

ORDINANCE NO. 05-0020

SPONSOR: ANTHONY COPELAND

**AN ORDINANCE AMENDING ORDINANCE NO. 04-0005 AND REPEALING ALL
ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR A CITY OF
EAST CHICAGO LOCAL HIRING ORDINANCE**

WHEREAS, the rate of unemployment among residents of the City of East Chicago is higher than both the national and statewide averages; and

WHEREAS, the City Council of the City of East Chicago is desirous of promoting employment opportunities for residents of the City; and

NOW THEREFORE, be it ordained by the City Council of the City of East Chicago that:

SECTION 1. For all non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works, having an estimated contract value of \$100,000 or more, and where not otherwise prohibited by federal, state, or local law the total hours Worked by persons relative to the project by employees of the Contractor and its subcontractors shall be performed at least fifty percent (50%) by actual residents of East Chicago. Henceforth, the total workforce hours of all employees hired by the Contractor and its sub-contractors in the categories of skilled and nonskilled jobs, or any combination thereof, for all non-specialized construction contracts and nonexempt specialized contracts, as determined by the Board of Public Works, shall be performed by at least fifty percent (50%) actual residents of the City of East Chicago.

SECTION 2. "Actual residents of the City of East Chicago" shall mean persons domiciled within the City of East Chicago. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

SECTION 3. This minimal percentage of East Chicagoans shall not be understood as limiting or deterring the fuller utilization of East Chicagoans beyond this level, but is intended instead as minimum requirements unless the City grants a waiver based upon demonstration by the Contractor of impracticability or excessive cost of complying with the specified percentages. A waiver or reduction shall be deemed appropriate if the Contractor and/or its subcontractor has unsuccessfully solicited a sufficient number of residents of the City of East Chicago to perform the work and has documented such effort to the satisfaction of the City. In addition, the Contractor and/or its subcontractor seeking a waiver or reduction shall provide

timely notice of the need for qualified residents of the City of East Chicago to an appropriate source of referrals, which source shall be entitled to comment on any waiver or reduction application.

SECTION 4. The Contractor and its subcontractors that perform work on all non-specialized construction contracts and nonexempt specialized contracts as determined by the Board of Public Works shall comply with the minimum percentage of total worker hours performed by actual residents of the City of East Chicago as specified in this Ordinance.

SECTION 5. The City of East Chicago's Local Hiring Ordinance shall be included in all non-specialized construction contracts and nonexempt specialized contracts as determined by the Board of Public Works and let by the City. The compliance, enforcement, and sanctions of this ordinance shall be governed by the individual terms of each contract awarded. Any contractor entering into a public contract with the City, political subdivision of the City or any department of the City by acceptance of the contract, agrees to comply with and be bound by the terms of the Local Hiring Ordinance.

SECTION 6. The Contractor shall submit with its bid solicitation and/or contract document the Affidavit of East Chicago Residency Hiring attached hereto.

SECTION 7. All contracts awarded by the City, a political subdivision of the City or any department of the City shall be on forms prescribed and approved by the City Council and by the Law Department of the City.

A. Such forms shall include the following but not limited to language which shall govern the local hiring provision:

- (i). Contractors shall comply with the 50 percent (50%) local hiring requirement on contracts as designated by the City.
- (ii). Monitoring of compliance with the local hiring ordinance will be done by a compliance officer from the Human Rights Commission and/or designated representative.

B. Compliance and Reporting

- (i). The Contractor shall provide for the maintenance of adequate employee residency records to ensure that actual East Chicago residents are employed on the designated construction project. The Contractor and its subcontractors shall maintain copies of personnel documents supportive of every East Chicago employee's record of actual residence. Such

documentation may include but not be limited to the following items: a copy of the employee driver's license; a valid state ID, a copy of a current utility bill; and/or a copy of the individual voter's registration card.

- (ii). The Contractor shall submit and shall ensure that all of its subcontractors working on the Site submit two (2) copies of certified payrolls for the payment period to the City or its designated representative every week. (U.S. Department of Labor Form WH-347 and/or an equivalent: i.e. electronic format, as determined by the City). In addition, the Contractor and all of its subcontractors shall identify clearly the actual residence of every employee on each submitted certified payroll, the first time that an employee's name appears on a payroll, the date that the company hired the employee should be written in after the employee's name. Whereby Contractor has identified an employee as an East Chicago Resident the following but not be limited to documentation shall accompany the certified payroll whereby the employee's name first occurs: a copy of the employee driver's license; a valid state ID, a copy of a current utility bill; and/or a copy of the individual voter's registration card. All payrolls must be identified with the Contractor and/or subcontractor's name and Contract name and number, and must be sequentially numbered. The Contractor shall ensure that its payrolls and its subcontractors payrolls are submitted until all Work by the Contractor and/or subcontractor is completed. If there are periods of no Work by the Contractor and/or subcontractor, a payroll labeled "NO WORK" shall be submitted. The final payroll shall be labeled "FINAL." Certified payrolls are required to assure workforce hiring compliance as well as wage compliance. Race, ethnicity, worker classification, social security number, and gender must be clearly marked for each employee on the certified payroll along with all additional information required by the City. An employee's address should appear every time his/her name appears on the payroll. The Contractor must submit the certified payrolls and additional information regarding workforce hiring and wage compliance by providing a payroll summary report in the form required by the City. The payroll summary report form required by the City and the U.S. Department of Labor must be submitted by Contractor and each subcontractor, reflecting fully the periods of Work covered by the partial payment request.
- (iii). Full access to the Contractor and its subcontractors' employment records shall be granted to the City, or any duly authorized representative thereof.

The Contractor and subcontractors shall maintain all relevant personnel data for a period of at least three (3) years after final acceptance of the Work.

- (iv). At the direction of the City, affidavits and other supporting documentation will be required of the Contractor to verify or clarify an employee's actual address or change of actual address when doubt or lack of clarity has arisen.

C. Non-compliance

- (i). Good faith efforts on the part of the Contractor to provide utilization of actual East Chicago residents shall not suffice to replace the actual, verified achievement of the requirement concerning the worker hours performed by actual East Chicago residents.
- (ii). The City may impose the following remedies if the Contractor is found to be in noncompliance in achieving the workforce-hiring requirement as cited in this ordinance:
 - (a) Stop work on Contract until compliance is reached.
 - (b) Suspension of payments.
 - (c) Termination of the Contract.
- (iii). If the Contractor is permitted to complete the Work and when Work is completed, and the City has determined that the Contractor failed to ensure the fulfillment of the requirement of this ordinance concerning the worker hours performed by actual East Chicago residents, or has failed to report in the manner indicated above under "Reporting and Compliance", the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to East Chicagoans to the degree stipulated in this Supplementary Condition. Therefore, in such a case of non-compliance it is agreed that 1/10 of 1 percent, of the Adjusted Contract Price (approved contract value) shall be withheld by the City in payment for each full one percentage of shortfall toward the stipulated residency requirements. Failure to report the residency and hours of all employees

entirely and correctly shall result in the surrender of the entire liquidated damages as if no East Chicago residents were employed. The formula shall be calculated as such:

$$.0010 \times \text{Adjusted Base Amount} = \text{Sum} \times \text{Net Deficiency} = \text{Potential Damage Amount.}$$

- (iv.) The willful falsification of statements and the certification of payroll data may subject the Contractor, subcontractors, or employee to prosecution.
- (v.) Liquidated damages, if any, will be calculated on completion of the Work and submission of the Contractor's final pay request together with all attendant certified payrolls, schedules of values, lien releases and other required documentation of workforce hiring.
- (vi.) Nothing herein provided shall be construed to be a limitation upon the Human Rights Commission Ordinance No. 3286 (November 16, 1981) as amended, or other affirmative action requirements under the regulations promulgated by applicable federal, state or local authorities.
- (vii.) The monetary damages stipulated in subsection (b) hereof may be adjusted by the City to represent a larger fraction of the Adjusted Contract price, if the City determines after a review of Contractor's compliance with this Section that said damages are insufficient to secure compliance herewith. In no event may damages be adjusted to a lower fraction. In addition to assessing the monetary damages stipulated in subsection (b) hereof, the City may, in lieu of declaring the Contractor to be a non-responsible bidder, require the Contractor to post a surety bond or other appropriate security in an amount representing ten percent (10%) of the Contract Price for subsequent contracts on which the Contractor bids, which the Contractor shall agree to forfeit in its entirety in the event that full compliance with the requirements of this section is not achieved during the performance of any future contract that the Contractor enters with the City.

SECTION 8. The monetary damages as stipulated above in Section 7, shall be utilized for establishing worker training related programs for the City of East Chicago.

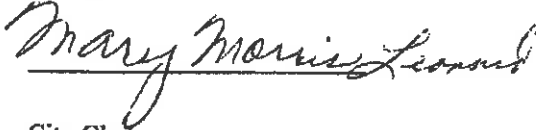
SECTION 9. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

PASSED and ADOPTED by the City of the City of East Chicago, Indiana on the
13th day of JUNE, 2005.



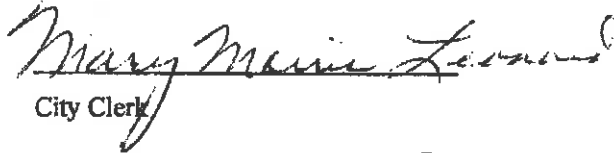
Presiding Officer

ATTEST:



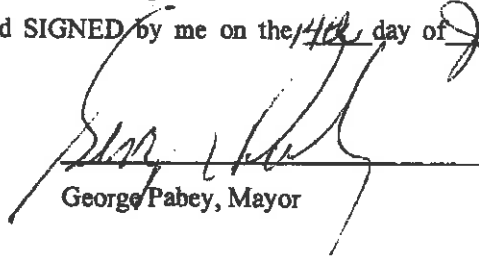
City Clerk

PRESENTED by me to the Mayor of the City of East Chicago, Indiana on the
____ day of _____, 2005.



City Clerk

This ordinance APPROVED and SIGNED by me on the 14th day of June,
2005.



George Pabey, Mayor

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MARY MORRIS LEONARD
CITY CLERK