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Office of the City Clerk

Ronald D. Leonhardt  
City Clerk

Jim Owczarski  
Deputy City Clerk

April 3, 2012

Rocky Marcoux  
Director of the Department of City Development  
Department of City Development  
809 Bldg., 2<sup>nd</sup> Floor

Dear Mr. Marcoux:

According to s. 355-15 of the Milwaukee Code of Ordinances (attached), the Department of City Development is required to submit an annual report to the Common Council relating to compliance with the Community Participation Ordinance.

As of this date, our office has not received a report. The Common Council respectfully requests submission of the report, could you please inform this department when the report will be submitted?

Thank you for your response in this matter.

Sincerely,



James Owczarski  
Deputy City Clerk

Attachment  
JRO/dkf

cc Community and Economic Development Committee Members  
✓ Chris Lee, Staff Assistant, Community and Economic Development Committee

City Hall • Room 205 • 200 East Wells Street • Milwaukee, WI 53202 • Phone (414) 286-2221 • Fax (414) 286-3456

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**355-11 Community Participation In Development Agreements**

**355-11. First-Source Employment Utilization.**

1. **DEFINITIONS.** In this section "first-source employment program" means an employment program operated by the city or its designee which is to be utilized as contractors' first source for recruiting applicants for both new and replacement employment.

2. **RECIPIENT OF DIRECT FINANCIAL ASSISTANCE.** Recipients of direct financial assistance shall require all of their contractors and subcontractors on the project to utilize the first-source employment program, subject to the following:

a. Prior to announcing or advertising a position for work which shall be performed as a result of a construction contract, construction subcontract or of a new employment position, a contractor or subcontractor shall notify the office of small business development, or its designee, about the position, including a general description and the minimum requirements for qualified applicants.

b. The contractor or subcontractor shall not make any public announcement or advertisement for a period of 10 business days after notification to the office of small business development or its designee, of the availability of the position.

c. The office of small business development or its designee shall maintain a database of job opportunities subject to this section and shall provide information on these job opportunities to all city residents.

d. The advance notice period required by par. b shall be waived if there are no qualified candidates to refer to the contractor or subcontractor. The office of small business development or its designee, shall notify the contractor of this waiver within 5 business days of being informed of the job availability.

e. The office of small business development or its designee shall institute a tracking system and record which applicants were interviewed, which applicants were not interviewed and which applicants were hired for positions subject to this subsection.

3. The office of small business development shall confirm that each construction contract for a project entered into by a recipient of direct financial assistance

requires contractors and subcontractors to enter into a first-source agreement with the city or its designee which shall apply for the duration of the contract. A first-source recruitment agreement shall require:

a. Utilization of the city's first-source employment program as the first source for recruitment and referral of applicants for new and replacement employment.

b. Allowing the city's first-source employment program a minimum of 10 business days to refer applicants to contractors. Contractors may apply for a waiver of the 10-day requirement in emergency situations. Waivers may only be granted by the office of small business development or its designee.

c. The contractor or subcontractor to interview and consider qualified applicants referred by the office of small business development or its designee before interviewing others.

4. **HIRING DECISIONS.** Contractors and subcontractors shall retain the right to make all final hiring decisions.

5. **AGREEMENTS.** First-source recruitment agreements shall not require contractors or subcontractors to comply with this section if job vacancies or newly-created positions are filled by transfer or promotion from existing staff or from a file of qualified applicants previously referred by the office of small business development or its designee.

6. **DISTRIBUTION OF INFORMATION.** The department and the office of small business development shall distribute information about the first-source employment program to all developers of commercial, industrial and mixed-use projects in the city, including all developers not receiving direct financial assistance.

7. **ENFORCEMENT.** The office of small business development shall monitor compliance with this section.

**355-13. Other Requirements.**

1. **CASH FLOW AND COST-SAVINGS PARTICIPATION.** When determined feasible by the commissioner,

development agreements shall include provisions under which the city benefits financially from either lower-than-expected project costs or higher-than-expected project cash flow.

**2. PAYMENTS IN LIEU OF TAXES.**

When direct financial assistance is provided to a project in the form of tax incremental financing, the development agreement shall require a payment in lieu of taxes with respect to any parcel or building within the project that is or becomes exempt from real property taxes. This provision shall be incorporated into a covenant running with the land.

**4. EMERGING BUSINESS ENTERPRISES.** The developer of any project receiving direct financial assistance from the city shall utilize emerging business enterprises for project expenditures in a total aggregate dollar amount equal to 25% of construction costs plus 18% of amounts expended for the purchase of services, professional services and supplies. This requirement shall be included in the development agreement between the city and the developer and in any cooperation agreement under which the city is providing another governmental entity with financial assistance for development-related activities. A business that is certified with Milwaukee county's community business partners program as a disadvantaged business enterprise shall qualify as an emerging business enterprise under ch. 360, and be included when determining compliance with this subsection.

**355-15. Annual Reports.** The department shall compile data assembled by its own employes and the department of administration and provide an annual report to the common council on compliance with the requirements of this chapter on or before October 1 of each year.

**355-17. Sanctions.** Every development agreement subject to the requirements of this chapter shall contain language indicating that if any document submitted to the city by a developer receiving financial assistance, a contractor or subcontractor under this chapter contains false, misleading, fraudulent information or demonstrates non-compliance with the requirements of this chapter, the department of administration may seek prosecution under s. 355-19 or the imposition of any of the following sanctions:

a. Imposition of a requirement that remedial efforts be undertaken by developers for the remaining portion of a project where initial reports demonstrate non-compliance with the resident preference hours required for the project.

b. Specific performance or specified remedies under any emerging business enterprise agreement or first-source recruitment agreement.

c. Remedies available to the city under a development agreement for such non-compliance.

**355-19. Penalty.** Any person, firm or corporation knowingly engaging in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this chapter by providing false, misleading or fraudulent information shall, upon conviction, forfeit not less than \$2,000 nor more than \$5,000 together with the costs of prosecution.