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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 7(E)

(Second Reading 9-7-16)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: June 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance pertaining to Community Workforce Program; amending section 2-1701 of the Code to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements

Ordinance No. 16-86

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson, and Co-Sponsors Commissioner Daniella Levine Cava, Commissioner Barbara J. Jordan and Commissioner Dennis C. Moss.

Abigail Price-Williams
County Attorney

APW/smm

Memorandum

MIAMI-DADE COUNTY

Date: September 7, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Fiscal Impact Statement for Ordinance Pertaining to Community Workforce Program

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The proposed ordinance amends 2-1701 of the Code of Miami-Dade County to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements.

The Internal Services Department, Small Business Development Division, is already responsible for assigning goals/measures to County contracts, and, it is expected that this existing staff will be able to manage those contracts meeting the criteria of this proposed ordinance. Increased penalties may have a positive fiscal impact on the County, however, it is difficult to make an estimate at this point.

Edward Marquez
Deputy Mayor

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Memorandum

MIAMI-DADE COUNTY

Date: September 7, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Social Equity Statement for Ordinance pertaining to Community Workforce Program; amending section 2-1701 of the Code of Miami-Dade County, Florida to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements

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The proposed Ordinance amends the Community Workforce Program Section 2-1701 of the Code of Miami-Dade County, Florida to provide for increased penalties to be paid by contractors and sub-contractors upon failure to meet goal requirements.

Increasing the penalties on applicable contracts will provide for stronger accountability to small business measures during the duration of the contract. In addition, this amendment will assist all parties involved to resolve any issues in meeting small business measures.

Edward Marquez
Deputy Mayor

Attachments

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 7, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(E)

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**

_____ **Statement of social equity 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. 7(E)
9-7-16

ORDINANCE NO. 16-86

ORDINANCE PERTAINING TO COMMUNITY WORKFORCE PROGRAM; AMENDING SECTION 2-1701 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR INCREASED PENALTIES TO BE PAID BY CONTRACTORS AND SUB-CONTRACTORS UPON FAILURE TO MEET GOAL REQUIREMENTS; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 2-1701 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Sec. 2-1701. Community Workforce Program.

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

* * *

O. *Resident.* Resident means a person who has resided in Miami-Dade County in any designated target area >>for<< the past year (12 months).

* * *

(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

[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.

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 contract 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 Board may by Implementing 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 contract. The RC is responsible for recommending to the Mayor or the Mayor's Designee 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 contract 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, to develop and submit to the County, within fifteen (15) days of notification of award of the contract, 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 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 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 subcontractors) to perform the construction trades and labor work under the contract. The County will not enter into the contract until it receives the contractor's Workforce Plan and deems the Plan acceptable. The contract language of a contract subject to a local workforce goal shall provide that in the event that at contract completion, the contractor fails to comply with the established local workforce goal, liquidated damages equal to a minimum of $[[~~1,500.00~~]]>>3,000.00<< 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 shall be withheld from the contractor's final payment as liquidated damages and be applied to pay part of the costs of the Community Workforce Program under this ordinance. >>In calculating the salary, a minimum of eight (8) hours per day times (i) the position's wage rate or (ii) the applicable Responsible Wages and Benefits Schedule wage rate will be used.<< An updated Plan shall be submitted to SBD on a monthly basis. In the event that during the contract time a new hire or a person identified in the Plan as already on the contractor's (or any proposed subcontractor's) payroll to meet the local workforce goal is replaced, Miami-Dade County will require the contractor to immediately contact SBD identifying the replacement. Notwithstanding anything to the contrary above, the contractor may be relieved from the requirements of

this ordinance, in part or in whole, if such contractor can demonstrate to SBD that it has utilized its best efforts to achieve the goal in accordance with the prescribed Implementing 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. >>R-<<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/contractor Information portion of the Job Order Request Form shall provide the relevant information for the contractor or subcontractor who will employ the new hire. Persons designated in the approved Workforce Plan as already on the contractor's (or on any proposed subcontractor's) payroll at the time of bid submittal who reside in the DTA in which the public improvement is located and who perform any construction trades work or labor of the contract shall count towards meeting the local workforce goal. Each New Hire residing in the DTA where the public improvement project is located who is hired to any position designated in the approved Workforce Plan who performs construction trades or labor work of the contract 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, and when the hiring party as well as the WDOs and WROs have demonstrated to SBD that they have been unable to identify a qualified resident of the Designated Target Area in which the public improvement is located. >>In the event that at contract completion, goal compliance cannot be determined due to the

contractor's failure to submit and obtain SBD approval for a revised Workforce Plan, $10,000.00 shall be withheld from the contractor's final payment as liquidated damages, and applied to pay costs of the Community Workforce Program.<<

* * *

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: September 7, 2016

Approved by County Attorney as to form and legal sufficiency: APW

Prepared by: dsh

David Stephen Hope

Prime Sponsor: Commissioner Audrey M. Edmonson
Co-Sponsors: Commissioner Daniella Levine Cava
Commissioner Barbara J. Jordan
Commissioner Dennis C. Moss