

**ORD. 577-00 Amending Toledo Municipal Code Chapter 187 in order to enact a "Living Wage" provision.**

WHEREAS, the City has an interest in insuring that firms that receive City contracts or other benefits from the taxpayers are meeting minimum compensation levels for their employees; and

WHEREAS, such minimum compensation levels should allow citizens to support themselves and their families with dignity;

WHEREAS, sub-poverty level wages do not serve the public interest and place an undue burden on taxpayers and the community, which must further subsidize employers who pay inadequate wages by providing their employees social services such as health care, housing, nutrition, and energy assistance.

WHEREAS, the City has a responsibility when spending public money to set a community standard that permits full-time workers to live above the poverty line; and

WHEREAS, Toledo Municipal Code Chapter 187 can be amended to provide "Living Wage" requirements; NOW, THEREFORE;

Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 187 is hereby amended as provided in Sections 2 through 15 herein.

SECTION 2. That Toledo Municipal Code Section 187.12(b) which reads as follows:

(b) In the case of contracts involving personal services or labor, no award shall be made until the successful bidder submits proof that he pays and will continue to pay during the life of any such contract the prevailing rates of wages in the Toledo area for the industry involved. Such prevailing rates of wages shall be deemed to be those filed for the Toledo area with the Department of Industrial Relations of the State of Ohio, or in the event the prevailing rates of wages for such industry are not so filed, the prevailing rates of wages for the Toledo area shall be deemed to be at least equal to the highest rates established by collective bargaining agreements between bona-fide labor organizations and employers in the Toledo area for the particular industry or work involved.

Provided, however, that this section shall not apply where the Federal government or any agency thereof furnishes, by loan or grant, any or all of the funds used in any contract for a public improvement or other contract involving personal services or labor and where the Federal government or any agency thereof prescribed predetermined minimum wages to be paid to those laborers employed under the terms of such contract.

is hereby repealed.

SECTION 3. That a new Toledo Municipal Code Section 187.12(b) is hereby enacted to read as follows:

(b) In the case of contracts involving personal services or labor, no award shall be made until the successful bidder submits proof that he pays and will continue to pay during the life of any such contract the prevailing rates of wages in the Toledo area for the industry involved. Such prevailing rates of wages shall be deemed to be those filed for the Toledo area with the Department of Industrial Relations of the State of Ohio, or in the event the prevailing rates of wages for such industry are not so filed, the prevailing rates of wages for the Toledo area shall be deemed to be at least equal to the highest rates established by collective bargaining agreements between bona-fide labor organizations and employers in the Toledo area for the particular industry or work involved.

Provided, however, that this section shall not apply where the Federal government or any agency thereof furnishes, by loan or grant, any or all of the funds used in any contract for a public improvement or other contract involving personal services or labor and where the Federal government or any agency thereof prescribed predetermined minimum wages to be paid to those laborers employed under the terms of such contract.

Provided further that in the case of contracts in excess of \$10,000.00, the "living wage" requirements provided in Section 187.37 shall be applicable.

Furthermore, the City of Toledo will give preferential status for job creation and retention assistance to businesses that engage in responsible labor relations. (e.g. lack of recent National Labor Relations Board Charges).

SECTION 4. That while Toledo Municipal Code Sections 187.24(c)(1), & (2) remain as enacted; Section 187.24(c) which reads as follows:

(c) Evaluation of professional service contracts shall be based on the weighted rating factors listed in 187.24 (c) (1). The rating factors are subject to adjustment, within the indicated ranges, as determined by the department director seeking the professional service contract. Each proposal for professional service contract shall be rated on a zero (0) to five (5) point scale and multiplied by the rating factor to arrive at a weighted total score.

is hereby repealed.

SECTION 5. That a new Toledo Municipal Code Section 187.24(c) is hereby enacted to read as follows:

(c) After it has been determined that a proposed professional service contract complies with the living wage provision where applicable, then evaluation of professional service contracts shall be based on the weighted rating factors listed in 187.24 (c) (1). The rating factors are subject to adjustment, within the indicated ranges, as determined by the department director seeking the professional service contract. Each proposal for professional service contract shall be rated on a zero (0) to five (5) point scale and multiplied by the rating factor to arrive at a weighted total score.

SECTION 6. That a new Toledo Municipal Code Section 187.36, entitled Definitions, is hereby enacted to read as follows:

**187.36 Living Wage Definitions**

A. "City financial assistance recipient" means any entity that receives financial assistance in excess of \$100,000 from the City.

B. Financial assistance includes, but is not limited to, bond financing, tax increment financing, tax abatement assistance of any kind; and other funds, that are not governed by any federal or state regulations and are not excluded in this subsection and where the application of this section is consistent with laws authorizing the City to expend such other funds. Financial assistance is also understood to include any in-kind assistance that the recipient would otherwise have to pay. Loans shall not be considered assistance except to the extent they are forgiven or discounted below the available market rate over the life of the loan.

C. "Contractor" means any entity that enters into a contract with the City to provide goods or services to the City in excess of \$ 10,000.00, or any entity that enters into multiple City contracts in a calendar year that exceed \$10,000 in total.

D. "Employee" means any individual who may be required or directed by any employer, in consideration of direct or indirect financial gain or profit, to engage in any employment.

E. "Employer" means any entity who is a City financial assistance recipient who employs at least 50 employees on the payroll within the last quarter prior to the effective date of the financial assistance; or any contractor or subcontractor who employs at least 25 employees on the payroll within the last quarter prior to the effective date of the contract.

F. "Person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, or other entity that may employ individuals or enter into contracts.

G. "Subcontractor" means any person not an employee that enters into a contract with (1) a contractor to assist the

contractor in performing the contract or (2) a City financial assistance recipient to assist the recipient in performing the work for which the assistance was given.

H. Volunteer, means a person who renders aid, performs a service, or assumes an obligation without compensation.

I. Seasonal is an individual who works a certain regular season or period of the year, for a maximum of 32 weeks performing some work or activity limited to that season, or an individual who works as a school crossing guard.

J. Intern is a college or university, full-time student enrolled in a two or four year degree program and who works on special projects in connection with his or her field of study; hours worked do not exceed 1500 hours per calendar year and termination of the internship occurs no later than 3 months after graduation from the college or university.

SECTION 7. That a new Toledo Municipal Code Section 187.37, titled "Living wage requirements, payment by employer, exemptions" is hereby enacted to read as follows:

**187.37 Living wage requirements, payment by employer, exemptions.**

A. Requirements.

1. The following employees or persons shall be paid a "living wage";

(a) Any person who is an employee of a contractor or subcontractor on or under a contract with the City and who is directly working under that contract;

(b) Any person who is an employee of a City financial assistance recipient, their contractor or subcontractor, and who works at a site or expends at least one half of his or her time working on the project or portion of business that receives City financial assistance;

(c) Any person who is an employee of a tenant who financially benefits from the City of Toledo's financial assistance to the property.

B. Payment of a living wage and/or health benefits by employer.

1. All employers governed by this section shall pay employees a "living wage" of no less than \$8.58 per hour, or 110% of the updated federal poverty level for a family of four, whichever is greater.

2. (a) Employers shall make available single coverage health benefits that do not cost their employees more than 15% of the employees' monthly wages, except to those employees within an

established probationary period that does not exceed sixty work days.

(b) Employers not providing single coverage health benefits as formulated in section 187.36 B. (2)(a) shall pay a living wage of no less than \$ 10.14 or 130% of the updated federal poverty level for a family of four, whichever is greater.

3. All employees working for the City of Toledo shall be paid at least a living wage upon completion of their probationary periods. Work presently being performed by City of Toledo bargaining unit employees may not be subcontracted out unless either (1) the contractor pays employees performing that work at least a living wage, or (2) the contractor meets greater requirements for subcontracting provided in the City of Toledo collective bargaining agreement or elsewhere in the Toledo Municipal Code.

C. Exemptions. The following recipients are exempted from the requirements of this section: (1) contractors or subcontractors with fewer than 25 employees; (2) financial assistance recipients with fewer than 50 employees (2) recipients of Community Development Block Grant funding; (3) seasonal employees; (4) Interns; (5) nonprofit organizations whose sole purpose is to provide cultural, social or educational services; (6) organizations whose primary mission is to provide job readiness and training services, and whose sole purpose of requesting funding is to provide those services; (7) businesses that pay their employees the prevailing wage rate, or pay their employees pursuant to the Davis Bacon Act; (8) Volunteers.

SECTION 8. That a new Toledo Municipal Code Section 187.38, titled "Living Wage Review Committee, enforcement, notices", is hereby enacted to read as follows:

**187.38 Living Wage Review Committee, enforcement, notices.**

A. The Living Wage Review Committee will be responsible for oversight of this section and the Office of Contract Compliance shall be responsible for enforcement. The Living Wage Review Committee will be appointed by the Mayor, thirty (30) days after passage of this legislation , and subject to confirmation by Toledo City Council. It shall be composed of 7 members with one representative from a large business; one representative from small business; one representative from labor; one representative from city council; one representative from a community development corporation; one representative from the Development Department; and, one representative from the Office of Contract Compliance.

B. The Office of Contract Compliance shall investigate employee complaints of violation of this section and forward each complaint of violation, upon its receipt, to the Living Wage Review Committee who shall monitor the investigation and the resolution of the complaint. The Living Wage Review Committee shall review the resolution of each complaint, as reported by the

Office of Contract Compliance and may forward all unresolved matters to the Director of Law for any appropriate legal action.

C. All City contracts shall provide that upon a violation of any provision of this section the City financial assistance recipient, contractor or subcontractor who is out of compliance shall have thirty (30) days to come into compliance. Such contracts shall further provide that after thirty (30) days if the City financial assistance recipient, contractor or subcontractor remains out of compliance, the City may terminate the contract and otherwise pursue legal remedies that may be available including the repayment of, or payment for, all or part of the financial assistance provided. If a City financial assistance recipient, contractor or subcontractor violates the provisions of this section twice, the City shall terminate all contracts already in force and that City financial assistance recipient, contractor or subcontractor shall be prohibited from receiving City financial assistance or contracting with the City for a period of five (5) years.

D. City contracts to which this section applies shall expressly prohibit retaliation against any employee who claims violation of the provisions of this section or reports or testifies regarding an alleged violation.

E. A City financial assistance recipient, contractor and/or subcontractor, subject to this section, shall post a notice stating that the employees may be subject to this ordinance; the current living wage with and without single coverage medical benefits. The notice shall be written in English as well as Spanish and shall state the following: "This employer is subject to the Living Wage and must be paying his employees \$ 8.58 per hour or 110% of the updated federal poverty level for a family of four plus making available single health coverage in an amount not to exceed 15% of the employee's monthly wages. If the employer does not provide single health coverage, the wages must be \$ 10.15 per hour or 130% of the updated federal poverty level".

F. The City financial assistance recipient, contractor and/or subcontractor, subject to this section must twice yearly give to his/her employees a notice stating that the employee may be subject to the living wage ordinance and explaining the current living wage amount with and without single medical coverage. Employees may report any violations of this ordinance to the Living Wage Review Committee after attempting to resolve this matter with the employer.

SECTION 9. That a new Toledo Municipal Code Section 187.39, titled "Review, severability", is hereby enacted to read as follows:

**187.39 Living Wage Review, Severability**

A. The Living Wage Review Committee shall conduct a review and collect data regarding the impact of this Ordinance. The

Committee shall prepare a report to Council on the impact of the ordinance on the City of Toledo three years from the date of enactment of this ordinance.

B. If any provision of this section is declared legally invalid by any court of competent jurisdiction the remaining provisions shall remain in full force and effect.

SECTION 10. That a new Toledo Municipal Code Section 187.40, titled "Effective date", is hereby enacted to read as follows:

**187.40 Living Wage Effective Date**

The provisions of this section shall apply to contracts consummated and financial assistance provided after the effective date of this ordinance; and to existing contracts amended after the effective date of this ordinance when the amendments provide supplemental financial assistance that triggers the requirements of the living wage.

SECTION 11. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: June 6, 2000: yeas 11, nays 0.

ATTEST:

MICHAEL J. BEAZLEY

Clerk of Council

President of Council

PETER UJVAGI

Approved: June 15, 2000

CARLETON S. FINKBEINER

Mayor