



LAW DEPARTMENT

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October 27, 2022

Detroit City Council
1340 Coleman A. Young
Municipal Center
Detroit, Michigan

Re: Ordinance to amend Chapter 17 of the 2019 Detroit City Code, *Finance*, Article V, *Purchasing and Supplies*, Division 1, Goods and Services, Subdivision A, Generally, by amending Sections 17-5-1, 17-5-12, 17-5-13. And 17-5-57.

Honorable City Council:

Council President Sheffield has requested that the Law Department prepare an amended ordinance to replace the ordinance originally filed with the City Clerk, correcting an inaccurate citation on page 15 to amend Chapter 17 of the 2019 Detroit City Code, *Finance*, Article V, *Purchasing and Supplies*, by amending Division 1, *Goods and Services*, Subdivision A, *Generally*, by amending Section 17-5-1, Section 17-5-12, Section 17-5-13, and Section 17-5-57, to provide for additional definitions for the Division, additional equalization credits and clearances, clarification and amendment to the bidding process, and other technical changes. A copy of the ordinance which has been approved as to form is attached for your review and consideration.

We are available to answer any questions that you may have regarding this proposed ordinance.

Respectfully submitted,

Tonja R Long

Tonja R. Long
Chief Administrative Corporation Counsel

Enclosure

cc: Gail Fulton, City Council Liaison

SUMMARY

This ordinance amends Chapter 17 of the 2019 Detroit City Code, *Finance*, Article V, *Purchasing and Supplies*, by amending Division 1, *Goods and Services*, Subdivision A, *Generally*, by amending Section 17-5-1, *Definitions*, by amending and renaming Section 17-5-12, *Major purchases, solicitation of bids, comparison of equalization credits for bids; limited bidding; documentation to be made available, prohibitions against unapproved assignments or subcontractors; required clearances for purchases; required clearances for construction projects; prohibitions related to construction workforce development and construction workforce investment businesses; exceptions*, and amending and renaming Section 17-5-13, *Non-major purchases; solicitation of bids, comparison of equalization credits in bids, and application of equalization credits for bids; required clearances; required clearances for construction projects; prohibitions related to construction workforce development and construction workforce investment businesses; exceptions*, and by amending Division C. *Detroit Supply Schedule*, by amending Section 17-5-57, *Request for quotations*, to provide for additional definitions for the Division, additional equalization credits and clearances, clarification and amendment to the bidding process, and other technical changes.

1 BY COUNCIL MEMBER _____ :

2 AN ORDINANCE to amend Chapter 17 of the 2019 Detroit City Code, *Finance*, Article
3 V, *Purchasing and Supplies*, by amending Division 1, *Goods and Services*, Subdivision A,
4 *Generally*, by amending Section 17-5-1, *Definitions*, by amending and renaming Section 17-5-12,
5 *Major purchases, solicitation of bids, comparison of equalization credits for bids; limited bidding;*
6 *documentation to be made available, prohibitions against unapproved assignments or*
7 *subcontractors; required clearances for purchases; required clearances for construction projects;*
8 *prohibitions related to construction workforce development and construction workforce*
9 *investment businesses; exceptions*, and amending and renaming Section 17-5-13, *Non-major*
10 *purchases; solicitation of bids, comparison of equalization credits in bids, and application of*
11 *equalization credits for bids; required clearances; required clearances for construction projects;*
12 *prohibitions related to construction workforce development and construction workforce*
13 *investment businesses; exceptions*, and by amending Division C. *Detroit Supply Schedule*, by
14 amending Section 17-5-57, *Request for quotations*, to provide for additional definitions for the
15 Division, additional equalization credits and clearances, clarification and amendment to the
16 bidding process, and other technical changes.

17 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:**

18 **Section 1.** Chapter 17 of the 2019 Detroit City Code, *Finance*, Article V, *Purchasing and*
19 *Supplies*, be amended by amending Section 17-5-1, Section 17-5-12, Section 17-5-13, and Section
20 17-5-57, to read as follows:

1 **CHAPTER 17. FINANCE**

2 **ARTICLE V. PURCHASING AND SUPPLIES**

3 **DIVISION 1. GOODS AND SERVICES**

4 **SUBDIVISION A. GENERALLY**

5 **Sec. 17-5-1. Definitions.**

6 For the purpose of this article, the following words and phrases shall have the meanings
7 respectively ascribed to them by this section:

8 *Alternative paper* means paper with environmental qualities that meet or exceed United
9 States Environmental Protection Agency standards.

10 *Biodegradable* means capable of being broken down, especially into innocuous products,
11 by the action of living things such as microorganisms.

12 *Certification* means the designation given to a firm using standard review procedures
13 where determined by the Human Rights Department that the firm applying for such designation
14 meets or exceeds certain specified requirements for that category of business as determined by this
15 article.

16 *Certification process* means the standard review process used to confer upon a firm the
17 designation of certification as defined in this section.

18 *City site* means a location within the corporate limits of the City or property owned by the
19 City that is outside the corporate limits of the City.

20 *Construction* means the construction, erection, reconstruction, alteration, conversion,
21 demolition, repair, moving, or equipping of buildings, structures, roads, sidewalks, or other critical
22 infrastructure.

1 Construction contract means any City contract that provides for the construction, erection,
2 reconstruction, alteration, conversion, demolition, repair, moving, or equipping of buildings or
3 structures, roads, sidewalks, or other critical infrastructure.

4 Construction workforce development business (C-WDB) means a construction contractor,
5 that participates in a Registered Apprenticeship Program, and is registered with the United States
6 Department of Labor Office of Apprenticeship, or by any State Apprenticeship Agency recognized
7 by the Office of Apprenticeship, such registration shall be verified by:

8 (1) Providing a Certificate of Registration of Apprenticeship Program from the Office
9 of Apprenticeship with the United States Department of Labor for a federally
10 certified program; or

11 (2) Providing a Certificate of Apprenticeship from the State Department of Labor and
12 Economic Opportunity for a state certified program.

13 Construction workforce investment business (C-WIB) means a construction contractor, that
14 provides health insurance and retirement benefits to the employees working on the proposed
15 construction contract, such benefits may be verified by submission of:

16 (1) A copy of the relevant sections of a collective bargaining agreement; or

17 (2) A copy of the plan documents for a pension; and

18 (3) A copy of the insurance contracts for health insurance; or

19 (4) Any other documentation deemed appropriate by the Office of Contracting and
20 Procurement.

21 Corporate accountability clearance means an administrative clearance provided through
22 the submission of an affidavit by the business' Chief Executive Officer, or authorized designee, to

1 the Office of Contracting and Procurement which attests to a construction contractor's compliance
2 with the following requirements:

3 (1) The contractor and its employees have the required licenses, registrations, and
4 certificates required to perform the work;

5 (2) The contractor has not had any licenses, registrations, or certificates required for
6 the performance of the contract revoked in the past five years; and

7 (3) The contractor has not been debarred or suspended by any federal, state or local
8 governmental agency or authority in the past three years.

9 *Cooperative purchases* means purchases made through a cooperative purchases resource.

10 *Cooperative purchases resource* means an arrangement through which purchases may be
11 made of goods or services that are available under open contracts issued to local, state, or federal
12 governmental entities acting on a cooperative basis, including, but not limited to, those designated
13 as Michigan Delivering Extended Agreements Locally (MiDEAL), American communities, and
14 other similar arrangements among governmental entities that are identified by the Purchasing
15 Director and posted on the City's website.

16 *Detroit-based business (D-BB)* means a business that furnishes goods, performs services
17 or both, from a location within the City limits, that pays City of Detroit Income Tax and City of
18 Detroit Property Tax, if applicable, and has paid such taxes for at least one year immediately
19 preceding the date of the application for certification to be a Detroit-Based Business, and which
20 shall comply with the following requirements:

21 (1) Provide verification that the applicant has the physical resources, and the ability to
22 provide service from, the City location subject to the certification;

1 (2) Provide verification that the business has or can procure an adequate number of
2 employees at the City location subject to certification, to provide the services
3 identified in the application; and

4 (3) Disclose the number of Detroit Resident Employees located at the City location
5 subject to certification.

6 *Detroit-based micro business concern (D-BMBC)* means a business which meets the
7 definitions of Detroit-based business and micro business concern as defined within this section.

8 *Detroit-based small business (D-BSB)* means any business which meets the definitions of
9 Detroit-based business and small business concern as defined within this section.

10 *Detroit-headquartered business (D-HB)* means a business which:

11 (1) Meets the definition of a Detroit-based business, as defined in this section;

12 (2) Employs a minimum of four employees at least 30 percent of which are Detroit
13 residents, which shall be verified by the Human Rights Department through the
14 submission of an affidavit signed by the Detroit-headquartered businesses' Chief
15 Executive Officer or authorized designee.

16 (3) Has ownership or current lease of a location capable of storing the equipment or
17 inventory necessary to perform the work identified in the bid, which shall be
18 verified by property deed and proof of the locations most recent property tax
19 payment; and

20 (4) Has an office within the City that serves as the administrative center where the
21 Chief Executive Officer and highest level management staff perform at least 51
22 percent of their management functions.

1 *Detroit-resident business (D-RB)* means any business which employs a minimum of four
2 employees at least 51 percent of which are City residents, which shall be verified by Human Rights
3 Department through the submission of an affidavit signed by the Detroit-resident business' Chief
4 Executive Officer, or authorized designee.

5 *Employee Income Clearance* means an administrative clearance provided through the
6 submission of an affidavit by the business' Chief Executive Officer, or authorized designee, to the
7 Office of Contracting and Procurement which verifies the submission of all employee information
8 necessary for the collection of City of Detroit income taxes from all employees of the contractor
9 to be employed on the contract, and a commitment to provide supplemental information as
10 necessary.

11 *Energy Star® compliant products* mean products that meet or exceed the United States
12 Environmental Protection Agency's Energy Star® criteria for energy efficiency.

13 *Environmentally-preferable* means products or services that have a lesser or reduced effect
14 on human health and the environment when compared with competing products or services that
15 serve the same purpose and such comparison may consider raw materials acquisition, production,
16 manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product
17 or service.

18 *Fiscal year* means the fiscal year of the City being July 1st through June 30th.

19 *High impact construction contract* means a construction contract having a value of
20 \$250,000 dollars or more.

21 *Industrial oil* means any compressor, turbine or bearing oil, hydraulic oil, metal-working
22 oil or refrigeration oil.

1 *Invitation for bids* means the complete assembly of related bid documents, including those
2 attached or incorporated by reference, which are furnished to prospective bidders for the purpose
3 of bidding.

4 *Joint venture* means a joint venture of separate firms, one of which is a D-HB, DBB, DBSB,
5 DRB or DBMBC, which has been created to perform a specific contract, and is evidenced by a
6 written agreement which provides at a minimum that the D-HB, DBB, DBSB, DRB, or DBMBC:

- 7 (1) Is substantially included in all phases of the contract, including, but not limited to,
8 bidding and staffing;
- 9 (2) Provides at least 51 percent of the total performance, responsibility, and project
10 management of a specific job;
- 11 (3) Receives at least 51 percent of the total remuneration from a specific contract; and
- 12 (4) Shares in profits and losses.

13 *Life-cycle analysis* means the comprehensive examination of a product's environmental
14 and economic aspects and potential impacts throughout its lifetime, including raw material
15 extraction, transportation, manufacturing, use, and disposal.

16 *Lowest responsible bidder* means the bidder who, or which, submits the lowest bid,
17 conforming to specifications, as evaluated under Section 17-5-12(b) of this Code, and who or
18 which, meets the following standards as they relate to the particular contract under consideration.
19 The prospective contractor must demonstrate:

- 20 (1) Adequate financial resources for the performance of the contract, or the ability to
21 obtain such resources as required during performance;

- 1 (2) The necessary experience, organizational structure and resources, technical
2 qualifications skills and facilities, or the ability to obtain them, including the ability
3 to retain subcontractors as required;
- 4 (3) The ability to comply with the proposed or required time of delivery or performance
5 schedule;
- 6 (4) A satisfactory record of integrity, judgment and performance. Contractors who, or
7 which, are delinquent in current contract performance, considering the number of
8 contracts and the extent of delinquencies of each, shall be presumed to be unable to
9 fulfill this requirement in the absence of evidence to the contrary or compelling
10 circumstances;
- 11 (5) The ability to conform to the requirements of the fair employment practices
12 ordinances;
- 13 (6) Qualification and eligibility to receive an award under applicable laws ordinances
14 and regulations; and
- 15 (7) The ability to produce, upon request acceptable evidence of ability to obtain
16 financial resources and the experience, organizational structure and resources,
17 technical qualifications, skills and facilities needed for the proper performance of
18 the contract sought.

19 *Lubricating oil* means any oil intended for use in an internal combustion crankcase,
20 transmission, gearbox or differential, or in an automobile, bus, truck, vessel, plane, train, heavy
21 equipment or machinery powered by an internal combustion engine.

22 *Major* means not less than the specified dollar valuation of a contract in relation to the
23 corresponding contract classification as follows:

1 Major Contracts

Type of Contract	Dollar Valuation
Purchase contracts:	
Equipment and supplies	\$270,000.00
Public works contracts:	
Demolition	\$678,000.00
Street paving	\$1,350,000.00
Construction	\$2,700,000.00
Nonprofessional services:	
Including but not limited to, tree removal, catering, janitorial, maintenance	\$678,000.00
Disposition of equipment and supplies unsuitable for public use	\$25,000.00

2 *Mentor venture* means a joint venture of separate firms, one of which is a D-BB, D-BSB,
 3 D-RB or D-BMBC, which has been created to perform a specific contract, and is evidenced by a
 4 written agreement which provides at a minimum that the D-BB, D-BSB, D-RB or D-BMBC:

5 (1) Is substantially included in all phases of the contract, including, but not limited to
 6 bidding and staffing;

7 (2) Provides at least 30 percent of the total performance, responsibility and project
 8 management of a specific job;

- 1 (3) Receives at least 30 percent of the total remuneration from a specific contract; and
2 (4) Shares in profits and losses.

3 *Micro business concern (MBC)* means a business which has average annual gross receipts
4 of \$1,000,000.00 or less and no more than 15 employees. A business which is an affiliate or
5 subsidiary of an entity that is not eligible for registration as a micro business concern shall not be
6 registered as a micro business concern.

7 *Post-consumer waste* means a finished material that would normally be disposed of as solid
8 waste, having completed its life cycle as a consumer item, but does not mean manufacturing waste.

9 *Price-premium payback period* means the number of years that it takes for the savings in
10 operating costs to offset any additional up-front price of the product versus a lower price, less
11 energy efficient model, which is calculated by dividing the price premium by the annual savings
12 in operating costs.

13 *Readily biodegradable* means the measurement guidelines according to the Organization
14 for Economic Cooperation and Development.

15 *Reblended latex paint* means paint, which is also known as consolidated latex paint, that
16 contains 100 percent post-consumer content from good-quality surplus with no virgin materials
17 such as resins and colorants added.

18 *Recycled latex paint, or reprocessed latex paint,* means latex paint with a post-consumer
19 recycled content level that a minimum meets the requirements specified by the United States
20 Environmental Protection Agency's Recovered Materials Advisory Notice for reprocessed latex
21 paint.

1 *Recycled materials* means materials that would otherwise be a useless, unwanted, or
2 discarded material, except for the fact that the materials retain useful physical or chemical
3 properties after serving a specific purpose and, therefore, can be reused or recycled.

4 *Recycled oil* means used oil that has been prepared for reuse as a petroleum product by
5 refining, reclaiming, reprocessing or other means, provided, that the preparation or use is
6 operationally safe, environmentally sound, and complies with federal, state, and local laws and
7 regulations.

8 *Recycled content paper* means a paper product with no less than:

- 9 (1) Fifty percent of its fiber weight consisting of secondary waste materials; or
10 (2) Thirty percent of its fiber weight consisting of post-consumer waste.

11 *Retirement benefits* means a monthly payment to employees to allow them to subsist
12 without working which includes a pension, Individual Retirement Account (IRA), a 401k plan, or
13 an Employee Stock Ownership Plan (ESOP).

14 *Retreaded tires* means tires that use an existing casing for the purpose of vulcanizing new
15 tread to such casing and that meet all performance and quality standards in the Federal Motor
16 Vehicle Safety Standards determined by the United States Department of Transportation.

17 *Secondary waste materials* means fragments of products or finished products of a
18 manufacturing process that has converted a virgin resource into a commodity of real economic
19 value, including post-consumer waste, but does not mean excess virgin resources of the
20 manufacturing process, including fibrous waste generated during the manufacturing process such
21 as fibers recovered from waste water or trimmings of paper-machine rolls, mill broke, wood slabs,
22 chips, sawdust, or other wood residue from a manufacturing process.

23 *Small business concern (SBC)* means a business which:

- 1 (1) Has been in existence and operating for at least one year prior to the date of
2 application for certification as a small business concern;
- 3 (2) Does not meet the definition of a micro business concern as defined in this division;
4 and
- 5 (3) Is one of the following:
- 6 a. A manufacturing business which, for the three fiscal years preceding the date
7 of application for certification, has provided full-time employment to not
8 more than 500 persons; or
- 9 b. A general construction business which, for the three fiscal years preceding
10 the date of application for certification, has average annual gross receipts of
11 not more than \$28,000,000.00; or
- 12 c. A specialty construction business whose average annual gross receipts have
13 not exceeded \$12,000,000.00 in the three fiscal years preceding the date of
14 application for certification; or
- 15 d. A wholesale business which, for the three fiscal year preceding the date of
16 application for certification, has provided full-time employment to not more
17 than 100 persons; or
- 18 e. A retail business which, for the three fiscal years preceding the date of
19 application for certification, has average annual gross receipts of not more
20 than \$6,000,000.00; or
- 21 f. A service business, other than professional, which for the three fiscal years
22 preceding the date of application for certification, has average annual gross
23 receipts of not more than \$6,000,000.00; or

1 g. A professional services business, which for the three fiscal years preceding
2 the date of application for certification, has had average annual gross receipts
3 of not more than \$6,000,000.00.

4 A business which is an affiliate or subsidiary of an entity that is not eligible for certification as a
5 small business concern shall not be certified as a small business concern.

6 *Used oil* means a petroleum-based or synthetic oil, which through use, storage or handling
7 has become unsuitable for its original purpose due to the presence of physical or chemical
8 impurities or loss of original properties.

9 *Virgin oil* means oil that has been refined and formulated from crude oil, synthetic oil, or
10 any blend of synthetic oil, and that has not been used or contaminated with physical or chemical
11 impurities.

12 *Volatile organic compounds* means organic compounds characterized by a tendency to
13 readily evaporate into the air, contributing to both indoor and outdoor air pollution and the creation
14 of photochemical smog.

15 Workforce safety clearance means an administrative clearance provided through the
16 submission of an affidavit by the business' Chief Executive Officer, or authorized designee, to the
17 Office of Contracting and Procurement, which verifies a construction contractor's compliance with
18 the following requirements:

19 (1) All employees handling or interacting with hazardous materials have been
20 appropriately trained, through completion in hazardous materials awareness
21 training; or participation and completion in the requisite awareness training
22 program compliant with state and federal guidelines; and

1 (2) All employees providing craft labor have at a minimum completed the OSHA 10-
2 hour construction training course for safety established by the U.S. Department of
3 Labor, Occupational Safety and Health Administration.

4 SUBDIVISION B. PURCHASING OF CITY GOODS AND SERVICES

5 **Sec. 17-5-12. Major purchases; solicitation of bids, comparison of equalization credits in**
6 **bids, and application of equalization credits for bids, ~~for major purchases;~~ limited bidding;**
7 **documentation to be made available; prohibitions against unapproved assignments or**
8 **subcontractors; required clearances for purchases; required clearances for construction**
9 **projects; prohibitions related to construction workforce development and construction**
10 **workforce investment businesses; exceptions.**

11 (a) *Solicitation of bids.* Where the purchase entails a major expenditure as defined in
12 Section 17-5-1 of this Code, the Purchasing Director shall provide for the procurement of
13 competitive bids as follows:

14 (1) Prepare the invitation for bids, describing the City's requirements clearly,
15 accurately and completely, avoiding unnecessarily restrictive specifications which
16 might unduly limit the number of bidders. The invitation shall include:

17 a. A notification to all bidders that the City has a preference for
18 environmentally-preferred goods and services and will purchase them
19 where they are price competitive, available, and substantiated according to
20 accepted federal and commercial standards; and

21 b. A notification to all bidders that prices bid will be compared to prices
22 available to the City from applicable cooperative purchases resources.

1 (2) Publicize the invitation for bids by advertising for bids one or more times both in
2 the newspaper designated to print the official business of the City and in a
3 centralized location on the City's official website. Where appropriate, the
4 Purchasing Director shall include advertisements in newspapers, trade journals,
5 association postings, websites, and any other appropriate media sources. In
6 addition, the Purchasing Director may send copies of such advertisement to persons
7 and firms likely to be interested therein. Such advertisement shall accurately and
8 clearly describe or refer to the subject matter of the proposed purchase and may
9 also refer the bidder to specifications on file in the Office of Contracting and
10 Procurement. Such advertisement shall specify the time and place of submitting
11 bids and such other information from the specifications as the Purchasing Director
12 shall deem advisable in the interest of the City. After publication of one
13 advertisement, specifications shall not be changed without the publication of a new
14 advertisement calling attention to such change. A reasonable time shall be allowed
15 to enable prospective bidders to prepare and submit bids before the time set for
16 public opening of bids.

17 (3) Provide notification of bids in accordance with the community outreach
18 requirements identified in Section 12-10-16 of this Code.

19 (4) Receive written bids submitted by prospective contractors.

20 (b) Comparison of equalization credits.

21 (1) *Detroit-based business and Detroit-resident business.* As the first step in
22 comparing bids, the bid of any Detroit-based business or small Detroit-resident
23 business shall be deemed a better bid than the bid of any competing firm which is

1 not a Detroit-based business or Detroit-resident business whenever the bid of such
 2 competing firm shall be equal to or higher than the bid of the Detroit-based business
 3 or Detroit-resident business, after the appropriate equalization percentage credit
 4 from the following equalization allowance table identified in Subsection (b)(4) of
 5 this section has been applied to the bid of the Detroit-based firm;.

Equalization Allowance Table	
Contract Amount	Equalization Percentage
Up to \$10,000.00	5%
\$10,000.01 to \$100,000.00	4%
\$100,000.01 to \$500,000.00	3%
\$500,000.01 and over	2%

6
 7 ~~If the bidder qualifies as both a Detroit based business and a Detroit resident~~
 8 ~~business, the equalization factor in the preceding following table shall be doubled.~~
 9 ~~If the bidder has qualified as a Detroit based business by virtue of being a Detroit~~
 10 ~~headquartered business, as defined in Section 17-5-1 of this Code, it shall receive~~
 11 ~~the equalization factor in the preceding following table plus an additional percent,~~
 12 ~~provided, that an affiliate, a subsidiary, a limited liability corporation, or other~~
 13 ~~business structure shall not receive the additional three percent where the Human~~

1 ~~Rights Department determine that another related office outside the City has a~~
2 ~~larger presence than the Detroit office.~~

3 (2) *Joint ventures, mentor ventures, and Detroit-based small and micro businesses.* In
4 comparing bids, the bid of any joint venture, mentor venture, Detroit-based small
5 business, or Detroit-based micro business shall be deemed a better bid than the bid
6 of any competing firm, which is not a joint venture, mentor venture, Detroit-based
7 small business, or Detroit-based micro business whenever the bid of such
8 competing firm shall be equal to or higher than the bid of the joint venture, mentor
9 venture, Detroit-based small business or Detroit-based micro business, after the
10 appropriate equalization percentage credit from the following equalization
11 allowance table identified in Subsection (b)(4) of this section has been applied to
12 the bid of the Detroit-based firm: .

13 (3) *Construction workforce development businesses and construction workforce*
14 *investment businesses.* In comparing bids, the bid of any construction workforce
15 development business or construction workforce investment business shall be
16 deemed a better bid than the bid of any competing firm which is not a construction
17 workforce development business or construction workforce investment business,
18 whenever the bid of such competing firm shall be equal to or higher than the bid of
19 the construction workforce development business or construction workforce
20 investment business, after the appropriate equalization percent credits from the
21 equalization allowance table set forth in Subsection (b)(4) of this section has been
22 applied to the bid of the Construction workforce development or Construction
23 workforce investment business, provided that, when the bid of the construction

1 workforce development business and the construction workforce investment
 2 business are equal following application of the appropriate equalization percentage
 3 credits, the bid of any Construction workforce development business shall be
 4 deemed a better bid.

5 (4) *Equalization Allowance Table.*

<u>Detroit headquartered business</u>	<u>5%</u>
<u>Detroit-based business</u>	<u>2%</u>
<u>Detroit-resident business</u>	<u>5%</u>
<u>Construction workforce development</u>	<u>6%</u>
<u>Construction workforce investment</u>	<u>6%</u>
Detroit-based small business	1%
Detroit-based micro business concern	2%
Joint venture	2%
Mentor venture	1%

6

1 (c) *Application of equalization credits.*

2 (1) For purposes of evaluating or scoring bids, a bidder shall be entitled to receive the
3 equalization percentage credit for each category for which it qualifies under Section
4 17-5-12 through Section 17-5-14. The bidder that makes the lowest bid, as
5 evaluated or scored, shall be deemed the lowest equalized bidder. If the lowest
6 equalized bid is evaluated or scored below the lowest responsible bid submitted,
7 the lowest equalized bidder shall be awarded the contract, provided that, the
8 contract awarded to such bidder shall not exceed, more than 12 percent above the
9 lowest responsible bid submitted, or \$200,000.00, whichever is less.

10 (2) In the application of these equalization percentage credits, a joint venture shall not
11 also be considered a mentor venture and a mentor venture shall not also be
12 considered a joint venture. Unless certified before the deadline for submitting a bid,
13 no bidder or firm shall receive an equalization credit as a Detroit-based business,
14 small business or micro business concern. A joint venture or mentor venture shall
15 not receive an equalization credit unless the Detroit-based business in the venture
16 has been certified as such before the deadline for submitting a bid.

17 (3) If a bidder claims an equalization credit as a Detroit-resident business, Detroit-
18 headquartered business, Detroit-based business, Construction workforce
19 development business, Construction workforce investment business, Detroit small
20 business, Detroit micro business concern, joint venture, or mentor venture it shall
21 submit documentation of its eligibility with its bid. ~~The Office of Contracting and~~
22 ~~Procurement or the contracting department~~ Human Rights Department shall
23 determine whether the bidder ~~qualifies~~ qualifies as a Detroit-resident business,

1 Detroit-headquartered business, Detroit-based business, construction workforce
2 development business, construction workforce investment business, Detroit small
3 business, Detroit micro business concern, joint venture, or mentor venture after the
4 bid opening and shall certify such businesses annually consistent with a fee
5 schedule approved by City Council via resolution.

6 (4) A construction workforce development business or a construction workforce
7 investment business shall only receive an equalization credit for high-impact
8 construction contracts.

9 (5) After applying any equalization percentage credit that is contained in this section,
10 the Purchasing Director shall apply Sections 17-5-14 through 17-5-16 of this Code.
11 Where Sections 17-5-14 through 17-5-16 of this Code do not apply, the contract
12 shall be awarded to the lowest responsible bidder.

13 (6) All bidders receiving equalization credits under this section, shall be posted on the
14 Human Rights Department's website.

15 (d) *Limited bidding permitted in certain circumstances.* On the Purchasing Director's
16 own initiative or at the request of the contracting department, the Purchasing Director may limit
17 the bidding for a contract to Detroit-based businesses, Detroit-based small businesses, or Detroit-
18 based micro businesses, provided, that there are at least three firms certified or registered by the
19 Human Rights Department which would be eligible to bid for the contract. The equalization factors
20 in Section 17-5-12 of this Code shall not apply to the solicitation of bids under this subsection. In
21 determining whether to so limit the bidding, the Purchasing Director should make commercially
22 reasonable efforts to maximize the utilization of Detroit-based businesses, Detroit-based small

1 businesses, or Detroit-based micro businesses. As used in this subsection only, "should" means a
2 strong recommendation, but does not mandate the actions described.

3 (e) *Documentation to be made available.* Any bidder who claims to be entitled to an
4 equalization percentage credit shall agree to make the records that were necessary to establish
5 eligibility available to the City.

6 (f) *Prohibition against unapproved assignments or subcontracts.*

7 (1) A Detroit-resident business, a Detroit-based business, or a mentor venture or joint
8 venture with a Detroit-resident business or Detroit-based business may not assign
9 or subcontract its City contracts to a non-Detroit-based business or a non-Detroit
10 resident business without the approval of such assignment or subcontract by the
11 Purchasing Director.

12 (2) A construction workforce development business or a construction workforce
13 investment business may not:

14 a. Assign or subcontract its City contract to a business without the approval of
15 such assignment from the Purchasing Director;

16 b. Assign or subcontract its City contract to a business that does not meet the
17 criteria of a Construction workforce development business or Construction
18 workforce investment business as defined by Section 17-5-1 of this Code;

19 or

20 c. Fail to maintain the requisite qualifications of a Construction workforce
21 development business or Construction workforce investment business
22 through the awarding and completion of the construction project or the
23 certification period, whichever is longer.

1 (g) Required clearances for major purchases and construction projects.

2 (1) Major purchases. Any contractor awarded a City contract under this section must
3 submit an employee income clearance in accordance with the requirements of
4 Section 17-5-1 of this Code prior to City Council's consideration.

5 (2) Construction projects. Any construction contractor awarded a City construction
6 contract under this section must submit a corporate accountability clearance and
7 applicable workforce safety clearance in accordance with the requirements of
8 Section 17-5-1 of this Code prior to consideration of City Council's approval.

9 (h) *Exemptions.* The requirements of this section shall not be applicable where any one
10 of the following conditions exists:

11 (1) Public exigencies require the immediate delivery of the articles or performance of
12 the service;

13 (2) The Purchasing Director certifies that only one source of supply is available;

14 (3) The services to be performed are professional in nature; or

15 (4) The item to be acquired is rare or unique.

16 **Sec. 17-5-13. Non-major purchases; solicitation of bids, comparison of equalization credits**
17 **in bids, and application of equalization credits for bids, for non-major purchases; required**
18 **clearances; required clearances for construction projects; prohibitions related to**
19 **construction workforce development and construction workforce investment businesses;**
20 **exceptions.**

21 (a) *Solicitation of bids.* Where the purchase of goods or services entails an expenditure
22 which is not major, as defined in Section 17-5-1 of this Code, the Purchasing Director is authorized
23 to award the contact subject to the following conditions:

- 1 (1) The practice of competitive bidding is required but formal advertising, which
2 includes advertising in both the newspaper designated to print the official business
3 of the City and in a centralized location on the City's website, is required only for
4 contracts over \$10,000.00. An equalization percentage credit shall be allowed as
5 provided for in Section 17-5-12 of this Code whenever there is full and free
6 competitive bidding, provided, that the Purchasing Director may limit bidding to
7 Detroit-based businesses and in that event no equalization percentage credit shall
8 be allowed for Detroit-based small business concerns or Detroit-based micro
9 business concerns.
- 10 (2) In soliciting bids, the Purchasing Director shall affirmatively seek out Detroit-based
11 businesses, Detroit-based micro business concerns, Detroit-based small businesses,
12 Detroit-headquartered businesses, and Detroit-resident businesses as well as
13 Detroit-based resources available through cooperative purchases resources.
- 14 (3) The Purchasing Director must make a determination that the prospective contractor
15 is responsible. The Purchasing Director should utilize all available information
16 from within the Office of Contracting and Procurement and other City departments,
17 from the prospective contractor, and from banks and other financial companies, in
18 order to ascertain whether the prospective contractor is responsible under the
19 guidelines set forth under "lowest responsible bidder" as defined in Section 17-5-1
20 of this Code.
- 21 (b) *Application of equalization credits.* After applying any equalization credit that is
22 contained in this section, the Purchasing Director shall apply Sections 17-5-14 through 17-5-16 of

1 this Code. Where Sections 17-5-14 through 17-5-16 of this Code do not apply, the contract shall
2 be awarded to the lowest responsible bidder.

3 (c) Documentation to be made available. Any bidder who claims to be entitled to an
4 equalization percentage credit shall agree to make the records that were necessary to establish
5 availability to the City. Any bidder or contractor awarded a bid that fails to cooperate with this
6 section shall be subject to debarment pursuant Sections 17-1-351 through 17-5-366 of this Code.

7 (d) *Prohibition against unapproved assignments or subcontracts.*

8 (1) A Detroit-resident business, a Detroit-based business, or a mentor venture or joint
9 venture with a Detroit-resident business or Detroit-based business may not assign
10 or subcontract its City contracts to a non-Detroit-based business or a non-Detroit
11 resident business without the approval of such assignment or subcontract by the
12 Purchasing Director.

13 (2) A construction workforce development business or a construction workforce
14 investment business may not:

15 a. Assign or subcontract its City contract to a business without the approval of
16 such assignment from the Purchasing Director;

17 b. Assign or subcontract its City contract to a business that does not meet the
18 criteria of a construction workforce development business or construction
19 workforce investment business as defined by Section 17-5-1 of this Code;

20 or

21 c. Fail to maintain the requisite qualifications of a construction workforce
22 development business or construction workforce investment business

1 through the awarding and completion of the construction project or the
2 certification period, whichever is longer.

3 (e) Required clearances.

4 (1) Non-major purchases. Any contractor awarded a non-major City contract must
5 receive an employee income clearance as provided in Section 17-5-1 of this Code
6 prior to City Council's consideration of the contract.

7 (2) Construction projects. Any construction contractor awarded a non-major City
8 construction contract must receive a corporate accountability clearance and
9 applicable workforce safety clearance as provided in Section 17-5-1 of this Code
10 prior to City Council's consideration of the contract.

11 (f) Exemptions. The requirements of this section shall not be applicable where any
12 one of the following conditions exists:

13 (1) Public exigencies require the immediate delivery of the articles or performance of
14 the service;

15 (2) The Purchasing Director certifies that only one source of supply is available;

16 (3) The services to be performed are professional in nature; or

17 (4) The item to be acquired is rare or unique.

18 SUBDIVISION C. DETROIT SUPPLY SCHEDULE

19 **Sec. 17-5-57. Request for quotations.**

20 (a) Following approval of Detroit Supply Schedule contracts in accordance with
21 Section 17-5-21 of this Code, the Chief Procurement Officer may issue requests for quotations for
22 specific delivery and performance dates for goods and services.

23 (1) The Chief Procurement Officer shall forward requests for quotations to all approved
24 contractors under the specific Detroit Supply Schedule Item Numbers and such

1 contractors shall be given a fair opportunity to compete for the task or delivery
2 order.

3 (2) Requests for quotations shall provide a reasonable period of time for response and
4 shall describe significant factors to be considered in evaluating all responses.

5 (3) The equalization factors found at Sections 17-5-12 and 17-5-13 of this Code shall
6 be applied in the award of task and delivery orders under this section.

7 (4) The Chief Procurement Officer shall select the lowest responsible bidder or bidders
8 to fulfill the request for quotations and issue a task or delivery order to the selected
9 contractor(s).

10 (5) The Chief Procurement Officer may select more than one eligible contractor to
11 fulfill a request for quotations.

12 (b) Additional City Council approval shall not be required for the selection of Detroit
13 Supply Schedule contractors to provide the goods or services sought by a request for quotations.

14 (c) ~~As provided for in Section 17-5-12(f) of this Code, A~~ Detroit-resident business, a
15 Detroit-based business, ~~or~~ a major venture or joint-venture with a Detroit-resident business or
16 Detroit-based business, a construction workforce development business, or a construction
17 workforce investment business may not assign or subcontract its City contracts ~~to a non-Detroit-~~
18 ~~resident or a non-Detroit-based business without the approval of such assignment or subcontract~~
19 ~~by the Chief Procurement Officer~~ in violation of Section 17-5-12(f) of this Code.

20 (d) No task or delivery order may be awarded to a Detroit Supply Schedule contractor
21 after the expiration of a Detroit Supply Schedule contract unless City Council has approved a
22 renewal or extension of the original Detroit Supply Schedule contract.

1 (e) The Chief Procurement Officer shall provide City Council with notice of all task
2 and delivery orders and the dollar value of such orders on a quarterly basis.

3 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health,
4 safety, and welfare of the people of the City of Detroit.

5 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are
6 repealed.

7 **Section 4.** Where this ordinance is passed by a two-thirds majority of City Council
8 Members serving, it shall be given immediate effect and shall become effective upon publication
9 in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this ordinance is
10 passed by less than two-thirds majority of City Council Members serving, it shall become effective
11 30 days after publication in accordance with Section 4-118(2) of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel