MEMORANDUM

ED&HS
Amended
Agenda Item No. 3(C)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D and Members, Board of County Commissioners

DATE: September 17, 2003

FROM: George M. Burgess
County Manager

SUBJECT: Amendments Ordinance 03-1 Community Workforce Program (CWP)

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) amend the Community Workforce Program Ordinance 03-1 for the purpose of adding and providing clarification to various definitions and to provide clarification to Sections B, C and D of the Ordinance.

BACKGROUND

The Community Workforce Program (CWP) was established and unanimously adopted by the Board on January 23, 2003. At which time, the Department of Business Development (DBD) was given sixty days to develop and implement the CWP. On May 5, 2003 the CWP was implemented.

During the sixty (60) day period granted by the Board, DBD met with various County departments and agencies along with prospective Workforce Development and Recruitment Organizations, participated in various outreach exhibitions, as well as conducted workshops on how the program will work. A wealth of information and suggestions resulted from these efforts and a more in-dept analysis of the program was conducted, concluding in this proposed amendment.

Under the proposed amendments, contractors/subcontractors will be required to hire from within the Designated Target Area (DTA) in which the project is located. Instances where the contractor/subcontractor can demonstrate they were unable to locate the required workforce to meet the established workforce goal from the DTA in which the public improvement is located, DBD may allow hiring from another DTA. In addition, only persons on the awarded contractors/subcontractors payroll that reside in the DTA in which the public improvement is located can be used towards meeting a workforce goal. Persons on the contractor's payroll that reside in other DTAs may be used toward meeting a workforce goal provided the contractor/subcontractor can demonstrate to DBD that they were unable to locate the required workforce from within the respective DTA.

Failure to make these amendments can result in a contractor/subcontractor complying with an established workforce goal without having hired any persons from the DTA in which the public improvement is located, which is contrary to the objective of the program.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

DATE: October 7, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No.

ORDINANCE NO. _____

ORDINANCE RELATING TO THE COMMUNITY WORKFORCE PROGRAM AMENDING ORDINANCE 03-1 ADDING DEFINITIONS FOR CONSTRUCTION TRADE, LABOR FORCE, JOB; CLARIFYING DEFINITIONS OF NEW HIRE, RESIDENCY, WORKFORCE RECRUITEMENT ORGANIZATION; CLARIFYING SECTIONS B, C, D, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The Code of Miami-Dade County, Florida, is hereby amended as follows:

Section **Community Workforce Program**

(1) Definitions. For purposes of this section the following definitions shall be effective:

A. *Capital Construction Contract* means the building and or improvement of a specific fixed asset as approved in the Capital Budget, or for the purpose of this Ordinance, open contract infrastructure work where the individual work orders are distributed throughout the County.

B. >>*Construction Trade Work* means skilled laborers<<

[[~~B~~.]] >>C.<<*Contract* means a contract for Capital Construction.

[[~~C~~.]] >>D.<< *Department* means department or agency administering a Capital Construction Contract to which a local workforce goal has been applied.

[[~~D~~.]]>>E.<< *Designated Target Area (DTA)* means any geographic area of Miami-Dade County designated as an Empowerment/Enterprise Zone, any

geographic area of Miami-Dade County designated by the Board of County Commissioners as a Targeted Urban Area (TUA), Community Development Block Grant (CDBG) Eligible Block Group or Focus Area.

[[~~E.~~]] >>F.<< *Enterprise Zone* means a geographic area of Miami-Dade County designated as an Enterprise Zone or a Satellite Enterprise Zone pursuant to the Florida Enterprise Zone Act of 1994, as amended.

[[~~F.~~]] >>G.<< *Empowerment Zone* means a geographical area of Miami-Dade County designated by the federal government as an empowerment zone.

[[~~G.~~]] >>H.<< *CDBG Eligible Block Group* means a geographical area whose residents are lower to moderate income.

[[~~H.~~] >>I.<< *Focus Area* means a geographical area slated for economic revitalization.

[[~~I.~~]] >>J. *Job* means a specific trade such as painting, electrical, plumbing, etc., in which a person hired by the contractor or subcontractor as part of the workforce used towards a workforce goal compliance and which the length of the job may aggregate to less than 120 days due to the nature of the job. Jobs that will be less than 30 days for completion may not be considered towards compliance with a workforce goal.<<

[[~~J.~~]] >>K. *Labor Force* means individuals (the workforce) that may count towards compliance to a workforce goal.<<

[[~~K.~~]] >>L.<< *Labor Work* means unskilled construction work.

[[~~L.~~]] >>M.<< *Local Workforce Goal* means a requirement that a percentage of the workforce performing construction trades work and labor under a Capital Construction Contract/Work Orders be residents of a DTA.

[[~~M.~~]] >>N.<<*New Hire* means any individual meeting the requirements of resident as defined below, employed by the contractor >>or subcontractor and on the<< [[~~C~~]]>>contractor's or subcontractor's payroll,<< pursuant to the County's approval of the Workforce Plan by the contractor or [[~~a~~]] subcontractor [[~~)~~]] to perform any construction trades work or labor under a [[~~C~~]] >>c<<ontract to which a local workforce goal has been applied, and who remains employed by the contractor or subcontractor >>and performs the job as listed and approved on the contractor's or subcontractor's workforce plan to include any approved revisions to the workforce plan, [[~~in such employ~~]] for a minimum duration of one hundred twenty (120) days >>or the length of the job whichever is less<<.

[[~~N.~~]] >>O.<< *Residen*>>t<<[[*cy*]]. Residen>>t<<[[~~cy~~]]>>means a person<<[[~~is the place a new hire~~]] who has [[~~been a~~]] reside>>ed<< [[~~nt~~]] >>in<<[[~~of~~]] Miami-Dade County in any designated target area [[~~for at least one year~~]] >>the past year (12 months)<<.

[[~~O.~~]] >>P.<< *Review Committee* or *RC* means the committee established by the County Manager to review proposed contracts for the application of local workforce goals.

[[~~P.~~]] >>Q.<< *Scope of Services* or *Scope of Work* means the work to be performed under a Contract.

[[~~Q.~~]] >>R.<< *Subcontractor* means any person, firm, entity, or organization at any tier, other than the employees of the contractor, performing construction trade work and labor under a [[~~C~~]] >>c<<ontract to which a local workforce goal has been applied pursuant to this ordinance. >>This term shall include employment agency furnishing personnel to a contractor or subcontractor.<<

[[~~R.~~]] >>S.<< *Targeted Urban Area* means a geographical area of Miami-Dade County that has

been designated by the County Commission as a Targeted Urban Area under Section 30A-129 of the Code.

[[~~S.~~]] >>T.<< *Work* means the [[~~C~~]] >>c<<onstruction and services required by the [[~~C~~]] >>c<<ontract including all labor, materials, equipment and services to be provided by the contractor to fulfill the contractor's obligations. The [[~~W~~]] >>w<<ork may constitute the whole or a part of the [[~~C~~]]>>c<<ontract.

[[~~T.~~]] >>U.<< *Workforce Plan* or *Plan* means a plan delineating the number and category of administrative, construction trades and labor personnel necessary to perform the work under a Capital Construction Contract to which a local workforce goal has been applied, and the proposed steps that will be taken to meet the goal. The Plan shall be organized by trade and indicate the number and category of positions already filled and the number and category of positions that require recruitment; the anticipated date that the hiring process will be initiated; the deadline for referrals; the anticipated position commencement date; and the duration of the position.

[[~~U.~~]] >>V.<<*Workforce Development Organization or WDO* means an organization providing construction trades skills training or providing skills training that are recognized and accepted by all federation members of the respective trade, who are instrumental in its design and provides certification after participation or apprenticeship training or any construction related training. The firm must be registered with the Department of Business Development >>(DBD)<<.

[[~~V.~~]] >>W.<< W*orkforce Recruitment*>>/*Referral*<< *Organization or WRO* means an organization providing qualified construction employment recruitment/>>referral<< services and employability skills training, including application process, interviewing, and appropriate attire. The

organization must be registered with the Department of Business Development>>(DBD)<<.

[[~~W~~.]] >>X.<< *Worker Training Program or WTP* is a certified training program, technical school, apprenticeship program or other such construction industry related training program.

[[~~X~~.]] >>Y.<< *Work Order* means issuance of specific work based on an open work contract with fixed unit prices.

(2) Program Components:

A. *Application:* Except where state, or federal laws or regulations mandate to the contrary, the provisions of this ordinance shall require review of Capital Construction Contracts /Work Orders for public improvements located in Designated Target Areas to determine the appropriateness of applying a local workforce goal requiring that a minimum of 10% of the persons performing the construction trades and labor work under the [[~~C~~]] >>c<<ontract be residents of Designated Target Areas as set forth in this ordinance. The provisions of this ordinance shall apply to all such Capital Construction Contracts/Work Orders entered into and issued by the County, its departments and agencies including the Public Health Trust or funded in whole or in part by County funds or with private funds on County property. The foregoing notwithstanding, the County Manager may by Administrative Order provide that Contracts and/or Work Orders below a certain dollar amount shall not be subject to the requirements of this ordinance.

B. *Establishment of local workforce goal:* A local workforce goal may be applied to a Capital Construction Contract /Work Orders subject to review under this section based on the Scope of Work, >>the relative local unemployment rate, and<< an estimate of the >>trades and<< workforce necessary to perform construction trades work and labor under the [[~~C~~]] >>c<<ontract. The RC is responsible for recommending to the County

Manager whether a workforce goal should be applied to a Capital Construction Contract/Work Order. The contract language for a Capital Construction Contract/Work Order to which a local workforce goal is applied shall specify that a certain percentage of the workforce performing construction trades and labor work under such [[~~C~~]] >>c<<ontract be residents of Designated Target Areas as provided herein.

C. *Workforce Plan:* Bid and proposal documents for Capital Construction Contracts/Work Order to which a local workforce goal has been applied shall require the contractor, [[~~its WDO or WRO as appropriate~~]] to develop and submit to the County, within fifteen (15) days of notification of award of the [[~~C~~]] >>c<<ontract, a Workforce Plan outlining how the goal will be met and containing all of the information and elements required by this Section. The Plan shall specify the total number of persons that will be used by the contractor (as well as by all Subcontractors) to perform all of the construction trades and labor work of the [[~~C~~]] >>c<<ontract, broken down by trade and labor category, minimum qualifications for each category, and the number of persons to be utilized in each category. The Plan shall identify by name, address and trade category of all persons proposed to perform work under the [[~~C~~]] >>c<<ontract currently on the contractor's (or on any proposed [[~~S~~]] >>s<<ubcontractor's) payroll who reside in any Designated Target Area. The Plan shall also indicate the number of positions shown on the work, trade categories and minimum qualifications therefore of the positions to be hired by the contractor (or by any proposed [[~~S~~]] >>s<<ubcontractors) to perform the construction trades and labor work under the [[~~C~~]] >>c<<ontract. The issuance of a Notice to Proceed does not indicate an acceptance of the Plan. The contract language of a [[~~C~~]] >>c<<ontract subject to a local workforce goal shall provide that issuance of a Notice to Proceed prior to DBD's approval of any Plan submitted shall not be deemed a waiver of the requirements that a Plan be submitted and be

approved. The contract language of a [[~~C~~]] >>c<<ontract subject to a local workforce goal shall provide that a Contractor who does not have a Plan for such Contract approved by DBD as of [[~~fifty~~]] >>twenty-five<<percent [[(~~50%~~)]] >>(25%)<< completion of the Contract may be subject to sanctions including, but not limited to, stop payment. The contract language of a [[~~C~~]] >>c<<ontract subject to a local workforce goal shall also provide that in the event that at contract completion, the [[~~C~~]] >>c<< ontractor >>fails to comply with<< [[~~does not achieve~~]] the established local workforce goal, liquidated damages equal to >>a minimum of <<$1500 [[~~for each~~]] >>per<< position >>or the salary that would be payable for such position had the person(s) been hired for the position as listed on the approved workforce plan to include all approved revisions to the workforce plan, whichever is greater << [[~~by which the Contractor fails to comply with such Goal (as provided in subsection D below)~~]] shall be withheld from the [[~~C~~]] >>c<<ontractor's final payment as liquidated damages and be applied to pay part of the costs of the Community Workforce Program under this ordinance. An updated Plan shall be submitted to DBD on a monthly basis. In the event that during the [[~~C~~]] >>c<<ontract time a [[~~N~~]] >>n<<ew [[~~H~~]] >>h<<ire or a person identified in the Plan as already on the contractor's (or any proposed [[~~S~~]] >>s<<ubcontractor's) payroll to meet the local workforce goal is replaced, Miami-Dade County will require the contractor to immediately contact DBD identifying the replacement. Notwithstanding anything to the contrary above, the contractor [[~~shall~~]] >>may<< be relieved from the requirements of this ordinance >>, in part or in whole,<< if such [[~~C~~]] >>c<<ontractor can demonstrate to DBD that it has utilized its best efforts to achieve the goal in accordance with the prescribed Administrative Order.

D. *Goal compliance*: The following shall count towards compliance with a local workforce goal. Within 15 days of approval of the Workforce Plan,

the contractor shall complete and submit a Job Order Request Form (in the form attached to Resolution No. 1145-99, the Clearinghouse for posting of job opportunities) to the Employee Relations Department for each position designated in the approved Workforce Plan for recruitment. The [[~~Employer's Information~~]] >> Employer/Contractor Information<< portion of the Job Order Request Form shall provide the relevant information for the contractor or [[~~S~~]] >>s<<ubcontractor who will employ the [[N]] >>n<<ew [[H]]>>h<<ire. Persons designated in the approved Workforce Plan as already on the contractor's (or on any proposed [[S]] >>s<<ubcontractor's) payroll at the time of [[~~approval~~]] >>bid submittal<<who reside in [[~~any~~]] >>the<< [[~~Designated Target Area~~]] >>DTA in which the public improvement is located<< and who perform any construction trades work or labor of the [[~~C~~]] >>c<<ontract shall count towards meeting the local workforce goal. Each New Hire residing in the [[~~Designated Target Area~~]] >>DTA<< in which the public improvement is located who is hired to any position designated in the approved Workforce Plan who performs construction trades or labor work of the [[~~C~~]] >>c<<ontract for a minimum duration of one hundred twenty (120) days >>or the length of the job whichever is less,<< shall also count towards meeting the goal. >>Persons that reside in a DTA other than the DTA in which the public improvement is located, may be counted towards meeting the goal <<provided the first priority in hiring for such position was given to persons residing in the Designated Target Area in which the public improvement is located [[~~Designated positions filled by a New Hire residing in any other Designated Target Areas shall be counted towards meeting the goal~~]] >> and<< when the hiring party as well as the WDOs and WROs have>>demonstrated to DBD that they have<< been unable to identify a qualified resident of the Designated Target Area in which the public improvement is located.

(3) Compensation for hiring from Designated Target Areas.

A. *WDO and WRO Registration:* DBD shall register WDOs and WROs, and shall maintain and publish an updated list of WDOs and WROs, identifying areas of expertise and services. DBD shall collect, assemble, and verify information needed to establish eligibility for such registration.

B. *Compensation to WDO or WRO for placement of New Hire:* The following applies to all [[~~C~~]] >>c<<ontracts to which a local workforce goal has been applied. WDOs shall receive a fee for the training, referral and placement of [[~~N~~]] >>n<<ew [[~~H~~]] >>h<<ire from a [[~~Designated Target Area~~]]>>DTA<< [[~~on such Contracts~~]]. WDO/WROs shall receive a fee for the referral and placement of [[~~N~~]] >>n<<ew [[~~H~~]] >>h<<ire from a [[~~Designated Target Area~~]] >>DTA<< on such Contracts. These fees are contingent on the [[~~N~~]] >>n<< ew [[~~H~~]] >>h<<ire remaining employed for a[[~~t~~]] minimum <<of one>>hundred <<and>>twenty (120) days or the duration of the job, which ever is less.

(4) Training. The County Manager or designee may initiate the development of a training program for construction related >> ~~to~~<< trades.

(5) Monitoring. The County shall maintain staff for the purpose of monitoring compliance with this [[~~O~~]] >>o<<rdinance. Assigned individuals will be on site quarterly to review the progress towards meeting the local workforce goal. The contractor, WDO, WRO, and all subcontractors performing work on a [[~~C~~]] >>c<<ontract to which a local workforce goal has been applied shall maintain, and make readily available, all records pertaining to employment by the contractor and [[~~S~~]] >>s<<ubcontractors on the [[~~C~~]] >>c<<ontract. The contractor shall submit monthly reports itemizing, by trade, all [[~~N~~]] >>n<< ew [[H]] >>h<<ires performing work under the [[~~C~~]] >>c<<ontract including, but not limited to

the trade, the time period the work was performed and the permanent residence.

(6) Incentives. It is the County's plan to encourage contractors to access incentives available in Designated Target Areas. Included are incentives established for Enterprise/Empowerment Zones, and Targeted Urban Areas such as the Work Opportunity Tax Credit, Business Registry Incentives, and Qualified Targeted Industries Incentives (QTI), and [[~~other~~]] any >>other<< applicable incentives. A contractor, WDO or WRO, is responsible for applying for any incentive for which they may be eligible.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity..

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re- lettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "article," or other appropriate word.

Section 4. [[~~This ordinance shall not be effective until the Board of County Commissioners adopts an Administrative Order implementing the program and shall apply to contracts advertised subsequent to such date.~~]] >> This ordinance shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon override by this Board, and shall apply to contracts advertised on or after May 5, 2003 for which bids have not yet been approved and addenda have been issued implementing the requirements of this ordinance. <<

Section 5. This ordinance does not contain a sunset provision.

Section 6. Resolution No. R-259-99 is hereby amended to provide that Capital

Construction Contracts funded by the Quality Neighborhood Initiative Bond Program (QNIBP)

for improvements located in Designated Target Areas that are advertised >>on or<< after >>May 5, 2003 << [[~~the effective date of this ordinance~~]] shall be subject >>to<< the requirements of the Community Workforce Program.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency.

Prepared by:
R. A. Cuevas, Jr.