

CITY OF OBERLIN, OHIO

ORDINANCE No. 15-12 AC CMS

AN ORDINANCE ENACTING NEW CHAPTER 158 OF THE OBERLIN CODIFIED ORDINANCES ESTABLISHING A PREFERENCE IN THE CALCULATION OF BIDS SUBMITTED BY A LOCAL PERSON, BUSINESS OR ENTITY IN RESPONSE TO AN INVITATION TO BID, SOLICITATION OR A REQUEST FOR PROPOSAL FOR PROJECTS AND FOR THE PROCUREMENT OF SUPPLIES, MATERIALS, EQUIPMENT OR SERVICES

WHEREAS, Council for the City of Oberlin desires to support persons and businesses located within the City of Oberlin and Lorain County; and,

WHEREAS, Council recognizes a benefit to the support of private enterprise to advance opportunities for the residents of the City of Oberlin and of Lorain County; and,

WHEREAS, Council recognizes that the encouragement of the growth of local businesses will benefit the local economy; and,

WHEREAS, the enactment of a local preference component in the City's bidding and procurement procedures will serve the public interest that in that it will advance the growth and development of local businesses and will have a positive impact upon the climate resulting in the advancement of the economic and environmental well-being of the City of Oberlin; and,

WHEREAS, the enactment of a local preference component in the City's bidding and procurement procedures will not exclude any potential bidder.

THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, Ohio, not less than four-sevenths (4/7ths) of all members elected thereto concurring, that:

SECTION 1. Council finds and determines that it is conducive to the interests of the City of Oberlin to encourage local persons, entities and businesses to compete for and participate in municipal contracts for the reasons that increased participation in City contracts by persons, entities and businesses located within the City of Oberlin and Lorain County will generate additional tax revenue, will encourage businesses to locate and remain within the City of Oberlin, will serve a goal of rewarding those businesses that contribute to the local economy, will have a positive impact upon the climate by reducing emissions attendant to the travel of persons to and from other communities in the provision of services to the City and by encouraging the procurement of materials from local sources and will therefore have an overall beneficial economic and environmental impact upon the City.

SECTION 2. There is hereby enacted new Chapter 158 of the Oberlin Codified Ordinances which shall read as set forth in **Exhibit A** attached hereto:

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: That this ordinance shall take effect at the earliest date allowed by law.

PASSED: 1st Reading: March 16, 2015

2nd Reading: April 6, 2015

3rd Reading: April 20, 2015 (A)

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



H. SCOTT BROADWELL
PRESIDENT OF COUNCIL

POSTED: 04/21/2015

EFFECTIVE DATE: 05/20/2015

Exhibit A
158.01 Definitions of Terms:

As used in this Chapter, the following words, phrases, and terms shall be defined as set forth below:

- (a) “Bid” means the quoted monetary amount submitted to the City of Oberlin in a response to an invitation for bid, solicitation or request for proposal for a price in connection with the award of a municipal contract for services or supplies.
- (b) “Bidder” means a person, firm, sole proprietorship, partnership, association, corporation, company, or other business entity of any kind including, but not limited to, a limited liability corporation, incorporated professional association, joint venture, estate, or trust offering or proposing to enter into a contract with the City in response to an invitation to bid, solicitation or to a request for proposal.
- (c) “Bid Discount” means the application of a percentage discount to the total amount of a Bid submitted by a Bidder whose Headquarters Location is within Lorain County for a contract solely for the purpose of bid comparisons. The use of a Bid Discount for Bid comparison will not alter the total amount of the Bid or price submitted by a Bidder or the contract executed based on a Bid.
- (d) “Chapter” means all of the provisions of this Chapter 158 of the Codified Ordinances of Oberlin, Ohio.
- (e) “City” means the City of Oberlin, Ohio.
- (f) “Contract” means a binding agreement executed on or after the effective date of this Ordinance by which, after the making of an invitation to bid, solicitation or request for proposal, the City either grants a privilege or is committed to expend or does expend its funds or other resources for or in connection with any Contract for the:
 - (1) Construction of any public improvement;
 - (2) Purchase of personal property;
 - (3) Purchase of supplies, material or equipment;
 - (4) Lease of any real or personal property by the City;
 - (5) The provision of services to the City other than Professional Services
- (g) “Contracting Department” includes any administrative department under charge of the City Manager
- (h) “Contracting Authority” means the official authorized to enter into a Contract on behalf of a particular Contracting Department.
- (i) “Headquarters Location” means the physical location of the principal place of business of the Bidder. For persons who are not registered with the State and who have no principal place of business, the residence of such person shall be the Headquarters Location. Registration of the principal place of business as shown 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 Lorain County is prima facie proof of principal place of business. A valid driver’s license may be provided by persons who are not registered with the State indicating a place of residence

within Lorain County. A Bidder shall submit a "Bidder's Affidavit" in a form prescribed by the Contracting Authority at the time of submission of Bid in order to qualify for a Bid Discount.

(j) "Local Bidder" means an individual or business entity which at the time of the award of a Contract pursuant to a Bid:

1. Has a Headquarters Location within Lorain County; and,
2. If required by law, has filed an income tax return for the year preceding the award of the Contract with a Lorain County taxing authority ; and,
3. If required by law, is paid in full or is current and not otherwise delinquent in the payment of City income taxes.

(k) "Professional Services" means services that usually require skill or expertise of an advanced, specialized or peculiar nature, including but not limited to attorneys, architects, engineer, professional design firms, construction managers, surveyors, accountants, physicians, real estate appraisers, real estate brokers and sales people, insurance advisors, computer software consultants, telecommunications consultants and third party benefit administrators.

158.02 Local Preference:

(a) Application of Bid Discount: A Contracting Authority shall, prior to awarding a Contract, evaluate all Bids received and apply a Bid Discount equal to four Percent (4%) to each Bid of any Local Bidder whose Headquarters Location is within the City or two percent (2%) to each Bid submitted by any other Local Bidder. Only one Bid Discount is to be applied to each Bid.

(c) All Contracts shall be awarded to the lowest and best bidder. The determination of the best bid shall be made in conformance with the criteria set forth in the bidding documents and other criteria established by the Contracting Authority. A Contracting Authority shall not take into consideration a Bid Discount in determining whether a Bid is the best bid submitted.

(d) Nothing herein shall be construed as increasing or decreasing the actual price of a Bid and the resulting Contract made in accordance with the terms of this Chapter. The provisions of this Chapter are intended only to be used for the purposes of comparing and evaluating bids for goods and services. Nothing in this Chapter shall be construed to create any private rights, claims or causes of action on behalf of any person, including but not limited to any Bidder.

(e) The provisions of this Chapter shall not apply to the following contracts or situations:

1. Contracts funded in whole or in part with State or federal funds;
2. Emergency procurements;
3. Purchases made through the Ohio Department of Administrative Services or through participation in a joint purchasing program authorized under Section 9.48 of the Ohio Revised Code;
4. Contracts for Professional Services;
5. Any other Contract for which an invitation to bid, solicitation or request for proposal has not been made;

(f) The City shall indicate in all of its invitations to bid, its requests for proposals and its solicitations for Contracts that it shall apply a Bid Discount in accordance with this Chapter.