Re: EP4.1
Submitted by Chief Executive Officer, Exhibition Place - Part 2

MERITONTARIO

June 14, 2019

EX6.3.6

Michael Pacholok
Chief Purchasing Officer
Purchasing and Materials Management
100 Queen Street West, 18th Floor West Tower
Toronto City Hall, ON M5H 2N2
Email: mike.pacholok@toronto.ca
VIA EMAIL

RE: June 6, 2019 Executive Committee Meeting Item 2019 Ex. 6.3: Motion from Mayor John Tory to the Executive Committee

Dear Michael:

Merit OpenShop Contractors Association of Ontario ("Merit Ontario") is a member driven organization representing Ontario's open shop construction sector. We represent general contractors, sub-contractors and specialty subcontractors of various construction trades throughout Ontario and advocate for fair and open tendering in construction.

In response to the City of Toronto's ("the City") request regarding seeking further information to address the *June 6, 2019 Executive Committee Meeting Item 2019 Ex. 6.3: Motion from Mayor John Tory to the Executive Committee*, please find below information for your assistance:

1. The importance of recognizing the City's Pre-qualification Requirements within its Procurement Process Policy as a mechanism to protect the public interest

Merit Ontario believes that the City has currently in place important safeguards such as its Pre-qualification requirements within the *City of Toronto's Procurement Processes Policy, January 1, 2017*, which serve to protect the interests of the City, the public and the persons participating in the procurement process. It should be noted that not all city procurement is pre-qualified, however over the last few years, the City has become more rigorous in its tendering process and increasingly using the pre-qualification mechanism for City projects. The pre-qualification requirement is as follows:

7.2.Pre-Qualification for Selective Solicitations

7.2.1 .Request for Supplier Qualification

7.2.1.1.The Chief Purchasing Official is authorized to determine, in consultation with the division head initiating the solicitation, those suppliers meeting the minimum disclosed standards for technical qualifications and professional competence to respond to future related Solicitation(s).

7.2.1.2.The Purchasing and Materials Management Division shall use a request for supplier qualification (RFSQ) prior to a solicitation for tenders, quotations or proposals, where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified bidders.

7.2.1.3. The Purchasing and Materials Management Division shall include language that disclaims any contractual commitment or other obligation of the City to call on any supplier to provide goods or services as a result of pre-qualification within the RFSQ.

Merit Ontario members are professional contractors which work on numerous Institutional, Commercial and Industrial ("ICI") projects throughout Ontario and various other geographical markets in Canada, the United States and globally. Over 90 percent of member companies work in the ICI sector in Ontario where they have been in operation since the turn of the century beginning as small family owned/operated enterprises towards becoming large, sophisticated, leading edge and successful construction companies today.

The marketplace and the City's pre-qualification requirements do not limit Merit Ontario member general contractor companies from bidding for City projects as member general contractors are able to work within this framework; however, **member general contractors are unable to self-perform work nor are they able to contract-out work to trusted open shop subcontractors with excellent safety records and/or reputations within the Ontario marketplace on City projects.** This represents an opportunity for savings for the City of Toronto which Bill 66: Schedule 9, in particular open tendering, looks to address.

2. Why a self-performing Open Shop General Contractor can assist the City with efficiency, cost savings, and adhering to high safety standards:

Many Merit Ontario members are among the safest contractors in Ontario that do self-performing work successfully in other jurisdictions where the benefits are as follows:

1: Saving time allows for efficiencies

- A self-performing contractor understands the work and is not bogged down by inefficient, inaccurate and unreliable scheduling from subcontractors.
- Should a subcontractor fall behind schedule, impacting the whole project, the ability to self-perform work provides an option to ensure the project is done safely and on time.
- Saving time will provide fixed overheads, contain costs for the time of the project manager(s), consultant(s) and site supervisor(s); and allows for logistical efficiencies such as the delivery and removal of heavy equipment, cranes, trailers, rental equipment, and information technology services.

- Subcontractors, such as union mechanical contractors, are subject to a supply of labour that performs on a four-day a week work schedule leading to inefficiencies on times for setup, delays on project completion, and by holding up other trades who may need to suspend their work until the mechanical trade has completed their scope of work (which can be difficult to manage given Toronto's size).

2: Saving money gives the City options

- Grievances on jurisdictions of scopes of work can lead to duplication of work and materials as various unions claim various scopes of practice on the jobsite; self-performing the work generates a thorough knowledge of task-related labour necessities, material options and availability.
- During preconstruction, the lead contractor's self-perform knowledge provides owners and architects with accurate budget information for their designs.
- Savings can be achieved on bulk orders and by streamlining surcharges that can occur when subcontractors are added to a project (markups on materials).
- Offsite prefabrication of materials and products that meet the contractual specifications are often not allowed in the current closed system, this would save time, cost and much needed space (that on certain City projects is scarce).
- Synergy of multiple trades using the same equipment can lead to efficiency and cost savings when the work is self-performed. An example of this is a lull, where under the current City model the general contractor, a mechanical contractor, an electrical contractor all bring their own lull equipment onsite, where often only one machine is needed.

3. Quality control and ensuring safety

- **Many Merit Ontario general contractors are COR Safety Certified and some exceed COR by adhering to international (ISO) safety standards.**
- Self-performing crews have concrete finishers, carpenters, formworkers, and millworkers on hand that have trained and worked together on numerous projects under a culture of safety.
- Within a culture of safety, experienced self-perform work crews adhere to the highest safety standards from the top down with proper company controls to enforce quality and safety on all aspects of the project.
- On projects, materials must meet the requirements mandated by the pre-qualification requirements of the project and contract; therefore, all union and non-union contractors would be required to use the same materials.
- Additional safeguards for procurement officials are also available such as the WSIB's Compass Web Tool https://compass.wsib.on.ca/?lang=en. This can help to research a business' workplace health and safety statistics in Ontario.

3. With a Fair Wage Policy in place – why are union wages still more expensive?

The City's Fair Wage policy in addition to mechanisms such as the pre-qualification requirements, does not allow for the system to be subject to a race-to-the-bottom scenario with respect to wages as argued by the unions.

Merit Ontario encourages a diverse workforce where members provide their employees with class leading benefits, pensions and in some cases the opportunity for profit sharing (extension of shares within the company). **Merit Ontario contractor members already pay at or above the prevailing wage in order to attract and retain talent for their various construction projects especially with the current skilled labour shortage.** In the case of City, this practice is in line with the City's Fair Wage Policy.

One of the starkest differences between open shop and union labour costs relates to the employer's hourly package price, specifically the amount of additional employer contributions that the unionized employer must pay the union in addition to the basic rate, pension, vacation, and health and welfare (this would be considered the standard package price). Examples of additional funds are union promotion funds, zone association funds, contingency funds and job target/stabilization funds as negotiated in various collective agreements. **These additional costs represent approximately 7.5% over and above the standard hourly package price, which is why total union wages are more expensive.**

Of note is the rationale for job targeting funds ("JTFs"), that are used by unions to subsidize wages for projects in municipalities outside of the City where union contractors would not be as competitive with their bids as many of these municipalities practice open tendering. These funds raise several public policy concerns:

- Should City taxpayer dollars be used as part of this practice?
- Should unionized workers, unionized employers and the City be forced and to subsidize the salaries of other workers via mandatory contributions to these funds?
- Should unionized employers and workers be given an advantage over non-unionized employers and workers when bidding on projects as a result of subsidizing wages via a JTF?

Merit Ontario believes that non-unionized employers and workers should be on a level playing field when competing for work with unionized employers and employees. Job targeting funds give unionized employees and employers an unfair advantage and by the City remaining closed, this practice will continue.

4. A Culture of Safety and Training

Merit Ontario advocates for a proactive approach to safety training and education. Arguments that open shop contractors are unsafe and do not train their workers are simply false. **As employers on a construction project, whether union or non-union, it is the employer that is responsible for the competency of the worker in the performance of the task on the jobsite.**

In the case of a union contractor, when a union member is dispatched to a jobsite for a project, it is up to the union contractor to determine whether that employee can do the work competently and safely despite having all their training records in order. Measuring whether the worker can do the task competently and safely, as per the safety standards set by the employer, is the responsibility of the employer. Merit Ontario contractor members are no different.

In addition, similar to Merit Ontario contractor members, many union contractors employ staff directly and are responsible for providing any onsite, job specific and ongoing training required, where the union is not involved in this training.

1. *Baseline training requirements*

Merit Ontario members offer the following baseline training on par with union local training centres. The following list shows baseline training requirements that a typical contractor in the ICI construction sector would need to adhere to whether union or non-union:

- Working at Heights, recertification/refresher training required every 3 years
- WHMIS training compliant with 2015 regulatory requirements, and refreshed annually
- Worker/Supervisor Awareness training, Ministry of Labour Program aimed at identifying the 4 or 5 steps respectively in the worker/supervisor's awareness of their responsibilities under the Occupational H&S Act
- Trade qualification, as per the Ontario College of Trades and Apprenticeship Act
- Each trade's scope of work is reviewed, and additional training requirements are identified for each individual worker, dependent on the analysis of that scope of work, including but not limited to:
    - Equipment operation training, i.e. Forklift, Elevated Work Platform, Heavy Equipment Operator competency, etc.
    - Confined Space Entry
    - Tunnel Rescue, etc.

Merit Ontario's members provide a proper safety procedure and processes standard that is mandatory amongst their employees, and in the case of general contractors, is extended to its subcontractors to follow.

2. *Management training*

In addition to baseline training that ICI Contractors conduct whether internally or through the union local training halls, Merit Ontario and its members offer construction management training, such as supervisor training, as soft skills are integral for team cohesiveness and productivity. On supervisor training, a member contractor would implement supervisory training over a period of time as individuals are identified as having leadership qualities and for being effective in their trade.

An example of this is accomplished through internal investments made in leadership and mentoring programs. Within various leadership programs, health and safety management, liability and due diligence for leadership are themes that are incorporated into training to ensure that employer leaders have the competency level to oversee and mitigate the risk and scope of their respective employer projects.

Conclusion:

The notion that open shop general contractors are unsafe and use unsafe open shop sub-contractors is a fallacy. Mechanisms such as the pre-qualification process work to identify qualified general contractors and its subcontractors that will be invited to submit tenders. With cost increases due to duplicity of materials, equipment and duplicity of tasks on the jobsite, in addition to a much more expensive hourly package price per employee, **there are clear increases in costs that the City cannot ignore.**

If the City remains as a non-construction employer, the opportunity for additional bids could provide savings for the City. ***In the attached chart,*** and drawn from data available publicly, a look at the number of bids from a small sample size shows that on average, bids outside of the City for similar types of projects are much higher. These bids include both unionized and non-unionized construction firms.

The chart is over a four (4) year period and is a small sample size covering values of construction tenders that are under $10M tendered (not below $6M) and over $10M (as high as $120M). One key observation is that the City in comparison to similar types of projects outside the City, received 2 or 3 bids versus tenders from other municipalities with similar projects receiving 5 or 6 qualified bids. This is double the number of bids when compared to City of Toronto and should be noted that no bids outside the City received qualified bids between only 1 or 2 bids.

There are many open shop contractors and employees, whom pay taxes to the City and are not given an opportunity to work in the community they work and live in. By practicing open tendering, the City has an opportunity to receive many more qualified bids, thus more options for all workers and taxpayers.

Of course safety will always be argued as the main reason for not allowing more bids, we argue, that as the Chief Purchasing Official is mandated though the pre-qualification requirements to seek the best companies who meet the “disclosed standards for technical qualifications and professional competence” as per section 7.2.1.1 in the *City of Toronto’s Procurement Processes Policy, January 1, 2017,* they have an obligation to ensure that the contractors bidding on a project meet the minimum requirements regardless of whether or not the contractor uses union or non-union labour.

All companies that bid with the City are subject to:

- The Contractors Qualification Statement with supporting material
- References for past projects completed for the Public Sector
- A project description where the contractor can align its experience to the specific project requirements where it would need to disclose its experience on similar type projects
- Meet the criteria for the scope of work where the supply of labour, material, supervision and equipment is reviewed to deliver the project
- A requirement that the general contractor to be bondable
- The Fair Wage Schedule with the City of Toronto

Merit Ontario recommends that the City of Toronto model change to one that accepts bids from all qualified bidders, regardless of union affiliation, as its available strong pre-qualification system and Fair Wage Policy ensure that the City receives the best bid for the best price with the best companies doing the work.

We agree and applaud the May 29, 2019 EX6.3 Report from the City Manager to the City of Toronto Executive Committee on Schedule 9, Changes to the Labour Relations Act, 1995 – Restoring Ontario’s Competitiveness Act, 2019 where the City Manager recommends that “City Council take no action, thereby confirming the City of Toronto as a non-construction employer effective the day subsections 127 (1) to (4) of the Labour Relations Act, 1995 come into force.”

I thank you for the opportunity and look forward to working together with the City of Toronto on future initiatives. Should you require anything further, please do not hesitate to contact me at 416-483-3856 or via email at mgallardo@meritontario.com.

Sincerely,

Michael Gallardo
Executive Director
Encl.

SOURCES:

1. City of Toronto Procurement Processes Policy, January 1, 2017, https://www.toronto.ca/wp-content/uploads/2017/08/9587-Procurement-Processes-Policy-January-1-2017.pdf
2. EX6.3 City Manager Report to the City of Toronto Executive Committee, May 29, 2019 https://www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-133465.pdf
3. City of Toronto Fair Wage Office and Policy Website, https://www.toronto.ca/business-economy/doing-business-with-the-city/understand-the-procurement-process/fair-wage-office-policy/

bidders (Toronto)

	1	2	3	4	5	6	7	8	9	10	11
# of tenders		4	5	1	4	1					
60% of City of Toronto Tenders receive 2 or 3 bidders		27%	33%	7%	27%	7%					

Region/City	Project	Value	Year	Prequalified	Number of Bidders
Toronto	**Ashbridges Bay TP - Phosphorus Removal Upgrades**	**Over $10 Million**	**2016**	YES	**5**
Toronto	**Ashbridges Bay - Effluent Disinfection Sysytem**	**Over $10 Million**	**2017**	**YES**	**3**
Toronto	**Ashbridges Bay Cleaning of Digesters 13 & 16**	**Over $10 Million**	**2017**	**YES**	**5**
Toronto	**Ashbridges Bay TP - M & T Building Critical Repair Contract 2**	**Under $10 Million**	**2016**	**YES**	**6**
Toronto	**Ashbridges Bay Treatment Plant IPS Site Preparation**	**Over $10 Million**	**2017**	**NO**	**2**
Toronto	**Highland Creek TP - Liquid Train Upgrades**	**Over $10 Million**	**2019**	**YES**	**4**
Toronto	**Humber Treatment Plant, Secondary Treatment Upgrades**	**Over $10 Million**	**2016**	**YES**	**5**
Toronto	**Parkdale P.S**	**Under $10 Million**	**2017**	**YES**	**3**
Toronto	**R.L CLARK WTP-FILTER 2 REHAB**	**Under $10 Million**	**2019**	**NO**	**3**
Toronto	**R.C. Harris WTP Filter Upgrades**	**Over $10 Million**	**2019**	**YES**	**3**
Toronto	**Rosehill Reservoir Rehab**	**Over $10 Million**	**2017**	**YES**	**2**
	Ashbridges Bay TP Process Air Header Rehabilitation	**Under $10 Million**	**2018**	**NO**	**2**
Toronto	**R L Clark Water Treatment Plant**	**Over $10 Million**	**2017**	**YES**	**3**
Toronto	**Ashbridges Bay Treatment Plant Digesters 9-12 Refurbishment**	**Over $10 Million**	**2018**	**YES**	**5**
Toronto	**Western Beaches Tunnel**	**Over $10 Million**	**2018**	**YES**	**2**

	bidders (non Toronto)										
	1	2	3	4	5	6	7	8	9	10	11
# of tenders			3	4	10	4		2		1	1
			12%	16%	40%	16%		8%		4%	4%

56% of other Owners reveive between 5 or 6 bids per tender

84% of other Owners reveive between 3 and 6 bids per tender

Region/City	Project	Value	Year	Prequalified	Number of Bidders
PEEL	**G.E.BOOTH - CONTRACT 1 A - INLET CONDUIT**	**Under $10 Million**	**2019**	**NO**	**5**
York Region	**Bayview**	**Under $10 Million**	**2018**	**NO**	**5**
Halton	**Beaufort Pumping Station and Reservoir**	**Over $10 Million**	**2016**	**YES**	**3**
Guelph	**Burke Well Water Station Upgrades**	**Under $10 Million**	**2017**	**YES**	**5**
Durham	**Corbett Creek WPCP**	**Over $10 Million**	**2016**	**YES**	**5**
Durham	**Duffin Creek WPCP - SBT Restoration Project**	**Under $10 Million**	**2018**	**NO**	**4**
York	**Duffin Creek WWTP Stage 1 & 2 Demolition & Removal**	**Under $10 Million**	**2017**	**YES**	**3**
Halton	**Dundas East WW PS**	**Over $10 Million**	**2016**	**YES**	**4**
City of Quinte West	**Dundas Street SPS Upgrades, Trenton**	**Over $10 Million**	**2018**	**YES**	**5**
Peel	**G.E. Booth Primary Expansion and Misc Improvements**	**Over $10 Million**	**2018**	**YES**	**5**
Durham	**Harmony Creek WPCP**	**Over $10 Million**	**2017**	**YES**	**3**
Town of Innisfil	**Construction of New Pumping Station No. 2, Innisfil**	**Under $10 Million**	**2018**	**YES**	**4**
Durham	**Jeffery St. Pumping Station & Whitby West Trunk Sewer**	**Over $10 Million**	**2016**	**YES**	**5**
Peel	**Lakeview WTP Natural Gas Power Facility**	**Over $10 Million**	**2018**	**NO**	**6**
Peel	**Lorne Park WTP Pumping Station Upgrades**	**Under $10 Million**	**2018**	**YES**	**6**
Peel	**Lorne Park WTP Maintenace Program**	**Under $10 Million**	**2017**	**NO**	**5**
Town of Aurora	**Ridge Road Booster P.S.**	**Under $10 Million**	**2016**	**YES**	**8**
The Regional Municipally of Niagara	**Rosehill WTPU**	**Over $10 Million**	**2017**	**YES**	**5**
The Regional Municipally of Niagara	**Seaway WWTP Secondary Clarifier Upgrades**	**Under $10 Million**	**2018**	**NO**	**6**
Peel	**Silverthorn P.S**	**Under $10 Million**	**2017**	**YES**	**6**
The Corporatrion of the Town of Bradford West Gwillimbury	**Bond Head SPS**	**Under $10 Million**	**2017**	**NO**	**11**
Peel	**Replacement of the Original Ash Piping at The G.E. Boo Wastewater Treatment Plant**	**Under $10 Million**	**2018**	**NO**	**5**
Peel	**Silverthorn Pumping Station & Reservoir - Building Expansion Project**	**Over $10 Million**	**2019**	**NO**	**10**
City of Hamilton	**Woodward Avenue MPS**	**Over $10 Million**	**2017**	**YES**	**4**
Municipality of Trent Hills	**Campbellford Water Supply System Upgrades**	**Under $10 Million**	**2017**	**NO**	**8**

June 17, 2019

Mayor John Tory and Toronto City Council
100 Queen Street West
Toronto, ON
M5H 2N2

Sent via email: councilmeeting@toronto.ca

Your Worship John Tory and Councillors:

You have an important decision in front of you today. A decision that's about fairness. Fairness for your taxpayers, fairness for the workers that live in your city, and fairness for an industry as whole.

You will be re-writing the history books with this one.

You will be deciding to embrace Bill 66, opt out of Bill 66, or in some fashion allow one or two more unions into the exclusive club that has been benefitting from high construction costs for a number of decades.

Mayor Tory was correct in his statement to the media – there is a lot on the line – opinions from past, present and future.

There has a been a lot of misinformation spread around this issue. A lot of 'rhetoric' that has not been backed up by factual evidence. Some of this was discussed at the Executive Committee (i.e. the problem with safety claims that certain unions have made, the issue with only using labour costs to determine cost savings etc.).

We would like to clear the air on a few things:

1. **The rumoured LIUNA deal**

<u>This will cost the city:</u>

This move could make Toronto the only Ontario city that deliberately chooses to prevent workers and companies from building taxpayer-funded projects because of their union affiliation. It will cost Toronto taxpayers tens of millions more in construction costs, could lead to significant labour disputes and project disruptions.

This deal will increase your already expensive legal costs due to the labour oligopoly you currently are under.

The question is: how will LIUNA work with the Carpenters union on projects? How will you deal with the increased jurisdictional disputes that have plagued other cities in the same situation, including Sault Ste. Marie? Do you recognize that the City, as a construction employer, must bear the nuisance, mediation, grievances and costs of these disruptive and sometimes heated disputes?

You have the ability, to act as a municipality and prevent these costly disputes through Bill 66. It is hard to understand why you would expose taxpayers to greater cost and project uncertainty. There's a much better option. You could treat all workers fairly regardless of union affiliation and realize major cost savings on your infrastructure projects.

<u>Is this deal even legal?</u>

PCA's labour partner CLAC has obtained a legal opinion on the City's proposed deal with LIUNA. It shows that playing favourites with one or two additional unions violates the City of Toronto Act and the city's own bylaws and procurement policies, by privileging one group over others. It is very likely that such an arrangement to add only "handpicked favourites" to the mix of unions could withstand a legal challenge.

2. **The cost savings based on additional competition**

We're urging you not to be misled by rhetoric and misinformation aimed at discounting the millions of dollars in savings the City could realize by embracing Bill 66.

First, procurement 'expert' Stephen Bauld's recent comments questioning the major cost savings that result from opening up construction competition lack any credibility whatsoever. It's worth reminding you that Bauld co-authored a research paper called "Hiding in Plain Sight." That paper, evaluating the merits of construction competition, suggested that increasing the pool of bidders could result in savings ranging from 20 to 30 percent on public construction projects. The paper also concluded the following:

- "Numerous studies have shown that these closed tendering arrangements lead to significantly higher costs for taxpayers without providing any clear benefits in return.

- "Limiting public procurement by union affiliation does not promote the public interest."

- "The results of this paper should cause politicians, regardless of their partisan affiliation to find cause to remove the "construction employer status" obstacle from public bodies' bidding practices. The result will be a more open, fair and transparent bidding environment in Ontario – and one which will help the government achieve its difficult objective of balancing the budget."

- "Closed tendering can also undermine workers' rights to choose what organization they associate with and restrict their ability to work on the public contracts that their own tax dollars fund."

Bauld highlights several of his "Hiding in Plain Sight" findings in this YouTube video, in which he says: "By reducing competition the price escalates tremendously … what is the point of closed tendering. What is the point of not getting value for money and how does it affect the taxpayer …"

It's also worth noting that from one of Bauld's own textbooks on procurement, he states the following:

- "A party conducting a tender process is well advised to structure it in a way it in a way that attracts the maximum number of bidders."

- "A greater number of bidders is more likely to lead to greater value for the purchaser; a government is more likely to receive better quality construction for a lover price as the number of bidders increase."

- "Put simply, reducing competition increases price."

Since the publication of "Hiding in Plain Sight," Cardus, the Hamilton based think tank, has partnered with noted labour economist **Dr. Morley Gunderson** from the University of Toronto. Together they've conducted further and more extensive research on the cost implications of limiting competition on public construction work. That research again confirms that competition leads to cost savings.

There is a growing global body of research confirming the benefits of an open construction market. For example, a study published in the Journal of Construction Engineering and Management by Cornell professor Paul G. Carr, concludes: "On taxpayer funded construction projects, government officials should be doing all they can to find savings and increase competition. It is in the public interest."

Carr, who is well recognized and respected for his research in the field of public procurement also finds **that increasing competition not only adds more contractors to the mix, but also subcontractors and suppliers, all of whom are forced to sharpen their pencil to win contracts**. "As the additional prime bidders involve their favourite suppliers and subcontractors to the project, the overall competition increases at all levels. The more interaction among the prime contractors and subcontractors, the more opportunity for the cost implications of that creativity and competition to be carried through to the low bid offered."

The City of Toronto does not have to revert back to granting only certain unions an exclusive contract on construction work. When construction costs are higher, we all know that fewer funds are left over for libraries, splash pads and recreational centres. But it doesn't have to be this way.

Quibbling about the amount of cost savings is pointless. Even by the most modest of measures the City *will* save taxpayer dollars by embracing Bill 66. Faced with a budget shortfall, is the City really in a position to discount any savings that could save programs and prevent cuts?

<u>Do the right thing!</u>

On behalf of the member companies of PCA, our workers, and taxpayers across Toronto, I am asking you to do the right thing: reject the illegal and unfair special deal with LIUNA and embrace the fairness and fiscal responsibility inherent in Bill 66.

Sincerely,

Sean Reid
Vice President and Regional Director, Ontario
Progressive Contractors Association of Canada
sreid@pcac.ca
905-802-1003

EX6.3.8

YOUR UNION
MEMBER CENTRE

CLAC
better together

CLAC Member Centre
45 Commerce Crt.
Cambridge, ON N3C 4P7

T 519-653-3002
TF 877-701-2522
F 519-653-3004

www.clac.ca
cambridge@clac.ca

CLAC is a member of the
World Organization of Workers

June 17, 2019

Mayor and Members of Council
City of Toronto
C/o Marilyn Toft
12th Floor, West Tower
City Hall, Toronto, Ontario
M5H 2N2
councilmeeting@toronto.ca

Dear Mayor Tory and Members of Toronto Council,

It was our pleasure to address the Executive Committee meeting on June 6, 2019, and to answer questions. Since the meeting we have been working with city staff to respond to the different parts of the motion that was passed by the members of the committee. We have also been reflecting on the comments made during the meeting about what is important to the city, namely:

- Making prudent, fiscally responsible decisions that will ensure quality and the safety of the workforce.
- Ensuring the city and its citizens get the most benefit from the hundreds of millions of dollars invested in projects that are tendered. These benefits include investments in skills and training.

I am pleased to say that CLAC supports these objectives whole heartedly. Our members work for some of the best companies in the province and our union invests in training, apprenticeship, and in the community at comparable levels to other unions for our membership size.

Our union invests $0.20 per hour worked by every construction member into skills and safety training, and into apprenticeship support. We understand that on a per-person basis, this is as much or more than is achieved by the nine craft unions that the city deals with exclusively.

We are also deeply engaged in work to attract and support new workers to the trades, particularly from groups that are underrepresented. We provide funding for training programs for youth, and youth at risk. We have also found that for a union our size, we can achieve the greatest impact through sponsorships, scholarships, and partnerships. Some of the organizations that we work with or support include: the Aboriginal Apprenticeship Board of Ontario, Canadian Apprenticeship Forum, Canadian Association of Women in Construction, Ontario Youth Apprenticeship, Pre-Apprenticeship Training Institute, Skills Ontario, Supporting Ontario Youth, and Women Building Futures. We estimate that CLAC spends nearly $0.15 per hour worked by our construction members on such programs.

Currently, there appear to be three paths forward for city council. Whatever is decided on June 18 or 19 is permanent and this must be considered very carefully.

Path 1 – Allow all qualified, safe, and community invested companies to bid

This option is, in our mind, the best and most inclusive one. It allows for the same open bidding on ICI construction projects that is currently available in civil construction, while still maintaining the same robust controls for safety, quality, and social benefit.

This option is expected to save 8-25 percent based on what we observed in reviewing the vast bidding spreads, the eliminated qualified bidders, and the low bidding numbers for Toronto over the past two months. For example, the city could have saved over $230,000 if they could have taken a bid from a union contractor that was fully qualified, but was affiliated with a union not affiliated with the city (see the bid for union contractor Maxim Roofing). This option also allows the city to establish and manage its own procurement protocols to ensure that prospective bidders achieve the prescribed safety, training, and community investment standards established by the city.

Path 2 – Negotiate with the Carpenters and Building Trades to have other unions and their members voluntarily recognized to work on ICI projects

We believe this option stands in violation of the City of Toronto bylaws, procurement policy, and Section 14 of the *City of Toronto Act, 2001* (see enclosed legal option). Further, if pursued, this option would see cost savings, but there is significant risk that it could be revoked by the Carpenters and Building Trades during the next bargaining cycle. This was what happened in Hamilton between the Carpenters and LIUNA on park work. The Carpenters had agreed to allow LIUNA to work on certain projects for the city and then negotiated that away in a subsequent round of bargaining. LIUNA was no longer recognized and the costs for parks and splash pads skyrocketed. **It is also not possible with this option to recognize other unions, such as CLAC, or qualified and safe non-union contractors**. We do not recommend that the city select this path.

Path 3 – Remain closed

This option is not fiscally responsible or fair to workers, contractors, or citizens. The city will continue to see a low number of bidders per project and the same small group of contractors bidding and working on all projects. A small bidding pool on highly technical projects can be expected, but the city is seeing small bidding pools on most projects. If you look back over the past two months, you had one and two bid situations on roofing projects for community centres and state of good repair improvements. These projects require experience and skill, but are not highly technical. The city is paying too much for construction because of the lack of contractors and the productivity efficiencies that can be gained by having different ways of organizing work and labour. This will continue if the city remains status quo.

Further, this option is unfair to the qualified union and non-union workers and contractors who want to build their city. Your procurement policy states that you will be inclusive. Maintaining the status quo tells workers and contractors who don't belong to a select set of unions that they are not good enough to work here, without giving them a chance. There were those who said the same thing to women athletes at one time as well. As we saw the diverse and inclusive city of Toronto celebrate **#WeTheNorthDay** together, we do not believe this closed attitude is supported by the city and we look forward to witnessing you embrace inclusivity and fairness for all.

If given the opportunity to work for the city, our contractors and members would be pleased to meet all safety and quality requirements. In addition, we would support and advocate for a new policy that would require all unions (or companies in the case of non-union) to dedicate $0.15 per construction person hour to fund skills training and community benefits in the city of Toronto. We believe this proposal gives clarity, transparency, and certainty to the city in the area of social procurement. It would also weed out bad actors when combined with your robust safety and experience qualification requirements.

We hope by submitting this information that you will have the facts needed to decide who gets to be included in building Toronto. CLAC is committed to becoming a true partner of the city. Our recommendation for open tendering is based on fairness for all and what is in the best interest of the city.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Ian DeWaard,
CLAC Ontario Director

cc. Mr. Chris Murray, City Manager

DSF

DEVRY SMITH FRANK *LLP*
Lawyers & Mediators

marc.kemerer@devrylaw.ca
416.446.3329

June 14, 2019 Our File No.: CHRLA850

Sent by email to: Idewaard@clac.ca

Christian Labour Association of Canada
2555 Meadowpine Blvd
Mississauga, Ontario
L5N 6C3

Attention*:* Ian DeWaard, Provincial Director

Dear Mr. DeWaard:

Re: Ability of the City of Toronto to Include LIUNA as an ICI Bidder

Background

The Ontario Government recently passed *Bill 66, An Act to restore Ontario's competiveness* (the "**Bill**"). Schedule 9 of the Bill amends the *Labour Relations Act, 1995* (the "**LRA**") to deem municipalities like the City of Toronto (the "**City**") to be non-construction employers. This would free the City from being bound to the nine province-wide collective agreements (the "**Collective Agreements**") in the Industrial, Commercial and Institutional (**ICI**) sector of the construction industry. In turn this would allow for greater competition in bidding on City contracts related to the ICI sector.

The Bill allows the City to opt out of this new designation. If it does opt out, the City would, under the LRA, continue to limit bids on ICI work to the 9 trades covered by the Collective Agreements. Much of the work on the City's capital projects would thus remain the preserve of a limited and exclusive group of contractors and subcontractors.

The matter is to go before City Council ("**Council**") next week on Tuesday 18 June 18 a decision. The City Manager, in his report dated 29 May 2019 (the "**Report**"), has recommended that the City not opt out of the designation. It is his opinion that it is in the City's best interest to become a non-construction employer.

You understand that Council may determine at its meeting next week that the City opt out of the designation while voluntarily recognizing the Labourers' International Union of North America (**LIUNA**) as the only non-signatory to the Collective Agreements whose members would be eligible to bid on City ICI projects (the "**Council Action**") (the "**LIUNA Privilege**"). The members of other unions, such as the Christian Labour Association of Canada (**CLAC**), would be prohibited from bidding on ICI projects. You have not been provided with any rationale as to why LIUNA would qualify for such a privilege.

You have requested that I provide you with an opinion on the legal status of the Council Action in the context of the provisions of the *City of Toronto Act, 2001* (the "**Act**").

LRA

While this opinion does not specifically address the question of whether the LIUNA Privilege is permitted by the Bill, I note that there is no provision in Schedule 9 that would permit such action. As noted in page 18 of the Report there are only two options for Council to consider: opt out of the deemed non-construction provisions or take no action and become a non-construction employer.

This alone would make the Council Action *ultra vires* the powers of the City.

The Act

It is trite law that municipalities are creatures of statute and are constrained in their ability to act by statute. The authority of the City to act and regulate is governed by the provisions of the Act. For the purpose of this opinion the relevant sections of the Act are:

14 The City shall not confer on any person the exclusive right to carry on any business, trade or occupation unless the City is specifically authorized to do so under this or any other Act; and

212 (1) The City shall adopt and maintain policies with respect to the following matters:

3. Its procurement of goods and services.

The City's Procurement By-law

The City has adopted a Purchasing By-law, *Municipal Code Chapter 195, Purchasing* (the "**By-law**"). The purpose of the By-law (section 195-1) is to maintain "*the integrity of the procurement process by ensuring that, wherever possible, competitive methods of procurement will be used to obtain the best value for the City*" (B) and to clearly define the "*circumstances in which non-competitive procurements may be awarded*" (C).

Section 195-6.3, Competitive solicitations, states: "*A competitive solicitation method <u>must</u> be used for any procurement, unless one or more of the exceptions for using a non-competitive procurement described in this chapter exist*" (emphasis added).

Section 195-7.1, Non-competitive procurement exceptions, sets out those exceptions, provided that "*the proposed non-competitive procurement and the particular supplier can be justified in good faith*". The exceptions are specific, such as procurement of a work of art, except for 195-7.1(P) which states that "*Such other non-competitive procurement exemptions authorized by Council*".

In my view none of the exceptions listed is relevant for this particular circumstance. By including LIUNA on the list of eligible bidders the Council Action would not be authorizing a specific exemption from the requirement to engage in competitive solicitation but a blanket exemption for one specific union. There is no justification for the LIUNA Privilege or evidence of good faith in coming to such a decision.

The City's Procurement Policy

Pursuant to section 212 of the Act the City has adopted a number of Procurement Policies. The policy applicable to this issue is the *Labour Trades Contractual Obligations in the Construction Industry* (the "**Policy**"). The Policy reaffirms the City's obligation to use union labour for certain trades performing ICI work for the City. There is nothing in the Policy that would anticipate or allow the LIUNA Privilege.

Case Law

Duty to Act Fairly

The case law is clear that an act of Council can not be *partial and unequal in its operation*, which is what occurs which a particular class or person is privileged over another (*R. v. Levy*). Council cannot by resolution "*confer on itself a power to discriminate*" (*Neon Products Ltd. v. North York*).

The Council Action would confer on Council the power to discriminate in determining which union is the only one able to bid on ICI projects. This would be a basis for quashing the Council Action.

Section 10 of the Act does permit the City to pass *by-laws* that may differentiate between classes on a basis the City considers to be appropriate. This section is however not applicable to the case at hand as the Council Action:

1. does not involve the passage of a by-law;

2. would discrimination between members of the same (union) class; and

3. provides no rational or reasonable basis for the inclusion of only one union on the bidding list.

The City Cannot Grant Exclusive Rights (No Monopolies)

Section 14 of the Act prohibits the granting of exclusive rights within the City unless specifically sanctioned by the Act. Under the case law the courts have held that "*it is not necessary that the By-law grant an exclusive right to anyone in order to come within the prohibition. It is enough that it tends to create a monopoly*" (*Kovinic v Niagara Falls*).

It is my opinion that the LIUNA Privilege would grant LIUNA exclusive rights to bid on contracts otherwise reserved for unions who are parties to the Collective Agreements. The City is bound to the Collective Agreements but it is not required to grant such exclusive rights to LIUNA. If it is to expand the exclusive group of bidders it must do so in a way that allows competitive solicitations from more than one non-ICI union.

Conclusion

It is my opinion that the Council Action would not be rational, fair or legal. To grant LIUNA a bidding status not accorded to CLAC or any other non-ICI union:

1. is not an option provided to the City under the Bill. It would therefore contravene the provisions of the LRA;

2. would give rise to exclusive bidding rights in contravention of section 14 of the Act; and

3. is contrary to the purpose and the provisions of the By-law and the Policy. It would undermine the integrity and competitiveness of the procurement process and carve out an exemption that does not exist, without any rational justification.

For these reasons it is my opinion that the Council Action is outside of the jurisdiction of Council to approve. On the basis of the above I would anticipate that the Council Action would not survive a court challenge.

I trust that the above opinion has been helpful. Please do not hesitate to contact me with any questions you may have.

Yours truly,

DEVRY SMITH FRANK *LLP*

Marc P. Kemerer
MPK/jrg

From: John Zottola
To: councilmeeting
Subject: My comments for 2019.EX6.3 on June 18, 2019 City Council
Date: June 17, 2019 5:04:04 PM

To the City Clerk:

Please add my comments to the agenda for the June 18, 2019 City Council meeting on item 2019.EX6.3, Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019

I understand that my comments and the personal information in this email will form part of the public record and that my name will be listed as a correspondent on agendas and minutes of City Council or its committees. Also, I understand that agendas and minutes are posted online and my name may be indexed by search engines like Google.

Comments:

Comments on Behalf of the Ontario Road Builders' Association

The Ontario Road Builders' Association (ORBA) represents the interests of over 300 contractors and materials and service providers who employ over 30,000 workers across Ontario. Contractor members of our association support fair procurement practices, in which all qualified contractors should have the opportunity at bidding a public project, regardless of their labour affiliation (or lack thereof).

Across the province, many of our members have been unable to bid on projects that are funded by their tax dollars, and that of their workers, because of various municipal *'construction employer'* designations dictating that millions of dollars in public infrastructure work must be awarded based on union affiliation, not qualifications or experience. Such measures as this has the consequence of denying the City of Toronto the benefits of a competitive and open marketplace, which brings not only price competition, but also facilitates the achievement of quality and innovation standards and objectives.

ORBA has passed numerous motions in support of Fair and Open Tendering, dating back to 2005 when the City of Hamilton was certified as a '*construction employer'*. We were again active on this issue after the Region of Waterloo found itself in the same situation in 2012. Most recently, we have supported the City of Sault Ste. Marie in its bid to become a '*non-construction employer'*.

We wholeheartedly support the potential for the City of Toronto to become a '*non-construction employer'* in the interests of fairness for all workers and businesses, and to save tax dollars through a more competitive bidding process.

Thank you for the opportunity to comment.

Andrew Hurd
Director, Policy and Stakeholder Relations
Ontario Road Builders' Association (ORBA)
Tel: 905-507-1107 ext. 223

Email: andrew.hurd@orba.org

EX6.3.10

The City's Longstanding Partnership with the Building Trades: Breaking it is not Worth the Added Costs and Risks

Report By John O'Grady

June 18, 2019

Submitted by:
Central Ontario Building Trades
2088 Weston Rd.
Toronto, ON M9N 1X4

Phone: (416) 449-5115
Fax: (416) 449-5124
E-mail: info@cobtrades.com
Web Site: www.cobtrades.com

The City's Longstanding Partnership with the Building Trades: Breaking it is not Worth the Added Costs and Risks

Key Points

A Longstanding Partnership

- The City's partnership with the Building Trades Unions and their Contractors goes back to 1978. The City has benefited from:
    - a reliable supply of well-trained construction workers,
    - a pool of first-rate contractors,
    - an enviable health and safety record on City projects,
    - partnerships that advance the City's equity goals, and
    - a growing pool of apprentices that will ensure a continuing supply of skilled workers.

Safety on City Projects

- The health and safety performance of Building Trades Unions and their employers is significantly better than the non-union sector. A 2015 study by the Institute for Work and Health[1] found that:
    - Lost-time injury rates are 23% lower in unionized firms,
    - Musculoskeletal injury rates are 17% lower in unionized firms, and
    - Critical injury rates are 29% lower in unionized firms.[2]
- A subsequent study by the Institute for Work and Health concluded that "unionized construction firms have stronger hazard identification and control practices in the work site and more OHS [occupational health and safety] training".[3]
- Contrast the Building Trades record with that of the CLAC employer - O'Connor Electric – which was convicted on June 12th of serious violations of the *Occupational Health and Safety Act* after three workers suffered burns from an arc flash while working on an energized electrical system. The Court

[1] Amick, Benjamin C. III PhD; Hogg-Johnson, Sheilah PhD; Latour-Villamil, Desiree MS; Saunders, Ron PhD., "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect", *Journal of Occupational and Environmental Medicine*: December 2015 - Volume 57 - Issue 12 - p 1337–1342. Available at: https://journals.lww.com/joem/fulltext/2015/12000/Protecting_Construction_Worker_Health_and_Safety.14.aspx#pdf-link The study was commissioned by the Ontario Construction Secretariat (OCS). The OCS agreed that the results could be published regardless of the outcome of the analysis.

[2] Critical injuries are defined in the study as injuries that jeopardize life, cause blindness, or injuries that result in amputations, major burns, fracture of large bones, and loss of consciousness.

[3] Institute for Work and Health, "Determinants of Health and Safety in Ontario's Construction Sector", research study supported by the Ontario Ministry of Labour Research Opportunities Program, January 1, 2017. Unpublished, but available from the Institute for Work and Health.

found that O'Connor Electric had failed to establish and implement written measures and procedures to ensure that workers are adequately protected from electrical shock and burn and also, contrary to the safety regulations, had instructed its employees to work on an energized system.[4]

- Ending the City's partnership with the Building Trades Unions and their employers means a significantly increased risk of critical injuries or fatalities on City projects.

Greater Investments in Apprenticeships

- 81% of unionized construction contractors sponsor apprentices compared to only 54% of non-union contractors.[5]
- Ending the City's partnership with the Building Trades Unions and their employers inevitably means fewer apprenticeships.

Support for Equity Programs

- The City has enjoyed strong support from the Building Trades Unions and their employers in advancing our shared equity goals. Programs run by or supported by the Building Trades Unions and their employers include:
  - Hammer Heads for disadvantaged youth,
  - Helmets to Hard Hats for veterans,
  - Renos for Heroes which carries out home improvement work for disabled veterans,
  - Community Benefit Programs, like Construction Connections, and
  - Habitat for Humanity which constructs homes for low-income Torontonians.
- Working with the City to achieve equity goals is integral to the long-standing partnership that the Building Trades and their employers have had with the City. City Council has launched a number of initiatives to advance equity goals. These include: equity and gender-focused budgeting, the Toronto Poverty Reduction Strategy, the Action Plan to Confront Anti-Black Racism, the Toronto Strong Neighborhoods Strategy, the Community Grants Policy, the Seniors Strategy, the Newcomers Strategy, the Youth Equity Strategy, the Housing Opportunities Toronto 2010-2020 Action Plan and

[4] https://news.ontario.ca/mol/en/2019/06/kitchener-electrical-company-supervisor-fined-total-of-60000-after-workers-suffered-burns.html

[5] Ontario Construction Secretariat, *2018 Contractor Survey.* The survey was conducted by the Logit Group via telephone with 500 ICI contractors from across Ontario in January-February 2018. The margin of error for a sample of 500 is +/-4.38%, 19 times out of 20. Seventy percent of the contractors surveyed were trade contractors and 26% were general contractors. The regional breakdown was as follows: Central Ontario 25%; GTA 31%; Eastern Ontario 17%; Southwestern Ontario 15%; Northern Ontario 11%.

the Welcome Policy. The Building Trades Unions and their employers reiterate our readiness to continue supporting the City in any way we can to ensure the success of these initiatives.

- Our record differs markedly from that of Merit Ontario, which is the largest non-union employer organization in the construction industry. Not a single equity program or initiative is mentioned on the website of Merit Ontario.[6] Visit the website of the Central Ontario Building Trades (COBT) and you will see how the COBT highlights its sponsorship of the Hammer Heads program. That program brings apprenticeship opportunities to disadvantaged youth, many of whom are referred to the COBT by the City's social assistance department. The COBT has launched 462 of these youth into apprenticeship programs.

- The City already has in place a process to assess budget issues through a gender and equity lens. The City should apply the same gender and equity lens to the 'construction employer' issue.

- The Building Trades Unions and their employers are partners with the City in advancing its equity goals. Those equity goals will be put at risk or severely set back if the City unilaterally ends its longstanding partnership with the Building Trades Unions and their employers.

The Claim of Significant Cost Savings is *not* Plausible:

- The studies published by the Cardus organization manipulate statistics and use wholly irrelevant examples (like corrupt practices in Quebec) to support their advocacy of Toronto becoming a "non-construction employer". In the main body of this report, we show why the Cardus claims are misleading.

- Perhaps the most damning conclusion on the Cardus claims is made by Stephen Bauld, a procurement expert, who formerly co-authored a study for Cardus. In his *Daily Commercial News* column, Bauld stated: "*Shortchanging Ontario's Cities* [the Cardus study] is not based on impartial research and would never pass a peer review if submitted to a respected industry journal. The study cherry-picks examples and cites theoretical "academic estimates."[7]

- Compare York Region with the City of Toronto. York Region is not a 'construction employer'. It has no partnerships with the Building Trades or their employers. Does anyone seriously believe that by crossing Steeles Avenue, construction costs magically fall by the 15-40% claimed by the Cardus organization? As is shown in detail in the report of the Ontario Construction Secretariat and in this report, the claim of significant cost savings is not plausible, especially when one takes into account issues such as safety performance, investments in apprenticeship, reliability of the skilled labour pool and support for equity goals.

---

[6] http://www.meritontario.com/

[7] Stephen Bauld, "Procurement Perspectives: Take note of unintended Bill 66 consequences", *Daily Commercial News*, June 7, 2019 https://canada.constructconnect.com/dcn/news/government/2019/06/procurement-perspectives-take-note-unintended-bill-66-consequences

- The City should take the necessary legal steps to maintain it longstanding partnership with the building trades.

The City's Longstanding Partnership with the Building Trades: Breaking it is not Worth the Added Costs and Risks

Report by John O'Grady

- This report makes the case for the City of Toronto continuing its longstanding partnership with the building trades.

- For many years, the City of Toronto has been a partner with nine of the building trades unions: carpenters, electricians, plumbers, painters, glaziers, bricklayers, sheet metal workers, asbestos workers, and ironworkers. The earliest partnership dates from 1978. The foundation of these partnerships is the City's commitment to the provincial collective agreements of these trades. These agreements apply to the construction of non-residential buildings. (The *Ontario Labour Relations Act* refers to this as the industrial-commercial-institutional sector – or ICI sector).

- Recent amendments to the *Ontario Labour Relations Act* would allow the City to terminate its partnership with the building trades by unilaterally releasing itself from these nine provincial agreements. Under the recent amendment to the *Act*, this will happen automatically unless the City advises the Ontario Labour Relations Board that it wishes to continue to be a party to the nine provincial agreements.

- Through its partnerships with the building trades, the City has:
    - avoided skills shortages,
    - enjoyed high standards of safety on City projects, and
    - minimized the need for on-site inspection or audits to police the City's safety and employment standards policies.

  The City has also benefited from the building trades' strong support for youth apprenticeships and their participation in equity and social programs, including:
    - Hammer Heads,
    - Helmets to Hard Hats,
    - Renos for Heroes, and
    - Community Benefit Programs such as Construction Connections.

  The City's partnership with the building trades works. The City should continue that partnership.

Better Health and Safety on City Projects

- In ICI construction, the health and safety performance of building trades workers and their employers is significantly better than the non-union sector. This is documented by a 2015 study by the Institute for Work and Health (IWH). The IWH study was published in a reputable, peer-reviewed journal.[8] The study found that[9]:

    - Lost-time injury rates are 23% lower in unionized firms,
    - Musculoskeletal injury rates are 17% lower in unionized firms,
    - Critical injury rates are 29% lower in unionized firms.[10]

- The building trades unions and their employers invest significantly in health and safety training. The building trades unions also recruit and train health and safety representatives to support safe working practices on the job. It is not surprising, therefore, that another study by the IWH found that "unionized construction firms have stronger hazard identification and control practices in the work site and more OHS [occupational health and safety] training".[11]

- The conclusion is inescapable: the building trades' investments in health and safety training pay off in the form of significantly lower lost-time injuries and especially in substantially fewer critical injuries. If the City chooses to end its partnership with the building trades, it is implicitly accepting that, in the absence of additional policies and interventions, there is a significant risk that there will be an increase in the number of injuries, including critical injuries, on its projects.

- In the City of Toronto, we have a vivid example of the human cost of taking on additional risk of work-related injuries. On Christmas Eve in 2009, four workers employed by Metron Construction plunged to their death when their defective swing stage failed. The defective swing stage had been the subject of a previous Ministry of Labour compliance order. The workers were supposed to take training on the use of the equipment. However, Metron simply purchased the training kits, gave the

---

[8] Amick, Benjamin C. III PhD; Hogg-Johnson, Sheilah PhD; Latour-Villamil, Desiree MS; Saunders, Ron PhD., "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect", *Journal of Occupational and Environmental Medicine*: December 2015 - Volume 57 - Issue 12 - p 1337–1342. Available at: https://journals.lww.com/joem/fulltext/2015/12000/Protecting_Construction_Worker_Health_and_Safety.14.aspx#pdf-link The study was commissioned by the Ontario Construction Secretariat (OCS). The OCS agreed that the results could be published regardless of the outcome of the analysis.

[9] The estimates include both the positive union effect on safety performance and other positive effects that may arise from the fact that union contractors tend, on average, to be larger than non-union contractors. The latter is known as the 'firm size' effect.

[10] Critical injuries are defined in the study as injuries that jeopardize life, cause blindness, or injuries that result in amputations, major burns, fracture of large bones, and loss of consciousness.

[11] Institute for Work and Health, "Determinants of Health and Safety in Ontario's Construction Sector", research study supported by the Ontario Ministry of Labour Research Opportunities Program, January 1, 2017. Unpublished, but available from the Institute for Work and Health.

workers their certificates and told them to show the certificates to an inspector if one showed up. The workers' supervisor (who was subsequently jailed) provided no instruction and did not deal with the defective equipment. The workers fell to their deaths with their training certificates in their pockets. Why would the City increase the risk of repeat of the Christmas Eve tragedy?

Greater Investments in Apprenticeships

- A 2018 survey undertaken for the Ontario Construction Secretariat found that, in non-residential building construction, 81% of unionized construction contractors sponsored or employed apprentices compared to only 54% of non-union contractors.[12] Three-quarters (75%) of apprentices in the unionized construction industry complete their training compared to only 58% outside the unionized sector.[13] Every building trade in Toronto operates a training centre to support its apprentices and to upgrade the skills of its members. Many of these training centres deliver pre-apprentice training and support equity programs that create pathways to construction jobs. Ending the City's partnership with the building trades inevitably means fewer apprenticeships. Is this an outcome that the City wants?

Support for Equity Programs:

- The City of Toronto is a leader in recognizing the important role of equity programs in supporting pathways to construction careers for young workers from First Nations, Metis and Inuit people, low-income families, racialized minorities, immigrants and women. The City has enjoyed strong support from the building trades unions in meeting these goals. Programs such as:

    - Hammer Heads for disadvantaged youth, Helmets to Hard Hats for veterans,
    - Renos for Heroes which does home improvement work for disabled veterans,
    - Community Benefit Programs, like Construction Connections, and
    - Habitat for Humanity which constructs homes for low-income Torontonians

  all require or are stronger because of the active support of building trades unions for these initiatives. All of these initiatives will be weakened or at risk if the City unilaterally ends its partnerships with the building trades.

- Merit Ontario is the largest of the non-union employer organizations in the construction industry. It is worth noting that Merit Ontario is not involved in any equity programs. Nor does the CLAC union

---

[12] Ontario Construction Secretariat, *2018 Contractor Survey.* The survey was conducted by the Logit Group via telephone with 500 ICI contractors from across Ontario in January-February 2018. The margin of error for a sample of 500 is +/-4.38%, 19 times out of 20. Seventy percent of the contractors surveyed were trade contractors and 26% were general contractors. The regional breakdown was as follows: Central Ontario 25%; GTA 31%; Eastern Ontario 17%; Southwestern Ontario 15%; Northern Ontario 11%.

[13] Ontario Construction Secretariat, *Completion Counts: Raising Apprenticeship Completion Rates in Ontario's Construction industry*, 2013. Report prepared by Prism Economics and Analysis.

have any programs that are comparable to either Hammer Heads, Renos for Heroes or Helmets to Hard Hats. It is patently unreasonable to expect a unionized contractor to bear the cost of supporting equity programs when they are forced to compete with non-union contractors who do not invest in any of these programs.

Prompt Access to Skilled Labour:

- Toronto is experiencing a boom in ICI and high-rise construction. There is a shortage of skilled labour. This shortage can cause delays in completing projects and drive up costs. The building trades unions have a well-developed system for drawing in skilled labour from regions and provinces where the pace of construction has slowed. The City's partnership with the building trades is an insurance policy against skills shortages and their damaging consequences.

Supporting Compliance with Tax Obligations and Labour Standards:

- A common tactic of contractors seeking to gain an unfair competitive advantage is to style their workers as 'independent operators' (*i.e.*, sub-contractors) rather than as employees. This tactic removes workers from the payroll thereby enabling the contractor to avoid the cost of EI, CPP and WSIB contributions as well as requirements for overtime pay, vacation pay and statutory holiday pay. When all of these are taken into account, a contractor that uses off-payroll workers can save around 16.5% on its labour costs.[14] This is little more than gaining an unfair competitive edge on the backs of workers. In the unionized sector of non-residential construction, this type of evasion is not possible. Collective agreements establish wages and benefits and all contractors pay their required EI, CPP and WSIB contributions. The City's Fair Wage Policy only protects against the 'independent operator' loophole if the City actively audits contractors to determine whether off-payroll workers should be reclassified as employees. Such audits are costly and time-consuming.

- Since 2013, it has been mandatory for 'independent operators' in the construction industry to register with the WSIB. This is intended to foster compliance. However, a comparison of WSIB data with the Labour Force Survey shows that around 80% of 'independent operators' are not complying

14

Employer Contributions		
EI	2.3%	
CPP	5.1%	
WSIB (average for construction)	4.4%	
Vacation (Statutory Minimum: 2 weeks)	4.0%	
Holidays (Statutory Minimum: 10 Days)	4.0%	
Total	19.8%	
For a worker earning $25.00/hr:		
Basic Pay	$25.00	83.5%
Additional Payroll Costs (19.8%)	$4.95	16.5%
Total Labour Cost	$29.95	100.0%

with the mandatory registration requirement.[15] If the City expands its use of non-union contractors, it should assume that there will be an increased need to audit off-payroll workers.

The Claim of Significant Costs Savings is *not* Plausible:

Cardus Institute's 15% Savings Claim

- The Cardus Institute has circulated a report claiming that municipalities can achieve cost savings of 15% by ending their partnerships with the building trades. This claim is not credible:

  First: labour costs represent around 34.1% of constructions costs.[16] To achieve a 15% cost reduction would require cutting labour costs by around 50%. Cardus is implicitly assuming that Fair Wage Policies will also be scrapped to achieve savings on this scale.

  Second: in support of the 15% cost reduction claim, Cardus uses examples that bear little connection to Toronto. For example, they restrictive bidding practices in Montreal that were illegal and which were investigated by the Charbonneau Commission. They also cite higher costs on a B.C. project even though most of the 7% higher costs were attributable to equity programs which presumably Cardus would also scrap. Cardus also cites 21 studies that it claims support their cost-saving contention. The majority (12) of these studies are American and therefore not even remotely comparable to Ontario in terms of minimum labour standards. Two of the cited studies do not even deal with construction work. Five studies are simply critiques of Fair Wage Policies which presumably are also

[15] These data are from a study by Prism Economics and Analysis commissioned by the Ontario Construction Secretariat: *The Underground Economy in Ontario's Construction Industry: Estimates of the Revenue Losses to Governments*, May 2019

[16] **Cost Structure for Non-Residential Building Construction, Ontario (2013)**
Statistics Canada, Input-Output Tables

Expense Category	Percent of Total
Materials, Energy & Transportation	26.0%
Machinery & Equipment	6.0%
Financing, Leasing & Rental	3.6%
Engineering, Architecture & Other Specialized Design	8.3%
Other Professional Services	2.1%
Office & Other	2.6%
Total Input Costs, Excluding Labour	48.8%
Taxes on production	5.4%
Payroll Costs (Wages and Employer Contributions)	*34.1%*
Gross mixed income[16]	7.8%
Gross operating surplus	3.8%

opposed by Cardus. And finally, two studies analyze the union effect on wages without any discussion of actual construction costs.

Third: the City's own study estimated that, in light of the City's Fair Wage Policy, the upper estimate of potential cost savings from ending the partnership with the building trades would be 1.7%. Moreover, this assumed (doubtfully) that all of those savings, if they materialized, would be passed on to the City.

European Commission Study (Lukas Vogel)[17]

- The Vogel study for the European Commission examines the impact of implementing the EU's legislation on introducing transparency in procurement processes and removing some tendering restrictions, chiefly those that favoured or required local suppliers. These changes applied to only about 20% of the public procurement market, predominantly the market for goods and professional services. Vogel cites other studies which estimate that implementing the EU's legislation in these segments of the procurement market led to price declines of 2½-10 percent. <u>It would be exceedingly unwise to transpose this cost estimate to an analysis of the impact of the City becoming a non-construction employer</u>:

  First: the percentage change in costs depends on the starting point. Prior to the EU transparency and competition legislation, the affected public sector procurement markets in the EU were highly restricted. In some jurisdictions the lack of transparency may have fostered corrupt practices. Policies that favoured or even required local suppliers not surprisingly raised costs, especially in smaller jurisdictions where the bid pool was small. These starting conditions bear no resemblance to the City of Toronto. Rigorous transparency and above-board competition rules already operate in the City. As well, the potential bidding pool in Toronto is almost always large given the size of the City and the absence of local supplier requirements. In other words, the starting point in the City of Toronto is radically different from the starting point in the EU. <u>It would be a serious error to expect similar cost savings when the starting points are so different</u>.

  Second: the labour standards and social policy environment in the EU is often much different from Ontario and the City of Toronto. For example, in many EU countries, the labour relations system is based on a 'decree model' that establishes wage and benefit norms on a sector basis, irrespective of whether workers are unionized or not. As well, many benefits that are employer-based in Canada are state-provided in EU countries. <u>To assume that cost savings estimated in the Vogel study would be mirrored by the City of Toronto is to ignore significant differences in the labour standards and social policy environment</u>.

[17] Lukas Vogel, *Macroeconomic Effects of Cost Savings in Public Procurement*, Economic and Financial Affairs, European Commission (2009)

Dijkema/Gunderson Study[18]

- The Dijkema/Gunderson study applies what is known as the Bertrand bid model to municipal construction. The Bertrand bid model predicts that, in a competitive market, bids will cluster and that the degree of distance between the winning bid and the losing bids indicates the degree of competition in the market.
- At first blush, the Bertrand bid model would appear to apply to construction tendering. However, the Bertrand model requires a number of important assumptions that often do not apply to construction markets. First, all suppliers are assumed to have equal capacity. This is simply not the case in the construction industry and it is why many public authorities pre-qualify bidders. Second, all bidders are assumed to face equal marginal costs for labour, equipment and for materials. Again, this is not the case. Large contractors enjoy favourable discounts on materials that can offset higher costs for labour. Third, all bidders are assumed to have equal alternative opportunities for their resources. Again, this is not true in construction. For various reasons, some contractors are working full tilt, while other contractors are desperate for work to maintain cash-flow. And fourth, all bidders are assumed to have equal reputations for reliability and quality. In the construction industry, this is clearly an unfounded assumption. There is also an implicit assumption in the Bertrand model that the product or service being supplied is not complex. This is often not true in construction projects. Quite simply, the Bertrand model on which the Dijkema/Gunderson study rests is not a good description of the construction industry. It is therefore important to note that Other scholarly studies show that loosening the strict assumptions in the Bertrand model (as realism would require) alter the expected outcomes of a price-setting process.[19]
- While construction bids often tend to cluster, it is not uncommon for there to be outliers. High outlier bids occur because some contractors submit bids solely for the purpose of remaining on invitation lists, continuing to be eligible bidders or to signal to other bidders that they would be open to a sub-contract. They do not expect their high bids to succeed. Low outlier bids often reflect a need to secure work for cash-flow purposes or special circumstances such as workers and equipment that is in close proximity to the project (thereby largely eliminating 'mobilization costs'). Some contractors also bid low because their interpretation of the specifications suggests that there will be significant opportunities for change orders where are often highly profitable.
- It is also important to note that the Dijkema/Gunderson study focused on smaller municipalities where small bidding pools are the norm. This is emphatically not the case in Toronto where there is already a large pool of bidders.

Doubtful Savings vs Real and Predictable Costs:

- The cost savings on ICI construction that it is claimed will arise by the City of Toronto becoming a non-construction employer are:

[18] Brian Dijkema and Morley Gunderson, "Restrictive Tendering", Cardus Institute, January 2017

[19] Daniel F. Spulber, "Bertrand Competition when Rivals' Costs are Unknown", *The Journal of Industrial Economics*, vol. LXIII, no. 1 (March 1995); Walter Elberfelda and Elmer Wolfstetterb, "A Dynamic Model of Bertrand Competition with Entry", *International Journal of Industrial Organization*, vol. 17, issue 4 (May 1999);

a) minor, at best, (1.7% based on an earlier City report);

b) conjectural, because they are based on doubtful comparisons (Cardus), radically dissimilar circumstances (Vogel) or inappropriate and highly unrealistic economic models (Dijkema/Gunderson); and

c) uncertain because all of these cost saving claims assume that 100% of cost savings, if they materialize, will be passed on to the City.

- While the cost savings may be minor, conjectural and uncertain this is not the case with the associated costs of the City becoming a non-construction employer. To ensure compliance with the Fair Wage Policy, safeguard high standards of safety on City projects, ensure adherence to equity programs, and uphold compliance with labour standards and tax obligations, the City will need to augment its contractor screening activities and increase its on-site inspection and audit activities.
- In contrast with the cost savings that will be minor, conjectural and uncertain, the costs of this additional careening, inspection and auditing will be real.

There is Only One Way to Sustainably Lower Construction Costs

- Increased productivity is the primary means of achieving sustainably lower construction costs without sacrificing workplace safety, apprenticeship investment and compliance with tax and reporting obligations. The keys to increased productivity are:
    - more investment in health and safety management systems,
    - more investment in skills upgrading,
    - more investment in apprenticeship,
    - more investment in mechanization and digital technologies,
    - and more investment in project management.
- Higher productivity is the only sustainable and fair way to lower costs. There are no short-cuts. Rather than buying into false promises of supposedly risk-free cost-savings, the City's procurement strategy should focus on the factors that truly reduce construction costs. As the City's longstanding partners, the building trades are happy to work with the City on ways to achieve higher productivity.

The City should maintain its Longstanding Partnership with the Building Trades

- I recommend that the City take the necessary legal steps to maintain it longstanding partnership with the building trades. The case to end that partnership is speculative, based on tortured evidence and will increase both risks and the City's administrative costs. The case to maintain the partnership with the building trades is strong.

■

John O'Grady

Education

MA, University of Toronto
BA, University of Toronto

Career Summary

2000 – Present	Founding Partner, Prism Economics and Analysis
1991-2000	Consulting Practice (private/full-time)
1992	Visiting Senior Researcher, Economic Council of Canada
1987-1990	Legislative and Research Director, Ontario Federation of Labour
1982-1987	Project Planner (Asia), Canadian Labour Congress
1978-1982	Assistant to President, Ontario Public Service Employees Union
1974-978	Research Officer, Ontario Public Service Employees Union
1973-1974	Associate Secretary (Administration), Council of Ontario Universities

Professional Experience

Consulting

Clients have included:

- Canadian Apprenticeship Forum,
- Canadian Council of Technicians and Technologists,
- Canadian Labour Force Development Board,
- Cultural Human Resources Council,
- Canadian Labour Market and Productivity Centre,
- Canadian Technology Human Resources Board,
- Contact Centre Canada,
- Construction Sector Council,
- Economic Council of Canada,
- Electricity Sector Council,
- Engineers Canada,
- Federal-Provincial Advisory Council on Immigration
- Howe Research Institute,
- Human Resources and Skills Development Canada,
- Industrial Restructuring Commissioner (Ontario),
- Industry Canada,
- Information and Communications Technology Council,
- International Institute of Labour Studies (ILO - Geneva),
- Ontario Construction Secretariat,
- Ontario Ministry of Treasury and Economics,
- Ontario Ministry of Training, Colleges and Universities,
- Ontario Ministry of Labour,

- Ontario Ministry of Citizenship and Immigration,
- Ontario Ministry of Tourism and Recreation,
- Ontario Premier's Council,
- Royal Architectural Institute of Canada,
- Sectoral Skills Council of the Electrical and Electronics Industry,
- Workplace Health and Safety Agency
- Workplace Safety and Insurance Board

Teaching Assignments

- Ryerson University: Labour-Management Relations
- York University (adjunct professor): Special Topics in Labour Market and Industrial Relations Policy

Funded Study Tours

- Fulbright Programme in the United States to study trade and competitiveness
- Swedish Work Environment Fund and Swedish Information Agency – study of labour market policies and institution

Publications

- "Removing the Obstacles to Negotiated Adjustment," in Werner Sengenberger and Duncan Campbell, eds., *Creating Economic Opportunities: The Role of Labour Standards in Industrial Restructuring,* International Institute for Labour Studies (ILO) (Geneva, 1994)
- *Arbitration and Its Ills,* School of Policy Studies, Queen's University (1994)
- "The Social Side of NAFTA," in A.R. Riggs and Tom Velk, eds., *Beyond NAFTA,* Fraser Institute (1993)
- "Beyond the Wagner Act," in Daniel Drache, ed., *Getting on Track: Social Democratic Strategies for Ontario* (McGill-Queen's Press, 1992)
- "Labor Market Policy and Industrial Strategy after the Free Trade Agreement," *Labor Law Journal,* (August, 1990)
- "Labor Markets and Deficits," in Roy Adams *et al.*, *Good Jobs, Bad Jobs, No Jobs*, C.D. Howe Institute (September 1995)
- *Job Control Unionism vs. the New Human Resource Management Model,* Queen's University Industrial Relations Centre (1995)
- "Integrating Sustainable Development into Workplace Governance," in *Sustainable Development: Getting There from Here*, National Round Table on the Environment and the Economy and Canadian Labour Congress (1992)
- *The Role of Joint Committees in Workplace Health and Safety: A Review of the Legislation and Previous Studies*, Study prepared for B.C. Royal Commission on Workers Compensation, published in T. Sullivan, ed., *Injury and the New World of Work*, UBC Press (Vancouver, 2000)
- *Direct and Indirect Evidence of Changes in Work Organization*, Queen's University Industrial Relations Centre
- *Work Organization, Labour Relations and Human Resource Management: The Negotiated Adjustment Option*, Queen's University Industrial Relations Centre

Presentations, etc.

- Canadian Industrial Relations Association
- Industrial Relations Research Association (US)
- Economic Policy Institute (Washington, D.C.)
- Canadian Bar Association (pension law section)
- Canadian Association of Business Economists
- Canadian Pension Conference/Canadian Association of Pension Supervisory Authorities/Canadian Institute of Actuaries
- Canadian Association of Administrators of Labour Law
- Economic Council of Canada
- Institute for International Economics (Washington, D.C.)
- Canadian Institute of Management
- Centre for International Studies (University of Toronto)
- Institute of Policy Studies (Queen's University)
- Canadian Labour Market and Productivity Centre
- Fraser Institute
- Lexium Inc. Pension Conference
- Conference Board in Canada
- Ontario Premier's Council
- Ontario Labour-Management Forum (Ministry of Labour)
- Institute for Work and Health

Memberships, Etc.

- Institute for Work and Health – formerly, member of Board of Directors and Chair,
- Toronto Business Development Centre – formerly member of Board and President,
- ORTECH Corp. - formerly member of Board of Directors and Vice-Chair
- North-South Institute - formerly Treasurer and member of Board of Directors
- Canadian Training Network (York University) - formerly member of advisory committee
- HEALNet (Centre of Excellence funded through Medical Sciences Research Council) - formerly Chairperson of research advisory committee
- Centre for Study of Living Standards - formerly member of Research Advisory Committee

TORONTO **Item**

Tracking Status

- City Council adopted this item on January 30, 2019 without amendments.

City Council consideration on January 30, 2019

MM2.10	ACTION	Adopted		Ward: All

Protecting the City of Toronto against potential impacts of the Government of Ontario's Bill 66 - by Councillor Mike Layton, seconded by Councillor Ana Bailão

City Council Decision

City Council on January 30 and 31, 2019, adopted the following:

1. City Council express its opposition to Schedule 3 of Bill 66.

2. City Council express its opposition to Schedule 5 of Bill 66.

3. City Council express its opposition to Schedule 9 of Bill 66.

4. City Council express its opposition to Schedule 10 of Bill 66 or any similar successor sections or schedules within Bill 66.

5. City Council request that, following the adoption of Bill 66 by the Province, the City Manager report back to City Council on the impacts of the legislation on the City of Toronto.

6. City Council direct the City Clerk to distribute City Council's decision in opposition to Schedules 3, 5, 9 and 10 of Bill 66 to the leaders of all parties represented in the Ontario Legislature, the Minister of Municipal Affairs and Housing, the Minister of the Environment, Conservation and Parks, the Minister of Labour, the Minister of Education, all Greater Golden Horseshoe municipalities, and the Association of Municipalities of Ontario.

Background Information (City Council)

Member Motion MM2.10
(http://www.toronto.ca/legdocs/mmis/2019/mm/bgrd/backgroundfile-123945.pdf)

Motions (City Council)

Motion to Waive Referral ***(Carried)***
Speaker Nunziata advised Council that the provisions of Chapter 27, Council Procedures, require that Motion MM2.10 be referred to the Executive Committee. A two-thirds vote of the

Council Members present is required to waive referral.

Vote (Waive Referral)

Jan-31-2019 2:14 PM

Result: Carried	Two-Thirds Required - MM2.10 - Waive referral
Yes: 17	Paul Ainslie, Ana Bailão, Brad Bradford, Shelley Carroll, Gary Crawford, Joe Cressy, John Filion, Paula Fletcher, Cynthia Lai, Mike Layton, Josh Matlow, Jennifer McKelvie, James Pasternak, Gord Perks, Anthony Perruzza, Michael Thompson, Kristyn Wong-Tam
No: 5	Mike Colle, Michael Ford, Stephen Holyday, Frances Nunziata (Chair), Jaye Robinson
Absent: 4	Mark Grimes, Jim Karygiannis, Denzil Minnan-Wong, John Tory

Motion to Adopt Item ***(Carried)***

Vote (Adopt Item)

Jan-31-2019 2:15 PM

Result: Carried	Majority Required - MM2.10 - Adopt the Item
Yes: 20	Paul Ainslie, Ana Bailão, Brad Bradford, Shelley Carroll, Mike Colle, Gary Crawford, Joe Cressy, John Filion, Paula Fletcher, Cynthia Lai, Mike Layton, Josh Matlow, Jennifer McKelvie, Frances Nunziata (Chair), James Pasternak, Gord Perks, Anthony Perruzza, Jaye Robinson, Michael Thompson, Kristyn Wong-Tam
No: 2	Michael Ford, Stephen Holyday
Absent: 4	Mark Grimes, Jim Karygiannis, Denzil Minnan-Wong, John Tory

Source: Toronto City Clerk at www.toronto.ca/council

TORONTO Member Motion

City Council

Notice of Motion

MM2.10	ACTION			Ward: All

Protecting the City of Toronto against potential impacts of the Government of Ontario's Bill 66 - by Councillor Mike Layton, seconded by Councillor Ana Bailão

**** Notice of this Motion has been given.***
**** This Motion is subject to referral to the Executive Committee. A two-thirds vote is required to waive referral.***

Recommendations

Councillor Mike Layton, seconded by Councillor Ana Bailão, recommends that:

1. City Council express its opposition to Schedule 3 of Bill 66.

2. City Council express its opposition to Schedule 5 of Bill 66.

3. City Council express its opposition to Schedule 9 of Bill 66.

4. City Council express its opposition to Schedule 10 of Bill 66 or any similar successor sections or schedules within Bill 66.

5. City Council request that, following the adoption of Bill 66 by the Province, the City Manager report back to City Council on the impacts of the legislation on the City of Toronto.

6. City Council direct the City Clerk to distribute City Council's decision in opposition to Schedules 3, 5, 9 and 10 of Bill 66 to the leaders of all parties represented in the Ontario Legislature, the Minister of Municipal Affairs and Housing, the Minister of the Environment, Conservation and Parks, the Minister of Labour, the Minister of Education, all Greater Golden Horseshoe municipalities, and the Association of Municipalities of Ontario.

Summary

The Government of Ontario has introduced Bill 66, an Act amending or repealing various other Acts that could have lasting impact on City of Toronto residents, the planning process, the natural environment, food security, workers, and child welfare.

Schedule 3 of the Bill could put at risk young children in the care of home child care providers. Through changes to the Child Care and Early Years Act and the Education Act, the legislation would allow an increase in the number of very young children in the care of each home

childcare provider, which could compromise the quality of care and increase the risk of accidental injury or death.

Schedule 5 repeals the Toxics Reduction Act, 2009, and associated regulations that require Ontario companies to publicly report on their use and release of toxic substances and develop feasible reduction plans. Taking away the responsibility to inform the public and reduce harmful chemicals found in our workplaces, consumer products and local communities puts human health and the environment at risk.

Schedule 9 amends the Labour Relations Act, 1995, to deem municipalities and certain local boards, school boards, hospitals, colleges, universities and public bodies to be non-construction employers. That would mean that any collective agreement binding the employer and the trade union ceases to apply in so far as it applies to the construction industry.

This would mean not only a lowering of quality of jobs in the City, but there could be potential risks to the public if unqualified and untrained workers were to be responsible for projects related to construction and other infrastructure projects in the City.

Schedule 10 of the proposed legislation would amend the Planning Act to allow municipalities to pass by-laws without public notice that could override important drinking water, agricultural and environmental protections contained in the Clean Water Act, 2006, Oak Ridges Moraine Conservation Act, 2001, the Greenbelt Act, 2005, the Places to Grow Act, 2005, and other provincial legislation.

The Greenbelt is an integral component of land use planning that complements the Growth Plan for the Greater Golden Horseshoe to encourage smart regional planning and sustainable communities, reduce urban sprawl, and protect natural and hydrological features and agricultural lands. Furthermore, protections like those included in the Clean Water Act are critical to the health of residents of Toronto.

Background Information (City Council)

Member Motion MM2.10