

**MIDVALE CITY  
ORDINANCE NO. 2013-0-12**

**AN ORDINANCE DEFINING THE CRITERIA TO EVALUATE THE  
LOWEST RESPONSIVE RESPONSIBLE BIDDER**

**WHEREAS**, Utah Code Ann. § 11-39-101, *et seq.*, as amended, provides, in part, that if a City intends to undertake a building improvement or public works project paid for by the City and the estimated cost of building improvements or public works projects exceeds the bid limit (as defined in Utah State Code) and the City determines to proceed with the building improvements or public works project, then the City shall enter into a contract for the completion of the building improvements or public works project with the lowest responsive responsible bidder, as determined by the following criteria; and

**WHEREAS**, the City Council finds adoption of this Ordinance reasonably furthers the health, safety, and general welfare of the citizens of Midvale.

**NOW, THEREFORE, BE IT ORDAINED** that the Municipal Council of Midvale City hereby determines that the lowest responsive responsible bidder means, among other things, a prime contractor who satisfies the City's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of the bidder to perform fully and in good faith the contract's requirements.

The Municipal Council of Midvale City further determines that the term "lowest responsive responsible bidder" shall include evaluation of the following criteria:

1. That the contractor and subcontractor, if any, demonstrate to the City's satisfaction that the contractor has and will maintain a drug and alcohol testing policy during the period of the contract that applies to all covered individuals employed or hired by the contractor or subcontractor and subject the covered individuals to random testing under the drug and alcohol testing policy.
2. That the contractor and subcontractor, if any, demonstrate to the City's satisfaction that the contractor and subcontractor have and will maintain a program to actively recruit and/or employ veterans.
3. That the contractor and subcontractors, if any, demonstrate to the City's satisfaction that the contractor and subcontractor has and will maintain a job training program, such as by way of example and not limitation, a federal, state and/or city recognized job training program.
4. That the contractor and subcontractors, if any, demonstrate to the City's satisfaction that the contractor and subcontractor has, and will, maintain a safety program.

As used herein:

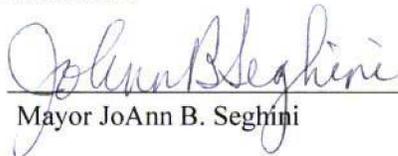
1. "Contractor" means a person or entity who is or may be awarded a construction contract for building improvements and public works projects.

2. "Covered individual" means an individual who, on behalf of a contractor or subcontractor, provides services directly related to design or construction contract and is in a safety sensitive position, including a design position that has responsibilities that directly affect the safety of a building improvement or public works project.
3. "Drug and alcohol testing policy" means a policy under which a contractor or subcontractor tests a covered individual to establish, maintain, or enforce a prohibition of (i) the manufacture, distribution, dispensing, possession, or use of drugs or alcohol, except the medically prescribed possession and use of a drug, or (ii) the impairment of judgment or physical abilities due to the use of drugs or alcohol.
4. "Random testing" means that a covered individual is subject to periodic testing for drugs and alcohol in accordance with the drug and alcohol testing policy and on the basis of random selection process.
5. "Subcontractor" means any person or entity who may be awarded a contract with a contractor or another subcontractor to provide services or labor for the construction of building improvements and public works projects. Subcontractor includes a trade, contractor, or specialty contractor but does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor.
6. "Veteran" means an individual who has served on active duty in the armed forces for more than 180 consecutive days, or was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized and who has been separated or retired under honorable conditions, or any individual incurring an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty.

This Ordinance shall become effective upon passage, signature and notice of passage published in a newspaper of general circulation.

**PASSED AND APPROVED** this 22<sup>nd</sup> day of October, 2013.

**MIDVALE CITY**

By:   
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Mayor JoAnn B. Seghini

[SEAL]

**VOTING:**

Robert M. Hale	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Paul Glover	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Paul Hunt	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Wayne Sharp	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Colleen Costello	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**ATTEST:**

  
Rori L. Andreason, MMC  
City Recorder



**PUBLISHED** this 27<sup>th</sup> day of October, 2013.