

MEMORANDUM

EDPC
Substitute to
Agenda Item No. 1(F)2

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 13, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Chapter 2,
Article I, Section 2-11.17 of the
Code; establishing Residents
First Training and Employment
Program to expand skills training
and employment opportunities
for County residents

The substitute differs from the original in that the ordinance (i) removes all requirements for an Apprenticeship Program and related training, (ii) requires the Mayor to prepare and submit an Implementing Order within ninety (90) days of the ordinance's effective date, and (iii) requires verification of reasonable efforts to promote employment opportunities as part of contractor Workforce Performance Report submissions.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime and Co-Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: March 4, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- ☐ "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
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
3-4-14

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 2, ARTICLE 1, SECTION 2-11.17 OF THE CODE OF MIAMI-DADE COUNTY FLORIDA; ESTABLISHING RESIDENTS FIRST TRAINING AND EMPLOYMENT PROGRAM TO EXPAND SKILLS TRAINING AND EMPLOYMENT OPPORTUNITIES FOR COUNTY RESIDENTS ON BUILDINGS OR PUBLIC WORKS PROJECTS FUNDED COMPLETELY OR PARTIALLY BY MIAMI-DADE COUNTY, OR PRIVATELY FUNDED PROJECTS ON COUNTY OWNED LAND; REQUIRING GREATER ACCOUNTABILITY OF PUBLIC CONTRACTORS AND SUBCONTRACTORS REGARDING EFFORTS TO PROMOTE LOCAL HIRING AND TRAINING; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, Section 2-11.16 of the Code of Miami-Dade County establishes the requirements for construction contractors bidding on public projects or private projects located on Miami-Dade County (the "County") owned land (collectively referred to as ">>County<< [[Capital]] Construction Contracts"); and

WHEREAS, the County has a strong interest in promoting employment and skill training opportunities for County residents through ">>County<< [[Capital]] Construction Contracts as such efforts help ensure a reliable source of local labor, provide economic benefits to residents and local communities, and stimulate future revenue for the County from residents through the payment of local taxes; and

WHEREAS, Miami-Dade County also has a vested interest in ensuring that >>County<< [[Capital]] Construction Contracts are successfully executed and that work on such projects is performed in a timely, safe and cost-effective manner; and

WHEREAS, major >>County<< ~~[[Capital]]~~ Construction Contracts require large pools of craft labor who require skill and safety training in multiple construction crafts to ensure the successful execution and delivery of such projects,

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

Section 1. Section 2-11.17 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.17. ~~[[Reserved.]]~~>>Residents First Training and Employment Program.

(1) Title. This section shall be referred to as the Miami-Dade County Residents First Training and Employment Program.

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

~~[[(a) Apprenticeship Program means an apprenticeship program that is currently registered with and approved by the United States Department of Labor or a state apprenticeship agency.]]~~²

>>(a) County<< ~~[[Capital]]~~>>Construction Contracts means (i) a County contract valued in excess of \$1,000,000 for the construction, demolition, alteration and/or repair of public buildings or public works, or (ii) a contract or lease valued in excess of \$1,000,000<< ~~[[entered into after the effective date of this ordinance]]~~>>which provides for privately funded construction, demolition, alteration or repair of buildings or improvements located on County-owned land.<<

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

² The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or ~~[[double bracketed]]~~ are deleted, words double underlined and/or >>double arrowed<< are added.

~~[(b) Construction Labor Workforce means the construction trade workers employed on Capital Construction Contracts, including mechanics and laborers who perform skilled and unskilled construction work on these projects, as these terms are used in Sections 2-11.16 and 2-1701 of the Code of Miami-Dade County, Florida (the "Code").]~~

>>(b) Department means the department, agency or other party responsible for awarding a County<< [[Capital]] >>Construction Contract as designated by the County.<<

[(c) Implementing Order ("IO") means the implementing order developed by the Mayor or Mayor's designee and approved by this Board of County Commissioners (the "Board") to give effect to the provisions of this section.]]

>>(3) Program Scope:

(a) The provisions of this ordinance shall apply to County<< [[Capital]]>>Construction Contracts which are subject to Section 2-11.16 of the Code of Miami-Dade County, Florida (the "Code"), entered into after the effective date of the ordinance<< [[or assisted]]>>by the County, and its<< [[d]]>>D<< >>epartments<<[[and agencies, including the Public Works and Water Departments]].

>>(b) The provisions of this Section shall be applied to reinforce and complement the provisions of Sections 2-11.16 and 2-1701 of the Code.

(4) General Program Requirements:

(a) Except where state or federal laws or regulations mandate to the contrary, all contractors and subcontractors of any tier performing on a County<< [[Capital]]>>Construction Contract shall satisfy the requirements of this Section.

(b) As a condition of submitting a bid or proposal for a County<< [[Capital]]>>Construction Contract, a

general contractor, construction manager or other contractor seeking award of a contract shall submit a Responsible Contractor Affidavit with its bid or proposal.

- (c) The Responsible Contractor Affidavit shall be completed on a standard form prepared by the County and shall reference the County<< [[Capital]]>>Construction Contract for which a bid or proposal is being submitted by name and contract or project number. Any agency, department, or other party responsible for awarding a County<< [[Capital]]>>Construction Contract shall require contractors to use the standard form prepared by the County.
 - (d) A County<< [[Capital]]>>Construction Contract shall not be executed until all requirements of this Section have been fulfilled.
 - (e) Prior to awarding or approving future County<< [[Capital]]>>Construction Contracts, the County shall review prior work performed by proposed contractors and subcontractors, including their compliance with the terms of the Responsible Contractor Affidavit.
 - (f) The County shall provide notice to any contractor who fails to submit a Responsible Contractor Affidavit, that said contractor has forty-eight (48) hours from the time of notification to submit a Responsible Contractor Affidavit or its bid or proposal will be deemed nonresponsive and disqualified.
- (5) Responsible Contractor Affidavit:
- (a) Required Affidavit: A construction manager, general contractor or other contractor submitting a bid or proposal for a County<< [[Capital]]>>Construction Contract shall verify the following information on its Responsible Contractor Affidavit form:<<

~~[(i) The contractor identifies and participates in an Apprenticeship Program for each craft or type of employee construction trade or labor classification it will employ for Construction Labor in the execution of the contract. The contractor is required to submit the name and contact information of the Apprenticeship Program for each craft or type of employee listed pursuant to Section 2-11.16 of the Code, and provide supporting documentation confirming its participation in the program(s) identified construction trade or labor classification.]]~~

>>(i) Prior to working on the project, all persons employed by the contractor to perform construction shall have completed, the OSHA 10 Hour safety training course established by the Occupational Safety & Health Administration of the United States Department of Labor. Such training does not need to be completed at the time of bidding but shall be completed prior to the date persons are employed on the project.

(ii) The contractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having fifty-one percent (51%) of all Construction Labor hours performed by Miami-Dade County residents. To verify workers' residency, firms shall require each worker to produce a valid driver's license or other form of government-issued identification. County residents employed in furtherance of the goal set forth in the County's Community Workforce Program shall be counted towards the fifty-one percent (51%) goal.

(b) Subcontractor Affidavits. After the contractor has received the Notice of Award of the contract but prior to the issuance by the County of the Notice to Proceed, the contractor shall also submit (i) a list of

all subcontractors that will be used on the project, and (ii) provide Responsible Subcontractor Affidavits for all such~~<<[[listed]]>>~~subcontractors to the County. Responsible Subcontractor Affidavits shall be executed by the respective subcontractors on forms prepared by the County and shall contain the same information required in Responsible Contractor Affidavits~~<<[[, including verification of apprenticeship qualifications as specified by this Section]]~~.

>>(c) Construction Workforce Plan. Documentation regarding a contractor's construction workforce plan (the "Plan") shall be provided. 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 contract, 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 contract currently on the contractor's (or on any proposed subcontractor's) payroll who reside in Miami-Dade County. 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 subcontractors) to perform the construction trades and labor work under the contract.

(6) Workforce Performance Reports:

(a) Within thirty (30) days of completion of a County~~<<[[Capital]] >>~~Construction Contract, the contractor responsible for the project shall submit a Workforce Performance Report to the County, which shall include the following information on the workforce employed in the execution of the contract:

(i) the total number of Construction Labor work hours performed on the project, and the number and percentage of such work hours

performed by Miami-Dade County residents;

(ii) supporting documentation verifying Construction Labor work hours performed by Miami-Dade County Residents;~~<<[[and]]~~

>>(iii) the total amount of funds the contractor expended during the course of the project on~~<< [[apprenticeship or]]~~>>other related skill and safety training programs~~<<>>~~and~~<<[[=]]~~

[[iv) supporting documentation verifying reasonable efforts to promote employment opportunities for local residents.]]

>>(b) No contractor shall receive final payment for completion of a County~~<<[[Capital]]~~>>Construction Contract until the County receives a completed workforce performance report submitted pursuant to this Section.

(c) When evaluating a prospective contractor's bids or proposals for future County~~<<[[Capital]]~~>>Construction Contracts, the Department shall review past Contractor's Workforce Reports, as well as other performance evaluations and reports on the contractor's work, to ensure it meets appropriate qualification and contractor responsibility standards.~~<<~~

[(7) Implementation. The Mayor or Mayor's designee shall prepare and submit to the Board for approval, an Implementing Order within ninety (90) days of the effective date of this ordinance, which shall at a minimum:

(a) Set forth procedures to determine contractor compliance with the requirement to make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having fifty-one percent (51%) of all Construction Labor hours performed by Miami-Dade County residents.

- (b) Establish a procedure for review and investigation of allegations of noncompliance with the provisions of this ordinance and IO.
- (c) Establish a procedure to determine appropriate sanctions for failure to comply with the terms of this ordinance and IO.]]

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 relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

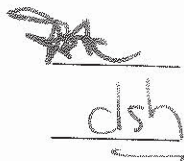
PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

David Stephen Hope

Prime Sponsor: Commissioner Jean Monestime
Co-Sponsor: Commissioner Barbara J. Jordan

The block contains two handwritten signatures. The first signature is in dark ink and appears to be 'JAC' or similar, written over a horizontal line. The second signature is in lighter ink and appears to be 'dsh', also written over a horizontal line.