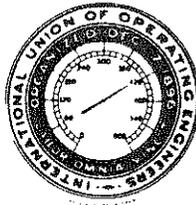


International Union of Operating Engineers

LOCAL UNIONS 478, 478A, 478C, 478D, 478E

AFFILIATED WITH



THE AFL-CIO

1965 DIXWELL AVENUE
HAMDEN, CONNECTICUT 06514-2475

TELEPHONE (203) 288-9261
FAX (203) 281-3749



Testimony of the Operating Engineers, Local 478

On SB 39 to the Planning and Development Committee

February 25, 2008

The Operating Engineers Local 478, the state's largest supplier of highly skilled, trained heavy equipment operators, is here today to testify in support of SB 39, An Act Concerning Responsible Growth. We feel that the intent expressed in Section 1, "the use of land and resources in ways to enhance the long term quality of life for current citizens of the state and future generations" is a noble and laudable cause, and should be put to the forefront in all development in the state. In a state as small in area as Connecticut, responsible use and reuse of land is important.

It is the "long term quality of life" part, though, that I have come to talk to you about today, specifically section 7, Community Benefits Agreements. Quality blue collar jobs, ones that provide good wages, health care, apprenticeship opportunities and other benefits to people that work and live in the state are becoming scarcer. Responsible Contractor policies in a Community Benefit Agreement allow a town to require that a developer allowed to develop one of our most precious resources, our land, treat our most precious resource, the residents and taxpayers of our state, with respect.

It should require that a developer pay area standard wages to Connecticut's residents, not import low wage workers from other states and countries to do the work. It should require that private health care be provided to the workers, so they will not have to depend on Medicaid for themselves or Husky for their children. It should require that apprenticeship training, affirmative action programs and local resident employment opportunities are available to the people affected by the development. It should require that Workmen's Compensation insurance is available to all workers, and that no one be misclassified as "independent contractors" to avoid paying for this.

The benefits that I have listed above should be basic requirements for a contractor that is operating responsibly in the state. We find, however, that due to the cutthroat nature of the construction business, local contractors are forced to compete with ultra low cost, ultra low wage contractors from out of the area for work. This forces responsible Connecticut contractors that would normally supply the good wages and benefits I have listed to cut them out in an effort to compete for the work.

National big box retailers and developers are interested only in how cheaply they can build a store. A Community Benefits Agreement that includes responsible contractor language would level the playing field for our Connecticut contractors, allowing them to do the right thing for Connecticut residents that work in the construction industry in our state. We have attached sample language to this testimony, information about Responsible contractor programs and some ordinances already in place in the state. I hope that you will look at the information, and then amend Section 7 of SB 39 to encourage the use of responsible contractor provisions, along with the other provisions listed, in all Community Benefit Agreements.

RESPONSIBLE EMPLOYER POLICY for PRIVATE OWNERS, INSTITUTIONS & DEVELOPERS

1. What is a Responsible Employer Policy?

It is a policy that sets minimum requirements for all contractors and subcontractors bidding on a particular project. The requirements are then incorporated into the project bid document so that all potential bidders will know what is expected of them.

2. Why is a Responsible Employer Policy needed?

The construction market has been the scene of an extraordinary amount of violations of the law in recent years. The recession of the early 1990's created competitive pressures that pushed unscrupulous contractors to cheat in order to submit low bids. At the same time, enforcement of the relevant wage, tax and insurance laws declined sharply. Since owners, generally award projects to the low bidder, those contractors who were willing to cheat gained an enormous cost advantage over legitimate contractors.

The lowering of standards in the construction market hurts many people. Workers receive lower wages and few, if any, benefits; owners receive inferior construction products, since lower standards produce corner-cutting building practices; taxpayers carry an extra burden by having to compensate for employers who do not pay taxes or compensation premiums and do not provide health insurance.

3. Is this a pro-union policy?

The Responsible Employer Policy is not a "Union-only" policy. The Policy simply attempts to create a level playing field for all contractors, union and nonunion alike, so that low bids reflect managerial expertise rather than a cost-cutting approach based on illegal and unethical practices. This Policy is neutral with respect to the union issues. It simply asks an owner engaged in the building process to set minimum standards for the firms who may be bidding on their construction projects.

It does not give an advantage to union contractors; it gives an advantage to responsible contractors. This Policy requires contractors to "play by the rules."

4. **What are the specific requirements?**

To be considered responsible and eligible for award, all bidders must:

- a. Pay the prevailing wage rate.
- b. Provide employer-paid family health insurance for all employees.
- c. Be affiliated with a state-certified apprenticeship program.
- d. Classify workers as employee, not as an "independent contractor."
- e. Provide the appropriate workers compensation insurance for employees.
- f. Comply with residency and or affirmative action requirements the owner may seek. (See proposed guild lines attached)

5. **What is the significance of each of the provisions?**

- a. The prevailing wage rates uphold the wage standard of the community.
- b. The health insurance provision addresses the unfortunate fact that unscrupulous Employers in the construction industry are among the worst offenders in terms of not providing health care to employees. Taxpayers end up bearing the cost of the free care that uninsured workers are entitled to, so the public essentially subsidizes the employers' irresponsibility.
- c. With education such as a major public policy issues today, every employer should provide some bonafide training for young workers. In the construction industry, apprenticeship programs are the vehicles.
- d. Probably the single most biggest abuse in today's construction market is the willful and illegal misclassification of workers as "independent contractors." By engaging in this practice, irresponsible employers can save as much as 40 percent of their labor cost by avoiding social security taxes, unemployment-compensation taxes, workers-compensation premiums and overtime while committing tax, wage and insurance fraud. A study by an economist at the University of Connecticut has found that this practice cost Connecticut over \$500 million a year.
- e. Similarly, many irresponsible contractors willfully misclassify workers by trade in order to realize saving in worker compensation insurance. Since this insurance represents a very significant cost of doing business in construction, insurance fraud in this form is a major concern.

6. **Will the adoption of a Responsible Employer Policy add cost to construction?**

No. These kinds of principles are the basic building blocks of operating a responsible business in the construction industry. Any saving that may be realized by ignoring these principles are frequently violations of state and federal laws.

7. **Can a private owner or institution adopt such a policy?**

Absolutely. Similar guild lines are in place for public funding for cities and towns and private entities are free to set the framework for any contractors that may want to work for them.

I agree that the “Responsible Employer Policy for Private Owners, Institutions & Developers” is important to workers in the construction industry and lays the groundwork for hiring responsible contractors. I will try to incorporate this language in the future bid documents for projects developed by _____ and its affiliates throughout Connecticut.



X _____

Date _____

The Stamford Construction Jobs Agreement

- A) It is the intent of the City of Stamford, and the parties signatory to this agreement, to insure that Stamford's economic redevelopment is fully shared by its residents. We believe that jobs created by those developing properties here constitute a critical economic factor in the health of our city, its communities and families. We seek to achieve twin goals of maximizing current job opportunities for residents and using those job opportunities to provide skill training necessary for workers seeking entrance into full-time, productive employment in Connecticut's construction industry.
- B) The focus of this effort will be directed towards Stamford residents interested in construction jobs, with a special emphasis on the unemployed and minority residents of Stamford.
- C) The program resulting from this agreement shall be administered by the City of Stamford, through the Mayor's Office or the Mayor's designated board.
- D) The following participating agencies will recruit and refer qualified applicants for training and job opportunities in accordance with this agreement:
- CTE, Inc.
 - Urban League of Southwestern Connecticut, Inc.
 - The City of Stamford Housing Authority
 - The Mutual Housing Association of Southwestern Connecticut, Inc.
 - Our Lady of Montserrat Church
 - Stamford Enterprise Zone
 - *(any other agency willing to participate in this effort)*
- E) Contractors bidding work for developers signatory to this agreement must make every effort to employ qualified residents of Stamford at a targeted goal of 29% of the project's workforce, when available. One-third (1/3) of that targeted percentage should be minorities and/or women.
- F) Contractors and subcontractors of the developer must provide skill training under a State of Connecticut certified apprenticeship program. Eligible state-certified apprenticeship programs must have demonstrated a commitment to providing continued employment opportunities to their apprentices throughout the length of apprenticeship, and should have at least five years of state-certified experience in training Connecticut apprentices. Contractors and subcontractors must make every effort to provide training opportunities in each appropriate craft skill, as a goal, at a ratio of one (1) apprentice to three (3) journeymen.
- G) The Building Trades Council, signatory trade unions, and their apprenticeship programs must make every effort to meet the requirements of resident and minority participants as set forth above.
- H) Decisions with regard to specific application of resident and apprentice ratios shall be determined by the board appointed by the Mayor of the City of Stamford if special circumstances occur.
- I) It is understood that the requirements of this agreement shall not prohibit the participation of any Stamford minority contractor who otherwise complies with State and Federal employment practices. If any minority contractor chooses to employ apprentices, apprentices must be registered with a state-certified apprenticeship program.
- J) The Mayor of the City of Stamford shall appoint a Board to facilitate compliance as well as adjudicate disputes. The board shall be made up of four (4) members, one each from the Mayor's Office, from one of the participating community agencies listed in this agreement, from the Building Trades Council, and from the Developer.

SIGNATURES

D. B. Willey
The Mayor of the City of Stamford

MADE 12 1986
Date

DEVELOPERS

Henry V. Carr ^{3/16/86} Swiss Bank Corp

Edward Schwaib Swiss Home Assoc.

Bill Wood Mutual Housing Assoc.

Charles Home Const.

Paul B. Brown City of Stamford

Robert J. Grand Atlantic

COMMUNITY AGENCIES

B. Keith D. H. P. - Boston Q. A. P. Council

Thomas Stamford Enterprise Zone

Edward Schwaib Swiss Home Assoc.

Bill Wood Mutual Housing Assoc.

TRADE ORGANIZATIONS

John Paul 2712

Robert W. Scott SMUJAL

Robert W. Scott SMUJAL

E. Thomas 2nd 124

John Thomas 2nd 124

Frank Math Operating Engineers

Donald E. Thomas 2nd 124

Thomas Scott 2nd 124



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury:

THAT Section 2-149 of the Code of Ordinances of Danbury, Connecticut is hereby repealed and replaced with the following

Sec. 2-149. Required contract provisions:

- (a) All contracts entered into by the City of Danbury for the construction, alteration or repair of any public building or public work and employing mechanics, laborers and workmen in the performance of work under the contract shall incorporate the following provisions.
 - (1) Consistent with the requirements of Section 8-7 of the Danbury Municipal Charter, concerning the employment of mechanics, laborers and workmen, the contractor and all lower tiered subcontractors shall give employment preference to citizens of the Danbury labor market area as established by the State Labor Commissioner in accordance with Chapter 557, Part III, and Section 7-112 of the Connecticut General States, as amended
 - (2) The contractor and all lower tiered subcontractors may hire mechanics, laborers and workmen who reside outside the Danbury labor market area if provisions of existing labor agreements prevent compliance with the requirements of this section, or if the specifically required skills are not available in the Danbury labor market. In either event, prior to commencement of performance, the contractor and all lower tiered subcontractors shall submit their reasons for such action in writing along with supporting documents to the city. Such documents may consist of, but need not be limited to, labor agreements, lists of names and addresses of mechanics, laborers and workmen or labor representatives contacted in the Danbury labor market area and lists of required positions for which personnel were not available in the Danbury labor market area. The contractor and all lower tiered subcontractors shall submit such relevant documents and other information as may be requested by the city to determine compliance with this ordinance. In order to monitor compliance with this section the city may request relevant information and documentation from the contractor or from subcontractors at any time during the term of the contract. The contractor shall comply with or arrange for compliance with all such requests promptly.
 - (3) Prior to the commencement of performance of contracts governed by this section the contractor shall forward a written statement indicating the name, address and occupational title of each mechanic, laborer and workman scheduled to perform work for the contractor under the contract. The contractor shall insure that all lower tiered subcontractors provide similar information to the city with respect to their mechanics, laborers and workmen. The contractor and all subcontractors shall file written amendments to previously filed statements whenever new mechanics, laborers or workmen perform work under the contract. All such amended statements shall be filed



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury

- before any new mechanic, laborer or workman commences work under the contract
- (4) Every two weeks during the term of the contract the contractor and all lower tiered subcontractors performing work under the contract shall forward payroll records to the city covering the preceding two-week contract period
- (5) The contractor and all lower tiered subcontractors performing work under the contract must comply with the obligations established under state and federal laws to pay lawful prevailing rates to their employees. Pursuant to the provisions of Subsection 31-53(g) of the Connecticut General Statutes, as amended, the prevailing wage requirements do not apply to rehabilitation, remodeling, refinishing, refurbishing, alteration or repair of any project where the total cost of all work performed by contractors and subcontractors is less than \$100,000 or, with respect to new construction, where the total cost of all work performed is less than \$400,000.
- (b) All contracts entered into by the City of Danbury for the construction, alteration or repair of any public building or public work shall contain the following provisions providing for equal opportunity in employment.
- (1) The contractor and all lower tiered subcontractors agree and warrant that in the performance of work under this contract they shall not discriminate or permit discrimination in employment against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, sex, or on the basis of physical or mental disability, including but not limited to blindness, unless it is shown by such contractor or subcontractor that such disability prevents performance of the work under the contract. The contractor and all lower tiered subcontractors also agree that for purposes of monitoring compliance with the provisions of this section they shall provide the city with such information as may be requested concerning their employment practices and procedures. For purposes hereof, discrimination in employment shall include, but need not be limited to, employment advertising, recruitment, layoff, termination, rates of pay or other forms of compensation, conditions or privileges of employment and selection for apprenticeship.
- (2) The contractor and all lower tiered subcontractors shall post notices in conspicuous places on the project site describing the provisions of this subsection.
- (3) Nothing contained herein is intended or shall be construed to relieve any contractor or subcontractor from compliance with applicable federal or state law concerning equal employment opportunity, affirmative action or non-discrimination.
- (c) All contracts entered into by the City of Danbury contemplating work utilizing trades or occupations for which state certified apprenticeship programs exist shall incorporate provisions requiring the contractor and all lower tiered subcontractors to be affiliated with such programs. The contractor or any lower tiered subcontractor may be relieved from



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury

compliance with the provisions of this subsection if provisions of existing labor agreements prevent compliance with the requirements hereof. In that event, prior to commencement of performance, the contractor or subcontractor shall submit their reasons for such action in writing along with supporting documents to the city. The contractor and all lower tiered subcontractors shall submit such relevant documents and other information as may be requested by the city to determine compliance with this ordinance. In order to monitor compliance with this section the city may request relevant information and documentation from the contractor or from subcontractors at any time during the term of the contract. The contractor shall comply with or arrange for compliance with all such requests promptly.

- (d) All contracts entered into by the City of Danbury for the construction, alteration or repair of any public building or public work shall contain the following provisions concerning treatment of employees:
- (1) The contractor and all lower tiered subcontractors performing work under the contract shall properly classify workers as employees rather than as independent contractors and treat them accordingly for purposes of workers' compensation, insurance coverage, unemployment taxes, social security and income tax withholding.
 - (2) The contractor and all lower tiered subcontractors must furnish, at their expense, hospitalization and medical benefits and coverage for all of their employees employed on the work under the contract.
 - (3) For purposes of this subsection, any person who meets nine or more of the following criteria shall be considered an employee:
 - (i) The person is required to comply with company instructions about when, where, and how work is done.
 - (ii) The person has been trained by the company.
 - (iii) The person is integrated into the company's general business operations.
 - (iv) The person must render services personally.
 - (v) The person uses assistants provided by the company.
 - (vi) The person has a continuing relationship with the company.
 - (vii) The person is required to work a set number of hours.
 - (viii) The person must devote substantially full time work to the company.
 - (ix) The person works at the company's premises or job site.
 - (x) The person must perform work in a preset sequence.
 - (xi) The person must submit regular progress reports.
 - (xii) The person is paid by the hour, week, or month, payroll deductions include federal and/or state income taxes, FICA insurance.
 - (xiii) The person is reimbursed for all business and travel expenses.
 - (xiv) The person uses company tools and materials.
 - (xv) The person has no significant investment in the facilities that are used.



ORDINANCE
CITY OF DANBURY, STATE OF CONNECTICUT
COMMON COUNCIL

Be it ordained by the Common Council of the City of Danbury

- (xvi) The person has no risk of loss.
- (xvii) The person works for only one company.
- (xviii) The person does not offer services to the public.
- (xix) The person can be discharged by the company.
- (xx) The person can terminate the relationship without incurring liability.

(4) The contractor and all lower tiered subcontractors performing work under the contract and utilizing the services of mechanics, laborers or workmen who are not classified as employees under this subsection shall provide written notice to said mechanics, laborers and workmen of their status as independent contractors. Said notice shall include a provision advising the mechanics, laborers and workmen that they are not eligible for workers' compensation, health insurance, or unemployment compensation from the contractor or subcontractor.

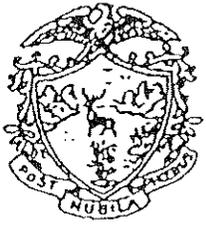
(c) The contractor shall incorporate the requirements of this section in each subcontract and require that each subcontractor incorporate the requirements of this section in all subsequent subcontracts such that all lower tiered subcontractors performing work under the contract shall be bound by the terms hereof.

(f) If after review the city determines that the contractor or any lower tiered subcontractor has failed to comply with this section, in addition to any other remedy available to it, the city may require corrective action to be taken by the contractor or it may terminate the contract.

02/10/99 10:34

Court of Common Council

CITY OF HARTFORD



550 MAIN STREET
HARTFORD, CONNECTICUT 06103

Clerk
Daniel M. Carey

- Michael P. Peters, Mayor
- Frances Sanchez, Deputy Mayor
- John B. Stewart, Jr., Majority Leader
- Veronica Airey-Wilson, Councilwoman
- Eugenio Caro Sr., Councilman
- Alphonse S. Marotta, Councilman
- Michael T. McGarry, Councilman
- John B. O'Connell, Councilman
- Steven D. Park, Councilman
- Louis Watkins, Jr., Councilman

February 8, 1999

This is to certify that at a meeting of the Court of Common Council, February 8, 1999, the following RESOLUTION was passed.

WHEREAS, The State Department of Labor says there are about 3,000 unemployed people in Hartford; and

WHEREAS, The City of Hartford recognizes that the proposed "Six Pillars" development initiative of the Capital City Economic Development Authority (CCEDA) and the State Construction of a Stadium for the New England Patriots, as well as other scheduled construction, and permanent new employment and business opportunities resulting from this development, will create significant demand for qualified workers in the building construction and service industries in the near future; and

WHEREAS, CCEDA is in the process of gathering information to enable detailed planning for an initiative called "The Funnel" to coordinate the development of the necessary recruitment and training of workers, and to ensure that Hartford residents obtain their fair share of new jobs created from this new development in Hartford; and

WHEREAS, For Hartford residents to take advantage of these employment opportunities, it is essential that skill development and training be coordinated and provided to several key target groups in Hartford: adults, youth (ages 18-21), non-custodial parents, and women and minorities; and

WHEREAS, Establishing a comprehensive job placement system, accepted by Hartford community groups, is essential in our efforts to make sure that City neighborhoods fully benefit from the coming wave of downtown development; and

WHEREAS, A consortium of Hartford community groups, economic development officials, unions and contractors have come together to assist in the development of a "Funnel" designed to get Hartford residents to jobs which would include publicity and outreach efforts, testing, training, and other services designed to connect people with jobs, and get them ready to work, and

WHEREAS, Hartford has been selected as a "Job Corps" Site, part of a major Federal job-training program by the U.S. Department of Labor designed to target youth between the ages of 16 and 24 in basic education and relevant job skills, and

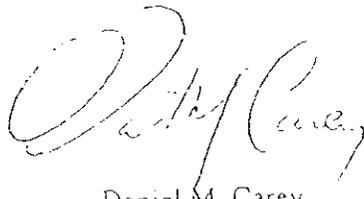
WHEREAS, Additional financial resources will be required to support such a comprehensive job training and placement system; and

WHEREAS, It is incumbent upon the City of Hartford to not only participate in the planning and design of "The Funnel" but to also take a lead in promoting these job training, skill development and employment opportunities for its residents; now, therefore, be it

RESOLVED, That the Hartford Court of Common Council does hereby endorse the following requirements: 1) New construction jobs created from the "Six Pillars" of development in the City of Hartford should include 30 percent minimum resident hiring by trade, 25 percent minimum minority hiring by trade, 5 percent minimum female hiring by trade. Contractors must provide health and retirement benefits, certified apprenticeship training (waived for small Hartford-based contractors), and encourage the use of Hartford-based sub-contractors; 2) Residents of the City of Hartford should receive priority consideration for those permanent full-time and part-time job openings that occur subject to First Source Employment Agreements; and 3) Priority shall be given to Hartford-based vendors with special attention to Hartford-based minority businesses in the operations of these developments; and be it further

RESOLVED, That the Hartford Court of Common Council does hereby request that the CCEDA coordinator of "The Funnel" include the Chairperson of the Hartford City Council's Health and Human Services Committee on its planning committee to ensure representation of the City of Hartford and its residents in this major effort to provide jobs for Hartford citizens.

Attest:



Daniel M. Carey
City Clerk

Copies to: City Manager, Director of Finance, Director of Management and Budget, Director of Personnel,
Human Relations Commission and Deputy Mayor Sanchez.

Ordinance Number:

Date:

9-17

ORDINANCE

Be it ordained by the Common Council of the City of Middletown:
That a new Section 7-5. Contract Provisions Required Pertaining to Apprentices, be added to
Chapter 7 of the Middletown Code of Ordinances.

Sec. 7-5. Contract Provisions Required Pertaining to Apprentices.

All contracts entered into between the City of Middletown and contractors which utilize apprenticeable trades or occupations by the contractor in the performance of the contract shall incorporate the following provisions:

(a) The contractor shall be affiliated with a state certified apprenticeship program for each apprenticeable trade or occupation represented in its workforce that is not otherwise governed by applicable state statutes and regulations.

(b) In the event the contractor is restricted by labor contracts, the contractor may not have to comply with the provisions of subsection (a), provided that prior to commencement of performance the contractor submits its reasons for such action in writing along with supporting documents to the City. Such documents may consist of, but are not limited to, labor contracts. The contractor shall submit such relevant documents and other relevant information as may be requested by the City to determine compliance with this ordinance. If the Common Council, after review and report by City staff and the Contract Compliance Committee, determines that the contractor has failed to comply with this ordinance, it may require corrective action to be taken by the contractor to effect compliance or may terminate the contract. If the corrective action required is not done by the contractor, the Council may terminate the contract. If the Council terminates the contract, such termination shall be without any liability of the City of Middletown to the contractor, its subcontractors or any other party.

Approved by Contract Compliance Committee on: 11/12/98

Approved as to form by Ordinance Study Committee on: 11/17/98

Submitted by: Councilman James B. Streeto

Status:

by Common Council, City of Middletown
at its meeting held on:

Sec. 7-6. Fair Classification of Tradesmen and Laborers.

(a) All contractors entering into contracts with the City of Middletown for the construction, alteration or repair of any public building or public work shall comply with all applicable state and federal laws governing fair treatment of employees, including but not limited to unemployment compensation and workers' compensation. All contractors entering into contracts with the City of Middletown for the construction, alteration or repair of any public building or public work shall comply with all applicable state and federal laws governing fair treatment of independent contractors, including but not limited to payment of the relevant prevailing wage rates.

(b) For purposes of this chapter, any person who meets 9 or more of the following criteria shall be considered an employee:

1. The person is required to comply with company instructions about when, where, and how work is done;
2. The person has been trained by the company;
3. The person is integrated into the company's general business operations;
4. The person must render services personally;
5. The person uses assistants provided by the company;
6. The person has a continuing relationship with the company;
7. The person is required to work a set number of hours;
8. The person must devote substantially full time work to the company;
9. The person works at the company's premises or job site;
10. The person must perform work in a preset sequence;
11. The person must submit regular progress reports;
12. The person is paid by the hour, week, or month; payroll deductions include federal and/or state income taxes, FICA, insurance;
13. The person is reimbursed for all business and travel expenses;
14. The person uses company tools and materials;
15. The person has no significant investment in the facilities that are used;
16. The person has no risk of loss;
17. The person works for only one company;
18. The person does not offer services to the public;
19. The person can be discharged by the company;
20. The person can terminate the relationship without incurring liability

(c) Enforcement of this provision shall be monitored by the City Department or Agency for which the construction is being done. If the construction, alteration or repair is being overseen by a building committee, the building committee shall monitor compliance with this section. Nothing in this subsection shall be construed to prevent the Public Works Department, the Contract Compliance Committee, the Purchasing Department or the Common Council from conducting independent investigations and/or initiating enforcement through appropriate channels

(d) This Section shall only be applicable to contracts signed on or after the date of its passage.

(e) Any contractor utilizing the services of tradesmen or laborers who are not classified as employees under this chapter shall provide written notice to said tradesmen or laborers of their status. Said notice shall include a provision advising the tradesman or laborer that he or she is not eligible for workers' compensation, health insurance, or unemployment compensation from the contractor.

RESOLUTION

Item # _____

RE: _____

(Above For Town Clerk's Use Only)

To His Honor, the Mayor, and the Common Council of the City of New Britain:
the undersigned beg leave to recommend the adoption of the following

Resolution summary: This resolution modifies the city's construction contracting standards to include provisions requiring contractors to properly classify their employees as employees rather than as independent contractors and be affiliated with a state-certified apprenticeship program.

A Resolution of the Common Council of the City of New Britain Regarding Labor Standards in Construction Contracting.

Be it ordained by the Common Council of the City of New Britain that the Code of Ordinances, City of New Britain, be amended by modifying the following sections to read as follows (inserted text appears in underline; deleted text appears in ~~striketthrough~~; new sections begin with the word [new]):

Part 1. Section 2-578 is hereby amended as follows:

2-578. The purchasing agent shall consider the following in his determination of who is the lowest responsible bidder:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts or services.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service, including, but not limited to, the provisions of subdivisions (3) or (4) of subsection (a) of section 2-580 of this Code of Ordinances.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services.
- (7) The quality, availability, and adaptability of the supplies, or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the subject of the contract.
- (9) On all new concrete sidewalk and curb installations the purchasing agent shall call for bids on a total job basis and not on a yearly or item by item basis and the lowest bidder for the total job shall be recommended to the common council for its approval.
- (10) The purchasing agent shall be authorized to allow up to a six-per cent differential in favor of city-based bidder provided that where ~~application of such a~~

RESOLUTION

m # _____

RE: _____

(Above For Town Clerk's Use Only)

To His Honor, the Mayor, and the Common Council of the City of New Britain:
the undersigned beg leave to recommend the adoption of the following

Page 2

differential is to be allowed, the purchasing agent shall cause the bid document to specify the differential which will apply. On contracts for which a city-based bidder preferential is to apply, any city-based bidder which has submitted a bid shall be awarded the bid provided that such city-based bidder agrees to accept the award of the bid at the amount of the low bid. If more than one city-based bidder submits a bid not more than six (6) per cent higher than the low bid and has agreed to accept the award of the bid at the amount of the low bid, has submitted the lower/lowest bid. For purposes of this subsection, a "city-based bidder" shall mean a business with a legal principal place of business located within the City of New Britain. A business shall not be considered a city-based bidder unless evidence satisfactory to the purchasing agent has been submitted with the bid to establish that said business has a bona fide principal place of business within the City of New Britain. Such evidence may include evidence of ownership of or a long-term lease of real estate within the city from which the principal place of business is legally operated or the payment of personal property taxes on the personal property of the business to the City of New Britain.

(11) Any person in the business of constructing or repairing sidewalks must be in possession of a current valid city license before the opening of bids on a given construction project. Failure to possess a current, valid license at the time of bid opening will disqualify any person from being considered a responsible bidder on such a project.

Part 2. Subsection (a) of section 2-580 is hereby amended as follows:

(a) All contracts entered into between the city and contractors which utilize tradesmen or laborers by the contractor in the performance of the contract shall incorporate the following provisions:

- (1) The contractor shall hire residents of the city to perform the necessary labor.
- (2) In the event the contractor is restricted by labor contracts, or the required specific skills are not available in the city, the contractor may hire tradesmen and laborers who reside outside the city, provided that prior to commencement of performance the contractor submits its reasons for such action in writing along with supporting documents

RESOLUTION

m # _____

RE: _____

(Above For Town Clerk's Use Only)

To His Honor, the Mayor, and the Common Council of the City of New Britain:
the undersigned beg leave to recommend the adoption of the following:

Page 3

to the city. Such documents may consist of, but are not limited to, labor contracts, lists of names and addresses of tradesmen, laborers or labor representatives contacted in the city and lists of required skilled labor positions for which personnel were not available in the city. The contractor shall submit such relevant documents and other relevant information as may be requested by the city to determine compliance with this section. If the common council, after review and report by the contract compliance board, determines that the contractor has failed to comply with this section, it may require that corrective action be taken by the contractor to effect compliance or may terminate the contract. If the council terminates the contract, such termination shall be without any liability of the city to the contractor, its subcontractors or any other party.

(3) In contracts for new construction of any public works project where the total cost of all work to be performed by all contractors and subcontractors exceeds four hundred thousand dollars (\$400,000.00) and in contracts for remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project where the total of all work to be performed by all contractors and subcontractors exceeds one hundred thousand dollars (\$100,000.00), all tradesmen and laborers hired to perform under the contract shall be paid at the prevailing rates for the same work in the same trade in the city and shall receive the fringe benefits normally offered at that time for the particular trade. "Prevailing rates" as used herein shall mean the latest rates published by the state labor department unless otherwise required to qualify for a federal grant pertaining to the contract.

As used herein, the term "contractor" shall include the general or prime contractor and shall include subcontractors performing work under the contract.

(4) All workers furnishing the goods and services in connection with the construction shall be properly classified as employees rather than independent contractors, causing them to be treated accordingly for the purposes of pay, benefits, worker's compensation insurance coverage, unemployment compensation coverage, social security taxes and income tax withholding.

(5) The contractor shall be affiliated with a state-certified apprenticeship program.

(6) If a contractor signing a contract required under this subsection is found to have violated the provisions of this contract, it shall, if already paid by the City, reimburse to the City one percent of the payment that would have otherwise been owed by the City for every count of violation found. If a contractor signing a contract required under this subsection is found to have violated the provisions the contract and it has not already been paid by the City, the City shall withhold from payment one percent of the payment that would have otherwise been owed by the City for every count of violation found. For these purposes, each day of violation and each worker affected shall be deemed a separate count. Each construction contract entered into by the city shall recite that the contractor understands and agreed to the terms of this section.

RESOLUTION

em # _____

RE: _____

(Above For Town Clerk's Use Only)

To His Honor, the Mayor, and the Common Council of the City of New Britain:
the undersigned beg leave to recommend the adoption of the following

Page 4

(4) (7) As used herein, the term "contractor" shall include the general or prime contractor and shall ~~include~~ include subcontractors performing work under the contract.

Part 3. Section 2-582 is hereby amended as follows:

2-582. Invitations to bid issued by the city, on behalf of boards and commissions seeking contractual services for the construction of capital improvements shall include provisions concerning the payment of prevailing wages, proper classification as employees rather than as independent contractors, participation in a state-certified apprenticeship program, non-discrimination, anti-kickback, and conflict of interest similar to the type found in federal invitations to bid.

Alderman Tim O'Brien

Alderwoman Barbara Canzonetti



CITY OF NEW HAVEN
BOARD OF ALDERMEN

April 29, 1999

Dear Colleagues:

We ask your attention to this package of amendments intended to update and strengthen the City's Affirmative Action ordinance.

Our experience with ongoing city construction contracts is that loopholes exist which prevent full progress on hiring of women and minorities. Also, with the prospect of larger development projects than the City has seen in many years, there is an excellent opportunity to expand and improve training and hiring prospects for women, minorities, younger and less experienced workers.

We believe that these amendments will help New Haven reach its Affirmative Action goals in several important ways.

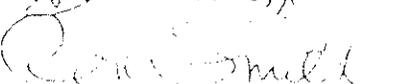
- Require that 15% of construction trades jobs go to apprentices -- and that half of this group be apprentices in their first year of training.
- Specify that covered contracts must pay "heavy and highway" prevailing wages, as specified in the federal Davis-Bacon Act
- Lower the minimum value of contracts which must comply with the City's Affirmative Action ordinance and lessen opportunity to break up contracts into smaller units in order to avoid compliance requirements.

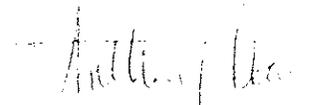
We believe that these changes enhance the intent of our Affirmative Action ordinance, our City's commitment to the welfare of its citizens and responsibility of its business dealings. Contractors and trade unions are encouraged to place more apprentices on jobs, ensuring that more training and opportunity goes to those most in need. By clarifying "heavy and highway" prevailing wages to be paid on covered contracts, confusion regarding specific applications of prevailing wages is avoided.

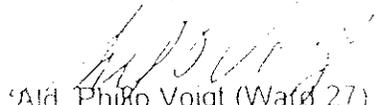
We think that this package is a very important initiative for our City at this time. We hope that you agree and respectfully ask for your support.

Sincerely,


Ald. David Moakley (Ward 26)


Ald. Ron Smith (Ward 20)


Ald. Anthony Dawson (Ward 3)


Ald. Philip Voigt (Ward 27)

AMENDMENTS TO SECTION 12-1/2 OF THE NEW HAVEN CODE OF GENERAL ORDINANCES REGARDING APPRENTICE HIRING, CONTRACT THRESHOLDS AND PREVAILING WAGES.

CITY OF NEW HAVEN

[Delete] Add

1.

New Haven Code of General Ordinances - Add a New Section 12-1/2-33 as follows

Sec. 12-1/2 - 33. Apprentice hiring.

All contractors for construction projects which utilize apprenticeable trades or occupations in the performance of contracts subject to the requirements of section 12-1/2 - 22(c), shall also be subject to the following requirements:

a) The contractor shall be affiliated with a state certified apprenticeship program for each apprenticeable trade or occupation represented in its workforce.

b) Fifteen percent (15%) of the workforce employed by contractors on any and all city contracts subject to the requirements of this section shall be apprentices and, of this number, fifty percent (50%) shall be in the first year of apprenticeship training.

2.

To Sec. 12-1/2 - 19. Definitions. amend as follows:

(b) *Apprentice*: A person employed under a written agreement enrolled in a registered program approved by the State of Connecticut to work at and to learn a specific trade, as defined in Connecticut General Statutes section 31-51(a).

Renumber existing definitions (o) through (t) as (p) through (u). Insert new definition (o) as follows:

(o) *Prevailing wage*: Prevailing wage for "heavy" and "highway" projects as prescribed in the Federal Davis Bacon Act CFR 22.

3

To Sec. 12-1/2 - 20 (2) amend as follows

In the first sentence "the contract compliance director sections 12-1/2-19 through 12-1/2-32" delete [32] and insert in its place: 33

4.

To Sec. 12 1/2 - 21 amend as follows:

Add a new subsection (b) (4) Assistance to state training council, building trades, referral unions and contractors in meeting the requirements of sec. 12 1/2 - 33; monitoring compliance with the requirements of section 12 1/2 - 33 including obtaining certified payrolls which shall be filed with the Board of Aldermen as said Board may request.

5.

To Sec. 12-1/2 - 22(a) amend as follows:

After "estimated total value of", delete [one hundred thousand dollars (\$100,000.00)] and insert in its place fifty thousand (\$50,000.00) or more, or aggregate total value of \$250,000.00 annually,

After "contracts values at", delete [fifty thousand dollars (\$50,000.00)] and insert in its place twenty five thousand dollars (\$25,000.00)

6.

To Sec. 12-1/2 - 22(c)(4) a., b. and c.

In subsection a. delete [one million dollars (\$1,000,000.00), and insert in its place five hundred thousand dollars (\$500,000.00)

In subsection b. delete [one million five hundred thousand dollars (\$1,500,000.00)] and insert in its place five hundred thousand dollars (\$500,000.00)

In subsection c. delete [one hundred thousand dollars (\$100,000.00)] and insert in its place fifty thousand dollars (\$50,000.00)

7.

To Sec. 12-1/2 - 23 (i) amend as follows

Delete [32] and insert in its place 33, to read as follows. " section 12 1/2 - 19 through section 12 1/2 - 33 "

8.

To Sec. 12-1/2 - 25(a)(2) amend as follows:

After "...as it applies to apprenticeship training, insert section 12-1/2 - 33.

9.

To Sec. 12-1/2 - 26(a) amend as follows:

In the second sentence delete [25¹ and insert in its place 33

10.

To section 12-1/2 - 31 amend as follows:

After "prevailing wages" insert for heavy and highway projects

11.

To section 12-1/2 - 31(b) amend as follows:

Add s to "section" and, after 12-1/2 - 22 add and 12-1/2 - 33.

Except as above amended, the New Haven Code of General Ordinances shall remain unchanged and in full force and effect.

ORDINANCE NO.975
AMENDING CHAPTER 103 OF THE CODE OF
ORDINANCES CONCERNING CONTRACTORS

WHEREAS, pursuant to the provisions of Connecticut General Statutes, §7-148(c)(1)(A), municipalities within the State of Connecticut possess the power to contract and be contracted with, and

WHEREAS, Chapter 103 of the Code of Ordinances of the City of Stamford sets forth the manner in which contracts with the City for an amount in excess of \$10,000 for the sale or lease of goods or services are to be entered into, including compliance with all bid forms and requests for proposals or qualifications sent out by the City; and

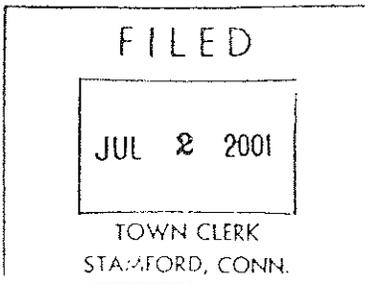
WHEREAS, it has been determined to be in the best interests of the City of Stamford and its citizenry that all contractors submitting bids and proposals to the City, and all subcontractors under the bidder or proposer, be responsible employers to their employees in terms of providing adequate compensation, training and benefits to such employees.

NOW THEREFORE BE IT ORDAINED BY THE CITY OF STAMFORD THAT:

A new section be added to Chapter 103 of the Code of Ordinances of the City of Stamford, as follows:

Sec. 103-9 Responsible employer obligations of bidding and proposing contractors and subcontractors under such bidders or proposers.

- A. The bidder or proposer and all subcontractors under the bidder or proposer shall comply with the 1996 Stamford Construction Jobs Agreement which is hereby incorporated into and made a part of this ordinance.
- B. The bidder or proposer and all subcontractors under the bidder or proposer must comply with the obligations established under state and federal laws to pay lawful prevailing rate to their employees. The prevailing wage law does not apply to the rehabilitation, remodeling, refinishing, refurbishing, alteration or repair of any project where the total cost of all work performed by contractors and subcontractors is less than \$100,000.00. Under new construction, the law does not apply when the total cost of all work performed is less than \$400,000.00 C.G.S. §31-53(g).
- C. As may be required by state and federal law or regulations, the bidder or proposer and all subcontractors under the bidder or proposer must maintain and participate in a *bona fide* apprentice training program for each apprenticeable trade or occupation represented in his or her workforce that is approved and shall use good faith efforts to abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.
- D. The bidder or proposer and all subcontractors under the bidder or proposer must furnish, at their expense, hospitalization and medical benefits and/or coverage for all their employees employed on the project. CGS §31-53(a),(e) and (h).
- E. The bidder or proposer and all subcontractors under the bidder or proposer must properly classify employees as employees rather than as independent contractors and treat them accordingly for purposes of Workers' Compensation, insurance coverage, unemployment taxes, social security and income tax withholdings all in accordance with CGS §31-53(f), §31-58(f) (definition of employee under Wage and Hour laws), §31-222(a) (definition of employee under the unemployment statutes), §31-273(e) to (g), §31-275(9) (definition of an employee under the Workers' Compensation statutes) and §31-288(g) (Workers' Compensation fraud).
- F. Any bidder or proposer or subcontractor under the bidder or proposer who fails to comply with any one of obligations A through E, as set forth above, for any period of time shall be, at the sole discretion of the City of Stamford, subject to one or more of the following sanctions:
1. Cessation of work on the project until compliance is obtained.
 2. Permanent removal from any further work on the project.
 3. Withholding of payment due under any contract or subcontract until compliance is obtained.



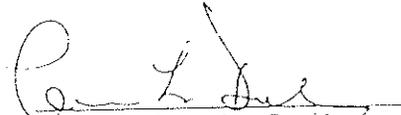
4. Liquidated damages payment to the City of Stamford in the amount of 5% of the dollar value of the contract.

In addition to the sanctions outlined above, a general bidder or proposer or contractor shall be jointly and severally liable for the violations of its subcontractors. Any contractor or subcontractor that has been determined by the City of Stamford, or by any court or governmental agency to have violated any of the obligations set forth above may be, at the sole discretion of the City of Stamford, barred from performing any work on future City of Stamford projects as provided in the City's Purchasing Ordinance (§23-18.12 of the Stamford Code of Ordinances).

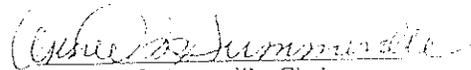
This ordinance shall take effect upon enactment.

Carmen L. Domonkos, President, and Annie M. Summerville, Clerk, do hereby certify that the foregoing ordinance was approved by a machine vote of 22-16-0 by the 25th Board of Representatives at their regular monthly meeting held on Monday, June 4, 2001.

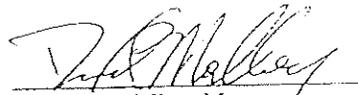
APPROVED:


Carmen L. Domonkos, President

Dated this 6 day of June, 2001


Annie M. Summerville, Clerk

Dated this ____ day of June, 2001


Dannel P. Malloy, Mayor
City of Stamford

Dated this 17th day of June, 2001

EFFECTIVE DATE: June 19th, 2001

cc: Mayor Dannel P. Malloy
Benjamin Barnes, Director of Public Safety, Health & Welfare
Tim Curtin, Director of Operations
Andrew McDonald, Esq., Director of Legal Affairs
Thomas M. Hamilton, Director of Administration
Sally Serafino, Town & City Clerk

An Ordinance Amending Chapter 12

Contracts

Be it ordained by the City Council of the City of West Haven that Chapter 12 of the Code of the City of West Haven is hereby amended by the addition of the following section:

Sec. 12-2 Required Contract Provisions

A. All contracts entered into by the City of West Haven for the construction, alteration or repair of any public building work and employing mechanics, laborers, and workmen in the performance of work under the contract shall incorporate the following provisions:

1) Concerning the employment of mechanics, laborers and workmen, the contractor and all lower tiered subcontractors shall give employment preference to citizens of West Haven.

a) The contractor and all lower tied subcontractors shall submit such relevant documents and other information as may be requested by the City of West Haven to determine compliance with this ordinance. In order to monitor compliance with the section, the City of West Haven may request such relevant documents and documentation from the contractor or from subcontractors at any time during the term of the contract. The contractor shall comply with or arrange for compliance with all such requests promptly.

b) Prior to the commencement of performance of contracts governed by this section the contractor and all lower tiered subcontractors shall forward a written statement indicating the name, address and occupational title of each mechanic, laborer and workman scheduled to perform work for the contractor under the contract. All such amended statements shall be filed before any new mechanic, laborer and workman commences work under the contract.

2) All Contracts entered into by the City of West Haven for the construction, alteration or repair of any public building work shall contain the following provision providing for equal opportunity in employment:

a) The contractor and all lower tiered subcontractors agree and warrant that in the performance of all work under this contract that they shall not discriminate or permit discrimination in employment against any person or group of persons on the grounds or race, color, religious creed, age, marital status, national origin, sex or on the basis of physical or mental disability, including but not limited to blindness, unless it is

shown by the contractor or subcontractor that such disability prevents performance under the contract. The contractor and all sub tier contractors also agree that for purposes of monitoring compliance with the provisions of this section they shall provide the City of West Haven with such information as may be requested concerning their employment practices and procedures. For purposes hereof, discrimination in employment shall include but not be limited to, employment advertising, recruitment, layoff, termination, rates of pay or other forms of compensation, conditions or privileges of employment.

b) The contractor and all lower tiered subcontractors shall post notices in conspicuous places on the project site describing the provisions of this subsection.

c) Nothing contained herein is intended or shall be construed to relieve any contractor or subcontractor from compliance with applicable federal or state law concerning equal employment opportunity, affirmative action or non-discrimination.

3) All Contracts entered into by the City of West Haven contemplating work, utilizing trades or occupations for which state certified apprenticeship programs exist shall incorporate provisions requiring the contractor and all lower tiered subcontractors to be affiliated with such programs.

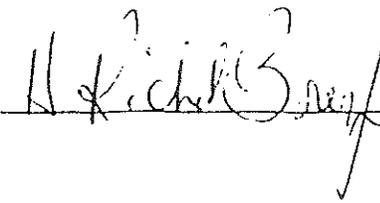
a) The contractor or any lower tied subcontractor may be relieved from compliance with this subsection if provisions of existing labor agreements prevent compliance with the requirements hereof. In that event, prior to the commencement of performance, the contractor or subcontractor shall submit their reasons for such action in writing along with supporting documents to the City of West Haven.

b) In order to monitor compliance with the section, the City of West Haven may request such relevant documents and documentation from the contractor from the contractor or from subcontractor at any time during the term of the contract. The contractor shall comply with any or arrange for compliance with all such requests promptly.

c) An apprentice is defined as a person employed under a written agreement enrolled in a registered program by the State of Connecticut to work at and to learn a specific trade as defined in Connecticut State General Statutes Section 31-51(a).

4. If after review the city determines that the contractor or any lower tiered subcontractor has failed to comply with this section, in addition to any other remedy available to it, the City of West Haven may require corrective action to be taken by the contractor or it may terminate the contract

ENACTED BY THE CITY COUNCIL: Monday, September 25, 2000

APPROVED BY THE MAYOR:  DATED: Sept - 25 - 00

OPERATIVE AND IN EFFECT: Immediately upon Mayor's approval

AN ORDINANCE
REGULATING BIDDING ON
PUBLIC CONSTRUCTION PROJECTS
IN THE
TOWN OF FRAMINGHAM

**AN ORDINANCE REGULATING BIDDING ON
PUBLIC CONSTRUCTION PROJECTS IN THE
TOWN OF FRAMINGHAM**

A. All bidders and all subcontractors, including subcontractors that are not subject to M.G.L. c.149, §44F, under the bidder for projects subject to M.G.L. c.149, §44A(2) and M.G.L. c.30, §39M, shall, as a condition for bidding or for an award of a subcontract on non filed sub-bid work, verify under oath and in writing at the time of bidding that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:

1. The bidder and all subcontractors under the bidder shall comply with the Town of Framingham Employment Plan as it currently exists and as it may from time to time, be amended.
2. The Bidder and all subcontractors under the bidder must comply with the obligations established under M.G.L. c 149 to pay the appropriate lawful prevailing wage rates to their employees.
3. The bidder and all subcontractors under the bidder must at the time of bidding maintain or participate in a bona fide apprentice training

program as defined by M.G.L. c.23, §§11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development and must register all apprentices with the Division and abide by the apprentice to journeyman ratio for each trade prescribed therein in the performance of any work on the project.

4. The bidder and all subcontractors under the bidder must at the time of bidding furnish at their expense, hospitalization and medical benefits and/or coverage for all their mechanics and apprentices, teamsters, chauffeurs and laborers (as those employee classification are used in M.G.L. c.149, §26) at least comparable in value and coverage to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by M.G.L. c.149, §26 in establishing minimum wage rates.
5. The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with M.G.L. c.152.
6. The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors

and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (see: M.G.L. c.149, §148B on employee classification)

- B. A bid submitted by any general bidder or by any subcontractor under the general bidder that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of M.G.L. c.149, §44F shall be awarded to a subcontractor that does not comply with the forgoing conditions.
- C. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on the projects subject to M.G.L. c.149, §44A(2) or c.30, §39M shall comply with the any one of the obligations numbered 1 through 6 as set forth in paragraph A above for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.
- D. Any bidder or subcontractor under the bidder who fails to comply with any one of obligations 1 through 6 as set forth in Paragraph A above for any period of time shall be, at the sole discretion of the Town of Framingham, subject to one or more of the following sanctions: (1) cessation of work on the

project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the Town of Framingham in the amount of 5% of the dollar value of the contract.

- E. In addition to the sanctions outlined in Paragraph D above, a general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the Town of Framingham or by any court or agency to have violated any of the obligations set forth in Paragraphs A and C above shall be barred from performing any work on any future projects for six months for a first violation, three years for a second violation and permanently for a third violation.
- F. If any provision of this ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby

**STATEMENTS OF SUPPORT
AND
FINANCIAL IMPACT**



CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
THOMAS M. MENINO

To Whom It May Concern:

In May of 1998, I proudly signed a “Responsible Employer Ordinance” to cover all publicly funded construction projects in Boston. Since state laws require that projects be awarded to the “lowest responsible bidder”, this Ordinance further defines the word “responsible” in an effort to reduce unscrupulous practices that unfortunately persist in the public construction industry.

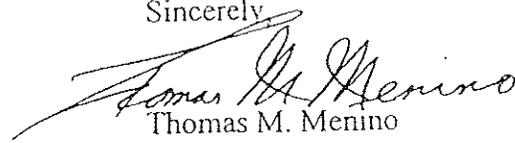
The Ordinance has been in place for nearly two years and I am pleased to report that it has enhanced the City’s goals regarding public construction without resulting in any noticeable change in project costs.

- The Ordinance affirms the City’s long-standing commitment for job opportunities for Boston residents.
- The Ordinance affirms the City’s commitment to education and training by insisting that contractors participate in legitimate state-certified apprenticeship programs.
- The Ordinance affirms the City’s commitment to increased access to health care services by requiring construction employers to provide health insurance for their workforce.
- The Ordinance affirms the City’s commitment that employers and taxpayers alike should “play by the rules” by eliminating the problems of tax and insurance fraud in the construction industry through the willful misclassification of employees as “independent contractors”.
- The Ordinance affirms the City’s commitment to working people in general and the protection of wage and benefit standards.

The Ordinance has been incorporated into all bid documents developed by the City of Boston for construction projects. It has required no major additional resources and appears to have had a successfully preventive impact. Since a similar ordinance passed by the City of Cambridge was found to be lawful by the Attorney General's office, there have been no legal challenges and, therefore, no measurable delays in the bidding or awarding of contracts.

I am please to have signed the "Responsible Employer Ordinance" and I encourage other municipalities to consider similar language to help ensure that their constituents get the maximum benefit from their tax dollars.

Sincerely

A handwritten signature in cursive script, appearing to read "Thomas M. Menino".

Thomas M. Menino

Mayor of Boston

CITY OF



Worcester
MASSACHUSETTS

RAYMOND V. MARIANO
MAYOR

14 Fox Hollow
Worcester, MA 01605
Telephone:
Office (508) 799-1153

To Whom It May Concern:

Over the past several years, the City of Worcester has been experiencing an unprecedented level of economic growth. Since state law mandates that projects be awarded to the lowest responsible bidder and given the unusually high level of activity, many of the construction companies working in Worcester were from outside of our community.

In 1997, the City of Worcester adopted a "Responsible Employer Ordinance". This ordinance was intended to assist local citizens as they sought to be included in our growth. In addition, it was designed to ensure that the available jobs provided workers with responsible benefits and education opportunities.

It is my opinion that this ordinance has benefited our community. Beyond providing local jobs, this ordinance:

- ensures that contractors participating in legitimate state certified apprenticeship programs
- increases access to healthcare services by requiring employers to provide health insurance for their employees

The implementation of this ordinance, even with our robust construction activity, has not required major additional resources. Further, I am unaware of any negative affects associated with it.

When I initially proposed the Responsible Employer Ordinance, I was convinced that it was the right thing for my community. Today, I can look back and say that it was a wise decision.

Sincerely,

Raymond V. Mariano
Mayor
City of Worcester

RVM/alg



OFFICE OF THE MAYOR

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139
(617) 349-4321 • FAX: (617) 349-4287
TTY/TDD (617) 349-4242 • Email: agalluccio@ci.cambridge.ma.us

Anthony D. Galluccio
Mayor

May 4, 2000

To Whom It May Concern:

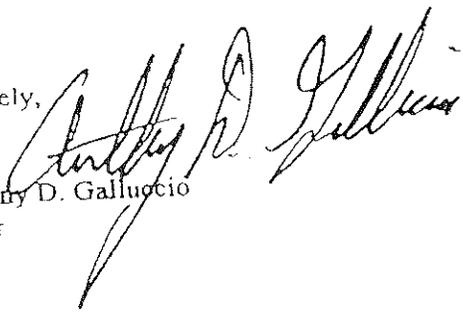
In 1995, the Cambridge City Council unanimously passed the first "Responsible Employer Ordinance" in Massachusetts. We took this action to address to mandate and support the strong enforcement of prevailing wages and require the hiring of local residents including minorities and women. This ordinance has helped also address chronic problems in the public construction industry involving unscrupulous contractors who continue to commit violations of the law in spite of all the good faith enforcement efforts by state agencies.

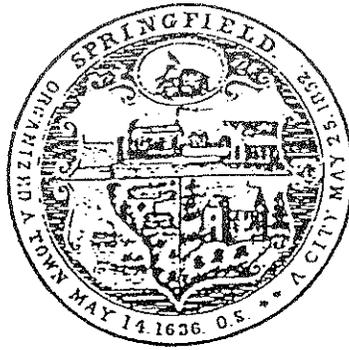
Since then, a number of other cities and towns have passed similar legislation. I believe time has demonstrated the wisdom of the action taken by the Cambridge City Council in 1995. We have seen a dramatic decrease in complaints about prevailing wage or other violations and Cambridge's projects have been built with few interruptions or problems. Further, there is no evidence that the Ordinance has adversely affected the overall costs of public construction.

Most important, the Ordinance has provided our City an opportunity to make a statement about the values we cherish, the importance of jobs for our residents, mandated training and apprentice programs for local residents, our commitment to health coverage for working people, our belief in education and training, and our reluctance to subsidize those employers who would cheat in order to benefit from public tax dollars.

You should also know that our Ordinance overcame a legal challenge and as recognized by the State Attorney General's Office as a legitimate and lawful action for a municipality to take. As Mayor of Cambridge, I am proud of the lead Cambridge has taken and confident of the effectiveness of this law and would encourage other cities and towns in the Commonwealth to adopt similar ordinances.

Sincerely,


Anthony D. Galluccio
Mayor



THE CITY OF SPRINGFIELD, MASSACHUSETTS

MAYOR MICHAEL J. ALBANO

December 14, 1999

To Whom It May Concern:

The City of Springfield adopted what is commonly known as "Responsible Employer Language" in 1998. Since that time, we have put out to bid and contracted several projects of many different sizes. We have had the opportunity to see not only the benefits of such an ordinance but also its potential negative side. Based on our experience, we unanimously concur that the City of Springfield has benefited greatly from the adoption of this ordinance and we are unaware of any problems it has caused our city.

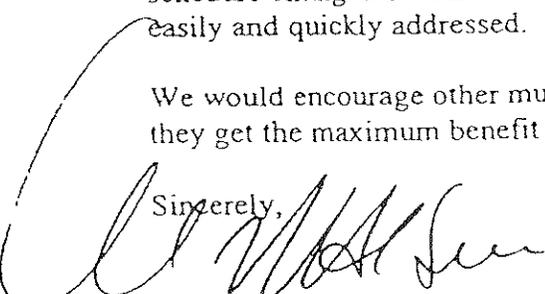
We believe that the ordinance helps our city in the following ways:

- To ensure that Springfield residents work on our projects.
- To provide more opportunities for people entering the trades to secure positions in apprenticeship programs
- By requiring employers to have health insurance, thus making medical services more readily available to our constituents, and also by helping to see that our local medical facilities get paid for their services.
- As work is being performed by the more "responsible employer," our city is using contractors who will ultimately give us the best product for the money.

The new ordinance has proven to be quite simple to implement and enforce, and it has had minimal effect upon the complications of the bidding process. To our knowledge, the ordinance has had no effect on the cost of projects. To date, no project has had its schedule changed because of this ordinance as any questions concerning it have been easily and quickly addressed.

We would encourage other municipalities to adopt similar language to help ensure that they get the maximum benefit for their construction dollars.

Sincerely,


Michael J. Albano

Mayor City of Springfield • 36 Court Street • Springfield, MA 01103 413-787-6100

AN ORDINANCE REGULATING BIDDING ON PUBLIC CONSTRUCTION
PROJECTS IN THE TOWN/CITY OF _____

A. All bidders and all subcontractors, including subcontractors that are not cover by Ct law _____, under the bidder for projects subject to CT law _____, shall, as a condition for bidding or for an award of a subcontract on non filed sub-bid work, verify under oath and in writing at the time of bidding that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:

1. The bidder and all subcontractors under the bidder shall comply with the Town/city _____ Employment plan as it currently exist and as it may from time to time, be amended.
2. The bidder and all subcontractors under the bidder must comply with the obligations establish under CT law _____ to pay the appropriate lawful prevailing wage rates to their employee.
3. The bidder and all subcontractors under the bidder must at the time of bidding maintain or participate in a bona fide apprentice training program a defined by CT Law _____. For each apprentice-able trade or occupation represented in the work force that is approved by the Division of Apprentice Training of the Department of Labor and must register all apprentices with the division and abide by the apprentice to journeyman

ratio for each trade prescribed therein in the performance of any work on the project.

4. The bidder and all subcontractors under the bidder must at time of bidding furnish at their expense, hospitalization and medical benefits and/or coverage for all their mechanics and apprentices, teamsters, chauffeurs, and laborers (as those employee classification are used in (CT law _____) at least comparable in value and coverage to the hospitalization and medical benefits provided by the health welfare plans in the applicable craft recognized by _____ in establishing minimum wage rates.

5. The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance CT GL _____.

6. The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purpose of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax with holding. (See: CT Law on employee classification)

- B. A bid submitted by any general bidder or by any subcontractor under the general bidder than does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontractor for outside the scope of CT Law _____ . Shall be awarded to a subcontractor that does not comply with the forging conditions.
- C. All bidders and subcontractors under the bidder who are awarded or who otherwise obtain contracts on the project subject to CT _____. Shall comply with anyone of the obligations number 1 through 6 as set forth in paragraph A above for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and writing on weekly basis that they are in compliance with such obligations.
- D. Any bidder or subcontractor under the bidder who fails to comply with any one of the obligations 1 through 6 as set forth in paragraph A above for any period of time shall be, at the sole discretion of the (____ town city____) subject to one or more of the following sanctions: (1) cessation of the work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the (town city) in amount of 5% of the dollar value of the contract.
- E. In addition to the sanctions outlined in Paragraph D above, a general bidder or contractor shall be equally liable for the violations of its subcontractor with the

exception of violations arising from work performed pursuant to subcontracts that are subject to CT GL _____. Any contractor or subcontractor that has been determined by the city town _____, or by court or agency to have violated any obligations set forth in Paragraph A and C above shall be barred from performing any work on any future projects for six months for a first violation, three years for a second violation and permanently for a third violation.

- F. If any provision of this ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of the ordinance, or the application of such provisions to person or circumstances, other than that which is enjoined or held invalid shall not be affected thereby.