike Samson</u>	<u>Aye</u>
<u>Tresi Houpt</u>	<u>Aye</u>

DATED this 11<sup>th</sup> day of April, 2011.

ATTEST:



BOARD OF COUNTY COMMISSIONERS  
OF GARFIELD COUNTY, COLORADO

Jean M Alberico  
Clerk to the Board

By: [Signature]  
Chairman

Upon motion duly made and seconded the foregoing Resolution was adopted by the following vote:

<u>Tom Jankovsky</u>	<u>Aye</u>
<u>Mike Samson</u>	<u>Aye</u>
<u>John Martin</u>	<u>Aye</u>
Commissioners	

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF GARFIELD        )

I, Jean Alberico, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Resolution is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Garfield County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Glenwood Springs, this \_\_\_ day of \_\_\_\_\_, A.D. 2011.

County Clerk and ex-officio Clerk of  
the Board of County Commissioners



## Exhibit A

### 5.7 BID PREFERENCE - GARFIELD COUNTY RESIDENT BIDDER

**A. LEGISLATIVE INTENT.** The intent of the Board of County Commissioners ("Board") of Garfield County, Colorado ("County") is to use a "Local Business" whenever possible under this Section 5.7 and the purpose of this Code for the procurement of goods and services. However, the use of a Local Business over a non-Local Business must not result in a significant increase in costs to Garfield County. The Board intends to encourage creation of jobs in Garfield County and give Local Businesses an advantage in the formal competitive solicitation/procurement process so that monies spent through that process shall be used by the employees of Local Businesses in the local economy.

**B. PREFERENCE AUTHORIZED.** Whenever an award of a contract for goods or services is pending following a formal solicitation, a Local Business, as defined below, pursuant to the terms of this section shall be allowed a preference against a non-Local Business by the County Office of Contract Administration or the Board.

#### **C. DEFINITIONS.**

1. "Headquarters" is the principal place of business where most, if not all of the important functions of a local business are coordinated and regularly conducted. The location is leased or owned, contains all or a majority of the following: organizational governance (such as, CEO, partner, CFO, managers), warehousing operations, location of seventy-five percent (75%) of its employees, or materials and supplies are purchased within Garfield County.

2. "Local Business" is:

a. Any organization, corporation, limited liability company, or other form of business entity; partnership of any kind or sole proprietorship; or group of associated individuals whether profit or non-profit, which is registered with and in good standing with the Office of the Secretary of State, State of Colorado and maintains its headquarters in Garfield, County, Colorado; and

b. At least seventy-five percent (75%) of its work force resides within Garfield County. If subcontract work is involved, then at least seventy-five percent (75%) of the aggregate contract amount must be completed by Local Businesses and subcontractors who meet the Local Business criteria of having at least seventy-five percent (75%) of its work force residing in Garfield County; and

c. At least seventy-five percent (75%) of its business vehicles or its subcontractor business vehicles are registered in Garfield County, Colorado.

d. If a joint venture or teaming arrangement, including design build construction, the general or primary contractor or team leader must meet the terms of this definition above.



**D. DESIGNATION AS A LOCAL BUSINESS.**

1. Prior to submitting a bid or proposal in response to a competitive solicitation, any business that desires to obtain a Local Business designation shall apply for that designation by submitting a written request for that designation to the County Office of Contract Administration. The written request shall be in the form of an affidavit and supported with sufficient documentation to allow the County Office of Contract Administration to review and either approve or deny that written request.

2. The County Office of Contract Administration may grant a Local Business designation to a business if that business has satisfied the above criteria.

3. If the County Office of Contract Administration denies a request for a Local Business designation, the business may appeal the decision in writing to the Board within seven (7) calendar days of receipt of that decision. The decision of the Board on this issue is final.

**E. GENERAL REQUIREMENTS FOR USE.** The County Office of Contract Administration shall consider all of the following factors to determine if a local preference should be granted:

1. The respective bid or proposal amounts shall be considered. A preference may be given to a Local Business when there are no material differences between the fit, form, function, qualifications, or value of the goods to be purchased or the services to be performed by the respective bidders or offerors.

2. The magnitude of the price differences between the local and non-Local Business shall be considered.

3. When the evaluation of a competitive solicitation process results in a determination that the respective bids or proposals are essentially equal in value; then under no circumstances shall the Local Business be granted a preference in situations where any of the following factors apply: (i) the quoted price offered by a Local Business is more than five percent (5%) above the quoted price of a non-Local Business; (ii) the award of a contract to a Local Business at a higher price will result in the County exceeding its budgeted appropriation for that contract award.

**F. LOCAL PREFERENCE – INVITATIONS FOR BIDS (“IFB”)– SPECIFIC REQUIREMENTS FOR USE.** If the County Office of Contract Administration determines that a submitted bid is from a responsible and responsive bidder and that the business submitting the bid meets all criteria for a local preference, then that Local Business shall be given a five percent (5%) price preference over a non Local Business. If within the five percent (5%) price preference, the award shall be made to the Local Business. If the two (2) lowest responsible and responsive bidders both have Local Business designation, then the lowest responsible and responsive bidder shall be awarded the contract.

**G. LOCAL PREFERENCE - REQUESTS FOR PROPOSALS (“RFP”) – SPECIFIC REQUIREMENTS FOR USE.** If the County Office of Contract Administration determines that

factors other than price are important for an RFP, the RFP will be issued on a "best value" basis. Any local business will receive a 5% scoring advantage during the initial evaluation to determine the competitive range. After applying the initial criteria, Local Business(es) shall not be given any additional preference. The offeror within the competitive range that provides the best value for or to the County shall be awarded the contract, consistent with the purposes of this Code.

**H. NO PREFERENCE GIVEN IN CERTAIN CIRCUMSTANCES.** No preference shall be given under this section if the County Office of Contract Administration determines that awarding a contract in compliance with the preference provisions of this rule: 1) may cause a denial of state money which would otherwise be available, 2) may otherwise be inconsistent with any applicable requirement(s) of state law or the purposes of this Code, 3) may cause delay(s) in a procurement action that would compromise the public health, safety, or welfare, then the resident preference authorized by this rule shall be suspended, 4) any procurement under Section 5.3 and 5.5 of this Code, or 5) is in direct conflict of Federal Grant or Contracting Competition Procedures.

**I. NOTICE.** Every formal IFB or RFP shall contain a statement of this Local Business preference rule and the procedure that must be followed to timely receive a designation as a Local Business. However, if an IFB or RFP results in the rejection of all bidders or offerors and, no local bids or proposals were received, then this Local Business preference rule shall not apply to any re-issued IFB or RFP for the same goods or services.

**J. TIMING.** In no event shall a business be qualified to have the Local Business designation applied to a competitive solicitation unless the Local Business Affidavit has been submitted in writing ten (10) days prior to the due date of the RFP or IFB. Except where expressly authorized by other provisions of these rules, a Local Business may not submit any type of revised bid or proposal in order to take advantage of any of the provisions in this rule.

**K. CHALLENGE.** Any person who has been adversely affected in a competitive solicitation process by the designation of a business as a Local Business may file a written protest with the County Office of Contract Administration within seven (7) calendar days of the date that person knew or should have known of the adverse effect. The written protest must set forth with specificity facts supporting the allegation that the business should not receive a Local Business designation. The County Office of Contract Administration shall investigate the allegations and make a recommendation to the BOCC.

**L. REMEDIES.** If the Board determines that a business has erroneously been given a Local Business preference designation, the business shall be assessed a monetary amount equal to the same monetary amount that resulted from application of this Rule. If the Board determines that a business knowingly submitted false information to obtain a Local Business designation, then in addition to the above monetary assessment, that business shall be suspended from bidding on other County procurement for a period of one (1) year from the date of the determination.