

ORD. 832-03

Amending and supplementing Toledo Municipal Code Chapter 187 entitled "Purchases and Supplies", by substituting new sections 187.03, 187.04, 187.05, 187.06, 187.09, 187.12, 187.14, 187.18, 187.24, 187.28, and 187.34; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo has a responsibility to foster full employment of its citizens. The City also has a responsibility to encourage the growth of local businesses. Both of these ends not only benefit the local economy, but also generate additional tax revenue for the City. The benefits of those revenues extend to the population at large. With the gradual decline of that population in the past two decades, and the uncertainties continually facing the local economy, the importance of these steps has increased. The City of Toledo has therefore, when possible, used the funds it expends in a manner that will have the greatest local economic input by keeping money in the area. Thus, the Municipal Code now provides a discount of up to four percent (4%) on local vendor's or contractor's bids for goods or services. To further the foregoing goals, this ordinance increases the local preference by one percent (1%) in each category. In furtherance of those goals, the ordinance also increases the threshold for formal bidding and for performance bonds on City contracts from ten thousand dollars (\$10,000) to forty thousand dollars (\$40,000). This latter change will also act to expedite the purchasing and contracting process, making goods and services more readily available. Formal bids will continue to be awarded based upon a determination of the "lowest and best" bidder. This ordinance now specifies criteria for making that determination on construction, alteration, and/or renovation projects in excess of one hundred thousand dollars (\$100,000.00). Based upon the City's experience, quality workmanship, efficient operation, safety and timely completion of projects are not necessarily ensured by awarding a construction project to the lowest bidder. Rather, the lowest and best bidder on the construction project can be identified only through consideration of several factors in addition to the dollar amount of the bid. These considerations will also help foster full employment and encourage local growth. NOW, THEREFORE,

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

SECTION 1. That Sections 187.03, 187.04, 187.05, 187.06, 187.09, 187.12, 187.14, 187.18, 187.24, 187.28, and 187.34 to Chapter 187 of the Toledo Municipal Code, entitled "Purchases and Supplies", which read as follows, be and the same are hereby repealed:

187.03. Contract execution.

No contract involving any expenditure of the amount specified in Section 228 of the Charter or more shall be executed by any officer of the City in behalf thereof, except in pursuance of an advertisement or bids published at least twice in the City Journal, the first of which advertisements shall be at least ten days preceding the opening of bids. The

advertisement for such bids may be published prior to the time the ordinance authorizing the contract becomes effective, but no bids shall be accepted or contract executed until the ordinance authorizing the same is in full force and effect.

187.04. Open order purchases.

In any purchase involving an expenditure of less than the amount specified in Section 228 of the Charter the appropriation for such purchase shall be sufficient authority for the purchase. All such purchases shall be made with informal competition under the rules and regulations prescribed by the Section.

187.05. Certain purchases to be authorized.

No purchase involving an expenditure of the amount specified in Section 228 of the Charter or more shall be made unless authorized by ordinance of Council and one or more purchases may be made under the authority of the same ordinance or purchases may be authorized in installments under one advertisement for bids. All requisitions for such purchases shall be approved by the Director of Law or his designee, and the Mayor before being forwarded to the Administrator of Purchases and Supplies. Except in case of an emergency, such ordinance shall be passed before the requisition is forwarded to the Administrator and the number thereof shall be placed on the requisition. In case of an emergency, the requisition may be executed and forwarded to the Administrator before the passage of the ordinance, but no awards shall be made upon any bids until the ordinance is passed and in effect. The emergency shall be set forth in the requisition. The following provisions as to competitive bidding apply only to expenditures of the amount specified in Section 228 of the Charter or more.

187.06. Purchases on competitive bidding.

When any purchase involving an expenditure of the amount specified in Section 228 of the Charter or more is authorized by Council as herein provided, it shall be made with the lowest and best bidder after advertisement in two consecutive issues of the City Journal one week apart and the time set for opening bids shall not be less than two weeks from the date of the first publication.

187.09. Deposit to guarantee bid.

Every such bidder shall present with his bid a bidder's bond or certified or cashier's check on a solvent bank in the sum of five percent of his bid, but in no event less than forty dollars (\$25.00) nor more than one thousand dollars (\$1,000) which check shall be given as security that if the bid is accepted a contract shall be entered into and the performance of it properly secured. If the bidder fails to comply with his bid, he shall be liable to the City for any damages sustained, which shall not be less than the amount of such certified check and the amount thereto is fixed as the minimum of liquidated damages. The procedure as to competitive bidding set forth in this and the preceding three sections shall apply to other contracts involving the amount specified in Section 228 of the Charter or more.

187.12. Awarding contracts.

(a) The department director seeking to recommend a contract shall determine the lowest and best bidder, or he may reject any or all bids. The award of the contract or purchase shall be made by the Mayor to the successful bidder, and a public record shall be made of such award and signed by the Mayor, the Administrator of Purchases and Supplies, the Finance Director and the Director of Law.

(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).

187.14. Single deliveries.

In the case of any purchase involving an expenditure of the amount specified in Section 228 of the Charter or more which covers a single delivery, the Administrator of Purchases and Supplies in his discretion may dispense with a bond for the performance of the purchase contract. In such a case the check deposited with the bid shall be retained until final payment by the City is made, and shall be deemed to be in lieu of the contract bond and shall have the same legal effect. In all other cases a bond shall be required if necessary to protect the City on deliveries, and the sureties on such bonds shall be approved by the Director of Finance. The amount of the bond shall be fixed by the Administrator of Purchases and Supplies, but it shall not exceed the bid price.

187.18. Transfers among departments.

If any departments or subdivision has personal property not needed it shall certify such fact to the Administrator of Purchases and Supplies. If any such property is suitable for use for any other department or division it may be transferred to such department or

division and they shall be charged the value thereof. If such property is not needed for any municipal use it shall be sold by the Administrator and the proceeds of the sale credited to the General Fund. If the amount involved is under the amount specified in Section 228 of the Charter, informal competition only shall be required. If the amount involved is the amount specified in Section 228 of the Charter or over, it shall be sold to the highest and best bidder after advertisement in the City Journal in the same manner and for the same period prescribed for purchases.

187.24. Competitive proposals.

(a) Competitive proposals shall be required of any contract involving professional services unless excused by 187.24 (b).

(b) The Mayor may present a proposal for a professional services contract for Council approval without having received competitive proposals when authorized herein. Such exception shall require a clear justification for departing from the competitive process. Adequate justification shall include a need for confidentiality (e.g. litigation), an emergency requiring obtaining professional services in a time period that cannot be accomplished through the competitive process, the need to follow a non-bid consultant selection process which is a precondition to the receipt of federal and/or state funding for the contract, or other justification demonstrating that the City is best served by bringing the matter directly to Council for consideration.

(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.

(1) The rating factors and the respective weights for each factor for evaluation of professional service contracts sought by the City of Toledo are: background and related project experience - zero (0) to fifteen (15), location (local office-staff accessibility) - zero (0) to ten (10), familiarity with local, state and federal standards and regulations - zero (0) to ten (10), current work load - zero (0) to five (5), performance on previous projects - zero (0) to fifteen (15), understanding of the project -zero (0) to fifteen (15), schedule, staffing - zero (0) to fifteen (15), fee and hours - zero (0) to fifteen (15), DBE (Disadvantaged Business Enterprise) participation zero (0) to fifteen (15), other department criteria to be identified in the Request For Proposal (RFP) - zero (0) to five (5).

(2) The following ten categories will be used as rating factors when reviewing professional services for the City of Toledo. Each category or criterion shall have a scoring range between zero (0) to fifteen (15) from which the evaluating division can choose in order to appropriately reflect their relative importance, e.g., not applicable to this particular project would be 0 versus highly important could be fifteen (15).

A. Background, related project experience - this consists of review of the professional services background and experience of the firm or individual. It should include a history of the firm or individual and the number of employees. It should include a listing of previous experiences similar to the requested work and should describe the facilities and equipment at the working offices.

B. The location - this should include the location of the primary office and whether or not a local office will be available. It should also include discussion on staff accessibility for the project. This should also include the amount of work to be performed in the City of Toledo. It should also list the home office inside the City of Toledo, as well as the primary office if located elsewhere. The location where the primary work will be done must be designated. If a portion of the work will be done at a location other than the primary location, designate the other location and the type of work to be done there. Note: A partial assessment of location points (no more than five (5) can be given to those businesses, which are located within the joint economic development zone of which the City of Toledo is a participant.

C. Familiarity with local, state and federal standards and requirements - this should include a description of the firm or individual's familiarity with all City of Toledo, State of Ohio and applicable federal standards and requirements. Specific local standards, ordinances, state laws, state requirements and federal regulations should be listed in this section.

D. Current work load - a description of the firm or individual's current work load is to be included in this section. This should include a listing of all major projects inside the City of Toledo and outside its boundary. Specific listing of any subcontracting work that the firm or individual does have with another company or project should also be included in this section.

E. Performance on previous projects - a specific listing of previous contracts with the City of Toledo or similar offices in the State of Ohio, State of Michigan or Federal Government should also be included. Included in this listing should be a summary of performance for each project relevant to timeliness, performance and any savings or benefits that were provided to the contractee. List the last ten (10) completed projects similar to the requested work.

F. Understanding of the project - the provider shall completely describe in detail the services to be rendered to complete the project, including all alternative considerations and evaluations which may be prudent in order to effectively minimize the project budget and most satisfactorily achieve the project goal. Specific points of understanding should be listed to include the professional approach to the project with any related economic benefits which may impact efficiency and effectiveness.

G. Schedule, staffing - this criterion shall have a project advancement schedule, including all tasks specifically listed for the project. Timeframes, review times, as well as timing for meetings with citizens and public meetings should be listed in this section. List

your key personnel and their qualifications and experience. Designate the person who will manage this project. Designate your other personnel along with their experience and background who will also work on the project.

H. Fee - the specifics of the fee shall be listed. The cost can be prepared in an hourly format to include a not-to-exceed figure. However, a cost for specific hourly charges over the base project by specific category should be listed.

I. DBE Participation - a description of any joint ventures, partnerships or subcontracts with DBEs that are certified by the City's Office of Affirmative Action. The description should include the name of the company(s), the description of the work to be performed by the DBE and the amount and percentage of the contract that will be awarded to DBEs.

J. Other divisional criteria (identified in the request for proposal) - any other pertinent information that the requesting division believes is important that is not included above should be included in this section.

(d) In all cases involving an expenditure of the amount specified in Section 228 of the Charter or more the contract shall be made with the lowest and best bidder after advertisement in the City Journal in the same manner as is hereinbefore provided for purchases. Among the elements to be considered in determining the lowest and best bidder shall be:

(1) The bidder's performance on previous work or contracts undertaken for the City or others including provision of specific information concerning previous work or contracts with the City, any state and the federal government.

(2) The bidder's history, background, quality of work and related experience in all matters concerned with performance of the involved purchase, work or contract; If the contract covers both labor and materials advertisement shall require them to be separately stated in the bid with the price thereof.

187.28. Bond to secure performance of contract.

Every contract involving an expenditure of the amount specified in Section 228 of the Charter or more for the performance of work and labor and for the installation of equipment upon any street, highway, bridge, building or other public improvement in which both labor and material are involved, shall be accompanied by a bond of the contractor to the City in the Ohio statutory form, guaranteeing the performance of the contract and in an amount not less than the bid price. In lieu thereof, the contractor may provide the City with one of the following forms of security from a solvent bank: (a) Certified check, (b) Cashier's check, or (c) Irrevocable letter of credit.

The sureties on such bond or the bank on such performance bond security shall be approved by the Administrator of Purchases and Supplies and the bond/security shall be filed with the Administrator of Purchases and Supplies.

187.34. Local preference.

Except as limited by subsection (e) herein, in evaluating the price of any vendor's or contractor's bid or proposal for goods or services, the bids, or proposals shall be evaluated as though the prices proposed by local bidders were either four percent (4%), three percent (3%), two percent (2%), one and one-half percent (1.5%) or one percent (1%) lower than actually proposed in accordance with the following schedule:

(a)(1) Bids and proposals for contracts involving \$25,000 or more received from companies', businesses' or individuals' principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a two percent (2%) reduction basis.

(2) Bids and proposals for contracts involving less than \$25,000 received from companies', businesses' or individuals' principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a four percent (4%) reduction basis.

(b)(1) Bids and proposals for contracts involving \$25,000 or more received from companies, businesses or individuals located but not principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a one and one-half percent (1.5%) reduction basis.

(2) Bids and proposals for contracts involving less than \$25,000 received from companies, businesses or individuals located but not principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a three percent (3%) reduction basis.

(c)(1) Bids and proposals for contracts involving \$25,000 or more received from companies, businesses or individuals located outside the City of Toledo but within the Northwest Ohio 10 County Area shall be evaluated on a one percent (1%) reduction basis, when not competing against a City of Toledo bidder.

(2) Bids and proposals for contracts involving less than \$25,000 received from companies, businesses or individuals located outside the City of Toledo but within the Northwest Ohio 10 County Area shall be evaluated on a two percent (2%) reduction basis, when not competing against a City of Toledo bidder.

(d)(1) A vendor, bidder or contractor principal place of business in Toledo is an individual or business entity whose principal place of business is located within the corporate limits of the City of Toledo. Registration of principal place of business in official documents filed with the Secretary of State, State of Ohio, or a valid vendor's license which indicates that the principal place of business is located within the corporate limits of the City of Toledo is prima facia proof of principal place of business. When proof of situs is required the local bidder or contractor must provide proof of principal place of business to the Mayor in order to receive a preference provided herein.

(2) A vendor, bidder or contractor located but not principal place of business in Toledo is an individual or business entity whose physical, viable place of business is located within the corporate limits of the City of Toledo but not principal place of business within the corporate limits of the City of Toledo. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(3) A vendor, bidder or contractor located within the Northwest Ohio 10 County Area is an individual or business entity whose physical, viable place of business is located within the Ohio counties of: Williams, Defiance, Fulton, Henry, Lucas, Wood, Ottawa, Sandusky, Seneca and Erie. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(e) Where application of the local preference would result in a contract award wherein the actual cost of the contract is more than \$10,000.00 greater than the next low acceptable bid, the local preference shall not apply. Nothing herein shall be construed as increasing or decreasing the actual price of a bid or proposal and the resulting contract in accordance with their terms in this section is intended only to be used for purposes of comparing and evaluating bids and proposals for goods and services. Nothing within this section shall be construed to create any private rights, claims or causes of actions on behalf of any person, including but not limited to bidders, proposers and contractors.

SECTION 2. That the Toledo Municipal Code is hereby amended and supplemented by the addition thereto of new Sections 187.03, 187.04, 187.05, 187.06, 187.09, 187.12, 187.14, 187.18, 187.24, 187.28, and 187.34 to Chapter 187, entitled "Purchases and Supplies", which read as follows:

187.03. Contract execution.

No contract involving any expenditure of the amount of forty thousand dollars (\$40,000.00) or more shall be executed by any officer of the City in behalf thereof, except in pursuance of an advertisement or bids published at least twice in the City Journal, the first of which advertisements shall be at least ten (10) days preceding the opening of bids. The advertisement for such bids may be published prior to the time the ordinance authorizing the contract becomes effective, but no bids shall be accepted or contract executed until the ordinance authorizing the same is in full force and effect.

187.04. Open order purchases.

In any purchase involving an expenditure of less than the amount specified in Section 228 of the Charter the appropriation for such purchase shall be sufficient authority for the purchase. All such purchases and all other purchases in the amount of less than forty thousand (\$40,000.00) shall be made with informal competition under the rules and regulations prescribed by the Section.

187.05. Certain purchases to be authorized.

No purchase involving an expenditure of the amount specified in Section 228 of the Charter or more shall be made unless authorized by ordinance of Council. One or more purchases may be made under the authority of the same ordinance. Purchases may be authorized in installments under one advertisement for bids when bids are required. All requisitions for such purchases shall be approved by the Director of Law or his designee, and the Mayor before being forwarded to the Administrator of Purchases and Supplies. Except in case of an emergency, such ordinance shall be passed before the requisition is forwarded to the Administrator and the number thereof shall be placed on the requisition. In case of an emergency, the requisition may be executed and forwarded to the Administrator before the passage of the ordinance, but no awards shall be made upon any bids, when bids are required, nor awards upon informal competition, when only informal competition is required, until the ordinance is passed and in effect. The emergency shall be set forth in the requisition. The following provisions as to competitive bidding apply only to expenditures of forty thousand dollars (\$40,000.00) or more.

187.06. Purchases on competitive bidding.

When any purchase involving an expenditure of the amount of forty thousand dollars (\$40,000.00) or more is authorized by Council as herein provided, it shall be made with the lowest and best bidder after advertisement in two consecutive issues of the City Journal one week apart and the time set for opening bids shall not be less than two weeks from the date of the first publication.

187.09. Deposit to guarantee bid.

Every such bidder shall present with his bid a bidder's bond or certified or cashier's check on a solvent bank in the sum of five percent of his bid, but in no event less than forty dollars (\$40.00) nor more than one thousand dollars (\$1,000) which check shall be given as security that if the bid is accepted a contract shall be entered into and the performance of it properly secured. If the bidder fails to comply with his bid, he shall be liable to the City for any damages sustained, which shall not be less than the amount of such certified check and the amount thereto is fixed as the minimum of liquidated damages. The procedure as to competitive bidding set forth in this and the preceding three sections shall apply to other contracts involving the amount of forty thousand dollars (\$40,000.00) or more.

187.12. Awarding contracts.

(a) For contracts not covered by paragraph (c) of this section, the department director seeking to recommend a contract shall determine the lowest and best bidder, or he may reject any or all bids. For contracts covered by paragraph (c), the department director in concert with representatives of the Mayor's Office, Finance Department, Law Department, and Office of Affirmative Action, Contract Compliance, and Purchasing, shall determine the lowest and best bidder, or they may reject any and all bids. The award

of the contract or purchase shall be made by the Mayor to the successful bidder, and a public record shall be made of such award and signed by the Mayor, the Administrator of Purchases and Supplies, the Finance Director and the Director of Law.

(b) In the case of contracts involving personal services or labor, no award based upon formal bids, or upon informal competition for ten thousand dollars (\$10,000.00) or more, 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 ten thousand \$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).

(c) For all construction, alteration, and/or renovation projects in excess of one hundred thousand dollars (\$100,000.00), the following criteria should be considered in determining the lowest and best bidder:

- (1) Bidder's experience and background
 - A. Related Project Experience - Experience of the bidder on projects of the nature for which bids were solicited, to include previous related experiences with the City.
 - B. Project Familiarity - Bidder's familiarity with the project being undertaken, including all local standards, specifications and requirements and they are to be efficiently and effectively met.
 - C. Construction experience - A description of general construction contracts in which the bidder has performed,

including a listing of the last ten completed projects similar to the requested work.

(2) Bidder's Workforce

- A. Continuity and experience of the bidder's workforce - extent of experience with the firm and in the area of construction for which the bid is submitted.
- B. Availability of workforce - whether the bidders' employees are drawn mainly from Northwest Ohio and Southeast Michigan, to include Lucas, Wood, Williams, Defiance, Fulton, Henry, Ottawa, Sandusky, Seneca, Hancock, Putnam, Paulding, and Erie Counties in Ohio and Monroe and Lenawee Counties in Michigan.
- C. Apprenticeship Program - whether the bidder's employees participate in a bona fide apprenticeship program that is approved by the Ohio State Apprenticeship Council and the U.S. Department of Labor if such apprenticeship programs are available for their workforce.
- D. Employee welfare - whether the bidder provides employee health insurance and retirement or pension plan for its employees.
- E. Employee safety - whether the bidder provides for an OSHA (and if applicable, EPA) compliance safety plan for its employees and provides safety training as required.
- F. Drug-Free Workplace: whether the bidder has in place a drug-free awareness program and notification requirements consistent with the requirements of the federal Drug-Free Workplace Act of 1988.

(3) Record of compliance

- A. Bonding experience - whether bidder has a record of claims against performance bonds secured on public improvement construction projects, with an explanation of reasons for claims.
- B. Tax laws: whether bidder is in compliance with City and state taxes on payroll and net profits, to include an affidavit as to no outstanding tax liens and as to no outstanding City income tax obligations.

- C. Wage, hour and unemployment laws - whether bidder is in compliance with federal, state, or local laws or regulations regarding safety and health, fair labor standards, prevailing wages, minimum wages, Unemployment and Workers' Compensation.
- D. Construction compliance - whether the bidder has a record for complying with and meeting completion deadlines and successfully controlling costs bid on similar construction projects, to include a review of the various construction experience and compliance in the preceding twelve months covering the bidder's compliance with completion deadlines, the amount of any change orders for the job or cost overruns on each job undertaken, the reasons for the change orders or cost overruns, and the timely response to site clean-up and "punch" list.
- E. Equal business opportunity - whether bidder is in compliance with any affirmative action or disadvantaged business enterprise programs that the City is required by law to enforce in connection with funds to be spent under the procurement contract; and the bidder's compliance with the City's disadvantaged business enterprise program, describing any joint ventures, partnerships or subcontracts with DBEs certified by the City's Office of Affirmative Action and specifying the names of the companies, description of the work to be performed, and percentage of the contract to be awarded to DBEs.
- F. Bidder's responsiveness - whether bidder has timely provided information or materials to document the foregoing criteria, including a listing of the percentage of the bidder's workforce residing in Toledo, Lucas County, Northwest Ohio, and Southeast Michigan.

The Director of Affirmative Action/Contract Compliance and the Commissioner of Purchasing shall prescribe the manner and form of submittal for the purpose of evaluating the considerations herein. All bid invitations and specifications for construction, repair, and any renovation work to the City shall advise prospective bidders of all the factors that may be taken into consideration by the City in determining whether the bid is not only the lowest, but best bid. The specifications shall contain provisions conforming to parts (c)(1), (2) & (3) of this section. On a project-by-project basis, the City may also evaluate the bidder's list of subcontractors as to compliance with the foregoing criteria. Bidders shall be advised with the bid packets as to whether subcontractor compliance information will be required. The bidding Department or

Division shall maintain in the contract file a record of evaluation determining the lowest and best bid.

187.14. Single deliveries.

In the case of any purchase involving an expenditure of the amount of forty thousand dollars (\$40,000.00) or more which covers a single delivery, the Administrator of Purchases and Supplies in his discretion may dispense with a bond for the performance of the purchase contract. In such a case the check deposited with the bid shall be retained until final payment by the City is made, and shall be deemed to be in lieu of the contract bond and shall have the same legal effect. In all other cases a bond shall be required if necessary to protect the City on deliveries, and the sureties on such bonds shall be approved by the Director of Finance. The amount of the bond shall be fixed by the Administrator of Purchases and Supplies, but it shall not exceed the bid price.

187.18. Transfers among departments.

If any departments or subdivision has personal property not needed it shall certify such fact to the Administrator of Purchases and Supplies. If any such property is suitable for use for any other department or division it may be transferred to such department or division and they shall be charged the value thereof. If such property is not needed for any municipal use it shall be sold by the Administrator and the proceeds of the sale credited to the General Fund. If the amount involved is under the amount of forty thousand dollars (\$40,000.00), informal competition only shall be required. If the amount involved is in the amount of forty thousand dollars (\$40,000.00) or over, it shall be sold to the highest and best bidder after advertisement in the City Journal in the same manner and for the same period prescribed for purchases.

187.24. Competitive proposals.

(a) Competitive proposals shall be required of any contract involving professional services unless excused by 187.24 (b).

(b) The Mayor may present a proposal for a professional services contract for Council approval without having received competitive proposals when authorized herein. Such exception shall require a clear justification for departing from the competitive process. Adequate justification shall include a need for confidentiality (e.g. litigation), an emergency requiring obtaining professional services in a time period that cannot be accomplished through the competitive process, the need to follow a non-bid consultant selection process which is a precondition to the receipt of federal and/or state funding for the contract, or other justification demonstrating that the City is best served by bringing the matter directly to Council for consideration.

(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.

(1) The rating factors and the respective weights for each factor for evaluation of professional service contracts sought by the City of Toledo are: background and related project experience - zero (0) to fifteen (15), location (local office-staff accessibility) - zero (0) to ten (10), familiarity with local, state and federal standards and regulations - zero (0) to ten (10), current work load - zero (0) to five (5), performance on previous projects - zero (0) to fifteen (15), understanding of the project -zero (0) to fifteen (15), schedule, staffing - zero (0) to fifteen (15), fee and hours - zero (0) to fifteen (15), DBE (Disadvantaged Business Enterprise) participation zero (0) to fifteen (15), other department criteria to be identified in the Request For Proposal (RFP) - zero (0) to five (5).

(2) The following ten categories will be used as rating factors when reviewing professional services for the City of Toledo. Each category or criterion shall have a scoring range between zero (0) to fifteen (15) from which the evaluating division can choose in order to appropriately reflect their relative importance, e.g., not applicable to this particular project would be 0 versus highly important could be fifteen (15).

A. Background, related project experience - this consists of review of the professional services background and experience of the firm or individual. It should include a history of the firm or individual and the number of employees. It should include a listing of previous experiences similar to the requested work and should describe the facilities and equipment at the working offices.

B. The location - this should include the location of the primary office and whether or not a local office will be available. It should also include discussion on staff accessibility for the project. This should also include the amount of work to be performed in the City of Toledo. It should also list the home office inside the City of Toledo, as well as the primary office if located elsewhere. The location where the primary work will be done must be designated. If a portion of the work will be done at a location other than the primary location, designate the other location and the type of work to be done there. Note: A partial assessment of location points (no more than four (4)) can be given to those businesses, which are located within the joint economic development zone of which the City of Toledo is a participant.

C. Familiarity with local, state and federal standards and requirements - this should include a description of the firm or individual's familiarity with all City of Toledo, State of Ohio and applicable federal standards and requirements. Specific local standards, ordinances, state laws, state requirements and federal regulations should be listed in this section.

D. Current work load - a description of the firm or individual's current work load is to be included in this section. This should include a listing of all major projects inside

the City of Toledo and outside its boundary. Specific listing of any subcontracting work that the firm or individual does have with another company or project should also be included in this section.

E. Performance on previous projects - a specific listing of previous contracts with the City of Toledo or similar offices in the State of Ohio, State of Michigan or Federal Government should also be included. Included in this listing should be a summary of performance for each project relevant to timeliness, performance and any savings or benefits that were provided to the contractee. List the last ten (10) completed projects similar to the requested work.

F. Understanding of the project - the provider shall completely describe in detail the services to be rendered to complete the project, including all alternative considerations and evaluations which may be prudent in order to effectively minimize the project budget and most satisfactorily achieve the project goal. Specific points of understanding should be listed to include the professional approach to the project with any related economic benefits which may impact efficiency and effectiveness.

G. Schedule, staffing - this criterion shall have a project advancement schedule, including all tasks specifically listed for the project. Timeframes, review times, as well as timing for meetings with citizens and public meetings should be listed in this section. List your key personnel and their qualifications and experience. Designate the person who will manage this project. Designate your other personnel along with their experience and background who will also work on the project.

H. Fee - the specifics of the fee shall be listed. The cost can be prepared in an hourly format to include a not-to-exceed figure. However, a cost for specific hourly charges over the base project by specific category should be listed.

I. DBE Participation - a description of any joint ventures, partnerships or subcontracts with DBEs that are certified by the City's Office of Affirmative Action. The description should include the name of the company(s), the description of the work to be performed by the DBE and the amount and percentage of the contract that will be awarded to DBEs.

J. Other divisional criteria (identified in the request for proposal) - any other pertinent information that the requesting division believes is important that is not included above should be included in this section.

(d) In all cases involving an expenditure of the amount of forty thousand and (\$40,000.00) or more not covered by Section 187.12(c) the contract shall be made with the lowest and best bidder after advertisement in the City Journal in the same manner as is hereinbefore provided for purchases. Among the elements to be considered in determining the lowest and best bidder shall be:

(1) The bidder's performance on previous work or contracts undertaken for the City or others including provision of specific information concerning previous work or contracts with the City, any state and the federal government.

(2) The bidder's history, background, quality of work and related experience in all matters concerned with performance of the involved purchase, work or contract;

If the contract covers both labor and materials advertisement shall require them to be separately stated in the bid with the price thereof.

187.28. Bond to secure performance of contract.

Every contract involving an expenditure of the amount of forty thousand dollars (\$40,000.00) or more for the performance of work and labor and for the installation of equipment upon any street, highway, bridge, building or other public improvement in which both labor and material are involved, shall be accompanied by a bond of the contractor to the City in the Ohio statutory form, guaranteeing the performance of the contract and in an amount not less than the bid price. In lieu thereof, the contractor may provide the City with one of the following forms of security from a solvent bank: (a) Certified check, (b) Cashier's check, or (c) Irrevocable letter of credit.

The sureties on such bond or the bank on such performance bond security shall be approved by the Administrator of Purchases and Supplies and the bond/security shall be filed with the Administrator of Purchases and Supplies.

187.34. Local preference.

Except as limited by subsection (e) herein and except for any contract supported in whole or in part by the State or a contract financed in whole or in part by contributions or loans from any agency of the United States government, the price of any vendor's or contractor's bid or proposal for goods or services shall be evaluated as though those proposed by local bidders were either five percent (5%), four percent (4%), three percent (3%), two and one-half percent (2.5%) or two percent (2%) lower than actually proposed in accordance with the following schedule:

(a)(1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies', businesses' or individuals' principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a three percent (3%) reduction basis.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies', businesses' or individuals' principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a five percent (5%) reduction basis.

(b)(1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals located but not principal place

of business within the corporate boundaries of the City of Toledo shall be evaluated on a two and one-half percent (2.5%) reduction basis.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals located but not principal place of business within the corporate boundaries of the City of Toledo shall be evaluated on a four percent (4%) reduction basis.

(c)(1) Bids and proposals for contracts involving forty thousand dollars (\$40,000) or more received from companies, businesses or individuals located outside the City of Toledo but within the Northwest Ohio 10 County Area shall be evaluated on a two percent (2%) reduction basis, when not competing against a City of Toledo bidder.

(2) Bids and proposals for contracts involving less than forty thousand dollars (\$40,000) received from companies, businesses or individuals located outside the City of Toledo but within the Northwest Ohio 10 County Area shall be evaluated on a three percent (3%) reduction basis, when not competing against a City of Toledo bidder.

(d)(1) A vendor, bidder or contractor principal place of business in Toledo is an individual or business entity whose principal place of business is located within the corporate limits of the City of Toledo. Registration of principal place of business in official documents filed with the Secretary of State, State of Ohio, or a valid vendor's license which indicates that the principal place of business is located within the corporate limits of the City of Toledo is prima facia proof of principal place of business. When proof of situs is required the local bidder or contractor must provide proof of principal place of business to the Mayor in order to receive a preference provided herein.

(2) A vendor, bidder or contractor located but not principal place of business in Toledo is an individual or business entity whose physical, viable place of business is located within the corporate limits of the City of Toledo but not principal place of business within the corporate limits of the City of Toledo. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(3) A vendor, bidder or contractor located within the Northwest Ohio 10 County Area is an individual or business entity whose physical, viable place of business is located within the Ohio counties of: Williams, Defiance, Fulton, Henry, Lucas, Wood, Ottawa, Sandusky, Seneca and Erie. When proof of situs is required the local bidder or contractor must provide proof of place of business to the Mayor in order to receive a preference provided herein.

(e) Where application of the local preference would result in a contract award wherein the actual cost of the contract is more than fifteen thousand (\$15,000) greater than the next low acceptable bid, the local preference shall not apply. Nothing herein shall be construed as increasing or decreasing the actual price of a bid or proposal and the resulting contract in accordance with their terms in this section is intended only to be

used for purposes of comparing and evaluating bids and proposals for goods and services. Nothing within this section shall be construed to create any private rights, claims or causes of actions on behalf of any person, including but not limited to bidders, proposers and contractors.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lay in the fact that this Ordinance is necessary for the immediate preservation of the public peace, health, safety, and property, and for the further reason that this Ordinance must be immediately effective to the City of Toledo has a responsibility to effect expedient purchasing and contracting, foster full employment of its citizens, and ensure selection of the lowest and best bidders.

Vote on emergency clause: yeas 11, nays 0.

Passed: December 23, 2003, as an emergency measure: yeas 11, nays 0.

Attest:	Michael J. Beazley Clerk of Council	Pete Gerken President of Council Pro Tem
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Approved:	December 24, 2003 Jack M. Ford Mayor
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