



Legislation Details (With Text)

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On agenda: 6/28/2016 Final action:
Title: Be it ordained that Section 3.5A of the Revised Ordinances of 1991 be amended relative to publicly funded construction.
Sponsors: Paul Condon
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Be it ordained that Section 3.5A of the Revised Ordinances of 1991 be amended relative to publicly funded construction.

Be it hereby ordained by the Malden City Council that the Revised Ordinances of 1991 as amended be and the same are hereby further amended as follows:

-by striking out Section 3.5A as it currently exists and inserting in place thereof the following new Section 3.5A:

SECTION 3.5A MALDEN RESIDENTS CONSTRUCTION EMPLOYMENT MONITORING ORDINANCE

Section 1. PURPOSE

The City of Malden shall monitor public projects including, but not limited to, residential, institutional, industrial and commercial construction to provide information where appropriate to commercial construction companies as to procedures to hire Malden Residents, who are qualified by craft to be part of and benefit from improvements in the City of Malden.

Therefore, it is appropriate for the City of Malden to make certain that each public project constructed as defined herein, includes employment opportunities for Malden residents as defined in this Ordinance entitled the Malden Residents Construction Employment Monitoring Ordinance.

Section 2. DEFINITIONS

Bidding Authority: Shall be the city department or agency assigned or directly responsible for the bidding and/or project management of public construction.

Contractor: Shall mean all persons, corporations, agencies, firms, businesses, developers, bidders

and subcontractors, for projects defined herein as “Public Construction”.

Prevailing Wage Rate Sheets: The Massachusetts Executive Office of Labor and Workforce Development, Department of Labor Standards is the agency responsible for issuing prevailing wage rate sheets and administering the Prevailing Wage Law which establishes minimum wages for workers on public construction projects under G.L. Chapter 149 Section 26-27.

Malden Resident: Any persons for whom the principal place of residence is within the City of Malden immediately prior to the award, contracting and or permitting of a public construction project. Proof of such residence may include, but is not limited to, the following: a valid Massachusetts driver’s license indicating a Malden residence, utility bills, proof of voter registration within the City of Malden or such other proof acceptable to the Monitoring Committee.

Malden Resident Construction Employment Monitoring Committee (“Monitoring Committee”). The Malden Residents Construction Employment Monitoring Ordinance, its enforcement, and voluntary compliance with its requirements shall be monitored by the Monitoring Committee. The Monitoring Committee shall be comprised of five (5) individuals including the following and each shall serve at the discretion of his or her appointing authority:

- a. Two (2) appointees of the City Council;
- b. Three (3) appointees of the Mayor, one (1) of which must be recommended by the Greater Boston Labor Council.

Initially, one appointment by the Mayor and one appointment by the City Council (not the appointee recommended by the Greater Boston Labor Council) shall serve for one year. Except as noted herein all appointments made in accordance with this Ordinance shall serve for two year terms. Such terms may be sooner terminated, with or without cause, by the appointing authority named herein. All action by the Monitoring Committee shall be by majority vote of a quorum of the then appointed members. A quorum shall be no less than three (3) members.

Malden Resident Employment Certification Form: The Contractor is requested to submit the Malden Residents Employment Certification Form with any and all bids for public construction, which form may from time to time be amended by the Malden Residents Construction Employment Monitoring Committee to suit the purpose and intent of this Ordinance.

Malden Resident Employee Reporting Form: The Malden Residents Employee Reporting Form is to be submitted voluntarily by the Contractor within twenty one (21) days of acceptance of the contract. Such Malden Residents Employee Reporting Form shall contain the names of Malden Residents who have been contacted and are confirmed to be employed by the Contractor. Such Malden Residents Employee Reporting Form may from time to time be amended by the Malden Residents Construction Employment Monitoring Committee to suit the purpose and intent of this Ordinance.

Public Construction: A project or a contract for construction of a project taking place within the City of Malden which is funded in whole or in part by city, state, county, federal or other public funds, or by grant funds administered by the City or which in accordance with a federal, state or other grant which the City expends or administers or a contract to which the City is a signatory. All owner occupied residences; projects which cost less than one hundred thousand (\$100,000.00) dollars; and projects undertaken by any regional commission or board to which the City is not the sole signatory are

exempt from this ordinance.

Section 3. CONTRACTOR RESPONSIBILITY

On Public Construction projects, as defined herein the Contractor is requested to comply with the following requirements:

- In accordance with this Ordinance the Contractor is requested to provide employment in the amount of twenty-five percent (25%) minimum per craft of the total project hours to Malden residents qualified by craft.

The Contractor is requested to provide employment in the amount of fifteen percent (15%) minimum per craft of the total project hours to minorities qualified by craft.

The Contractor is requested to provide employment in the amount of five percent (5%) minimum per craft of the total project hours to women qualified by craft.

The Contractor is requested to provide employment in the amount of ten percent (10%) minimum per craft of the total project hours to apprentices indentured to a bona fide apprenticeship program, approved by the Commonwealth of Massachusetts.

The Contractor is requested to submit with any and all bids for Public Construction the form titled "Malden Residents Employment Certification" forms which will be made available in the Bid Specifications. It is the responsibility of the Contractor to complete such form.

The Contractor as determined by the Bidding Authority shall within thirty (30) days of such determination complete the Malden Residents Employee Reporting Form and submit the form to the Bidding Authority.

The Contractor shall designate a contact person as a liaison with the Monitoring Committee. The contact person shall forward the name, address and phone number of the designated individual to the Monitoring Committee. The Contractor is responsible for keeping the Monitoring Committee advised of any personnel changes of the contact person.

The Contractor shall make available to the Monitoring Committee all requested records and information relevant to monitoring this Ordinance. The Contractor shall allow any representative from the Monitoring Committee access to job sites and employees during usual business hours as the Monitoring Committee deems necessary.

The Contractor agrees to provide to the Monitoring Committee the name, address and telephone number of the business to whom a contract was awarded.

Section 4. MONITORING COMMITTEE RESPONSIBILITY

The Monitoring Committee shall meet on a monthly basis, or as needed, and shall review and monitor all information and documentation provided by developers to establish monitoring in accordance with this ordinance. Upon request, all Contractors shall submit to the Bidding Authority weekly workforce reports listing the following; name of each employee, residential address of each employee and length of residence; craft of each employee, job category of each employee, hours worked of each employee, hourly wage of each employee and company for which each employee is

employed. The Monitoring Committee shall draft and accept all forms that are necessary for monitoring in accordance with this ordinance.

Section 5. MONITORING COMMITTEE REVIEW

The Monitoring Committee shall review the Malden Resident Employee Reporting Form(s) as submitted by the Contractor and the Bidding Authority. The Monitoring Committee shall further be responsible for carrying out the review provisions of this ordinance.

Section 6. BIDDING AUTHORITY RESPONSIBILITY

Fourteen (14) days prior to the date of public bidding (including any and all subcontractor bidding) it shall be the responsibility of the Bidding Authority to serve public notice to the residents of the City of Malden that a Public Construction Project is being bid. Such notice shall be for the purpose of informing Malden residents of employment opportunities in accordance with job classifications applicable to the project being bid.

Such notice shall be placed in the newspaper of regular circulation fourteen (14) days prior to the bid notice and shall include all project information as required and require the inclusion of the following language at the beginning of such notice:

CITY OF MALDEN NOTICE OF PUBLIC CONSTRUCTION:

Registration of Malden Residents for Employment in Accordance
with Malden Residents Construction Ordinance:

In accordance with the Malden **Residents Construction Ordinance** this is a public notice to request Malden residents skilled in trades as listed in MGL Chapter 149 Section 26 to 27D amended as applicable to the below project to register their names for consideration of employment for such project. Registration must be made on the appropriate form titled "Malden Resident Public Construction list" at 200 Pleasant Street, Malden.

The Bidding Authority shall include a copy of this Ordinance and any and all forms in all copies of the Bid Specification for Public Construction Projects as defined herein.

It shall be the responsibility of the Bidding Authority to submit to the Malden Residents Construction Employment Monitoring Committee a copy of the Prevailing Wage Rate Sheets, Malden Resident Construction List with the appropriate items completed and the Malden Resident Employee Reporting Form for the lowest bidder.

Section 7. ADMINISTRATION

It shall be the responsibility of the Malden Residents Construction Employment Monitoring Committee to maintain the Malden Resident Public Construction List on a project by project basis and provide copies of such list to all prospective Contractors bidding on Public Construction. A running list of all registrants shall also be maintained in a database for use by the City for contacting

Malden Residents.

Section 8. PRIORITY OF LAW

Where this law or any selection of employees thereto conflicts with other laws relating to Affirmative Action hiring requirements as set forth by federal, state or local laws, those laws shall supersede this chapter.

Section 9. LEGALITY

In the event any section of this Ordinance is deemed illegal, unenforceable or unconstitutional, then the remaining sections shall remain in full force and effect.