



**MEDFORD**  
CITY ATTORNEY'S OFFICE

January 23, 2023

Senate Committee on Labor and Business  
Oregon State Legislature

**Re: SB 442 (2023)**

To Chair Taylor and Committee Members:

The City of Medford respectfully opposes SB 442 as currently drafted. This bill's current language complicates what is otherwise a bright-line, objectively-applied rule regarding in-state bidders with a new, subjective test. It creates a 5% preference that is only available if a municipality "can reasonably and credibly determine that procuring the goods or services at the higher price offsets environmental costs that are attributable to transporting the goods or the service providers from outside this state." There is no clear and objective way to compare the environmental cost of interstate travel of a widget to the financial cost upon a local municipality. As such, this language is expected to create more disputes of public contracting awards, where municipalities are in the difficult position of explaining why they "reasonably and credibly" provided a 5% preference or did not provide a 5% preference on this subjective issue, and one bidder or the other is aggrieved by how the municipality attempted to apply this subjective test.

Furthermore, the addition of the word "otherwise" to ORS 279A.128(2)(a)(B) appears to prevent the existing, clear-and-objective 10% preference for in-state bidders from being applied unless the municipality first analyzes this new test.

Sincerely,

*/s/ Eric B. Mitton*

**Eric B. Mitton**  
City Attorney