

MEMORANDUM

Amended
Agenda Item No. 7(A)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 18, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to Residents First
Training and Employment Program;
amending section 2-11.17 of the Code;
expanding apprenticeship skills training
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; establishing on-the-job
training requirement for contractors
awarded capital construction contracts
with an estimated contract amount in
excess of \$10,000,000.00

Ordinance No. 22-144

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jean Monestime and Co-Sponsor Commissioner Raquel A. Regalado.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: October 18, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Residence First Training and Employment Program

This ordinance will not have a fiscal impact to Miami-Dade County for the oversight of this program. While it does require staff to take on administrative responsibilities beyond their current duties, the work will be absorbed by the existing staff.

It is difficult to determine if this ordinance will affect the cost of any construction contract from the additional requirements on contractors.

A handwritten signature in blue ink that reads "Edward Marquez".

Edward Marquez
Chief Financial Officer

Memorandum



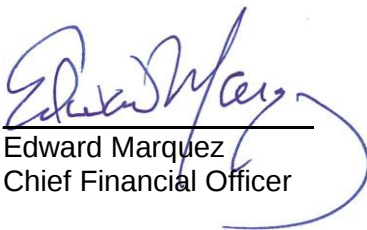
Date: October 18, 2022

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Social Equity Impact Statement for Ordinance relating to Residents First Training and Employment Program; amending Section 2-11.17 of the Code; expanding apprenticeship skills training 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; and establishing on-the-job training requirement for contractors awarded capital construction contracts with an estimated contract amount in excess of \$10,000,000

The proposed amendment will provide a social benefit to the residents of Miami-Dade County by requiring that 6 percent of the Labor Hours on County construction contracts valued greater than \$10,000,000 to be performed by Apprentices employed by contractors or subcontractors, per the Residents First Training and Employment Program. This requirement will promote employment, skills, and on-the-job training opportunities for County residents and promote business and economic development by increasing the number of available and skilled workers in the County.


Edward Marquez
Chief Financial Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 18, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Amended
Agenda Item No. 7(A)

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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 7(A)
10-18-22

ORDINANCE NO. **O-22-144**

ORDINANCE RELATING TO RESIDENTS FIRST TRAINING AND EMPLOYMENT PROGRAM; AMENDING SECTION 2-11.17 OF THE CODE OF MIAMI-DADE COUNTY FLORIDA; EXPANDING APPRENTICESHIP SKILLS TRAINING 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; ESTABLISHING ON-THE-JOB TRAINING REQUIREMENT FOR CONTRACTORS AWARDED CAPITAL CONSTRUCTION CONTRACTS WITH AN ESTIMATED CONTRACT AMOUNT IN EXCESS OF \$10,000,000.00; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, section 2-11.17 of the Code of Miami-Dade County establishes certain requirements for contractors and associated subcontractors who bid on public or private construction projects located on Miami-Dade County (the “County”) owned land (collectively, the “County Construction Contracts”); and

WHEREAS, the County has a strong interest in promoting employment, skills, and on-the-job training opportunities for County residents through County 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, major County 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; and

WHEREAS, the trades of (i) appraiser, (ii) carpenter, (iii) cement mason, (iv) brick layer, (v) electrician, (vi) elevator constructor, (vii) HVAC installation worker, (viii) iron worker, (ix) laborer, (x) mill worker, (xi) machinery, (xii) operating engineer, (xiii) pile driver, (xiv) pipe fitter, (xv) plumber, and (xvi) sheet metal worker, are applicable for apprenticeship programs, and reviewed by the County when monitoring County Construction Contracts for payment of responsible wages; and

WHEREAS, requiring the employment of apprentices on certain County Construction Contracts will promote business and economic development by increasing the number of skilled workers in the County,

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. Residents First Training and Employment Program.

* * *

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

>>(a) Apprentice means any person who is enrolled in and participating in an apprenticeship program registered with the Florida Department of Education or the United States Department of Labor.<<

[[~~(a)~~]]>>(b)<< *County Construction Contracts* means (i) a County contract valued in excess of

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.

~~[[(\$1,000,000)]>>\$10,000,000.00<<~~ 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)]>>\$10,000,000.00<<~~ which provides for privately funded construction, demolition, alteration or repair of buildings or improvements located on County-owned land>>, provided however that such County contract or lease shall be valued in excess of \$1,000,000.00 to comply with the requirements of sections 5(a)(i) and 5(a)(ii) of this ordinance. County contracts which are federally funded or which are otherwise subject to the provisions of the Davis-Bacon Act (40 U.S.C. § 276(a)), and emergency contracts as defined in I.O. 3-38 shall be exempt<<.

~~[[(\$)]>>(c)<<~~ *Department* means the department, agency or other party responsible for awarding a County Construction Contract as designated by the County.

>>(d) *Estimated Contract Amount* means the dollar amount of the contract less any costs that are not directly related to the amount of construction.

(e) *Good Faith Efforts* means that the contractor, without an intent to defraud or seek an unfair advantage, took all necessary steps to secure and maximize the required percentage for Apprentices on a project.<<

~~[[(\$)]>>(f)<<~~ *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.

>>(g) *Job* means a specific trade (i.e., painting, electrical, plumbing), in which a person hired by the contractor or subcontractor as part of the project counts towards an Apprentice goal where an established apprenticeship program exists, and which the length of the job will aggregate to more than 30 days due to the nature of the job. Jobs less than 30 days to

complete will not be considered towards compliance with an Apprentice goal under this section.

- (h) Labor Hours means the total hours worked on the site of a project by trades workers who are employed by contractors or subcontractors on the project, excluding hours worked by forepersons, superintendents, and owners.
- (i) On-the-Job County Training Plan means a plan delineating the number, and if applicable, category of administrative, construction trades, and labor personnel working on the County Construction Contract. The plan shall be organized by trade and indicate the: (1) number and category of on-the-job training positions already offered; (2) number and category of positions that require recruitment; (3) anticipated date the hiring process will be initiated; (4) deadline for referrals; (5) anticipated position commencement date; and (6) duration of the positions.
- (j) SBD means Small Business Development or its successor entity.
- (k) Work Order means issuance of specific work based on an open work contract with fixed unit prices.<<

(3) *Program Scope.*

- (a) The provisions of this ordinance shall apply to County 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 by the County, and its Departments>>, including the Public Health Trust, or funded in whole or in part by County funds or with private funds on County property provided that such contracts meet or exceed the dollar threshold established herein. Contracts issued pursuant to Section 2-8.2.7.01 of the Code (Miscellaneous Construction Contracts Program) shall be exempt from the Apprentice requirements of this ordinance<<.

- (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.

>>(c) For the duration of the County Construction Contract, at least 6 percent of the Labor Hours on the project must be performed by Apprentices employed by the contractor or subcontractors.

If the contractor is unable to achieve or maintain the required percentage, the contractor must demonstrate and document the Good Faith Efforts made to achieve or maintain the required percentage. The County will determine whether the contractor made all required Good Faith Efforts by evaluating the contractor's submitted documentation.

- (d) On-The-Job County Training Plan. Bid and proposal documents for applicable County Construction Contracts/Work Orders shall require the contractor to develop and submit to the County, within 15 days of notification of award, an On-the-Job County Training Plan which outlines how the goal will be met and containing all of the information and elements required by this section and related IO. The On-the-Job County Training Plan shall specify: (1) the total number of Apprentices that will be trained 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; (2) minimum qualifications for each category; and (3) the number of persons to be utilized in each category. The County will not issue a Notice to Proceed until it receives the contractor's On-The-Job County Training Plan and deems the plan acceptable. The County Construction Contract language subject to an Apprentice goal shall provide that in the event that at contract completion, the contractor fails to comply with the established goal, liquidated damages equal to a minimum of \$1,500.00 per position or the salary that would be payable for such position, 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 establishing, monitoring and enforcing these goals

and plans under this ordinance. 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 the County that it has utilized Good Faith Efforts to achieve the goal in accordance with this ordinance and the prescribed IO.<<

* * *

(5) *Responsible Contractor Affidavit:*

- (a) Required Affidavit: A construction manager, general contractor or other contractor submitting a bid or proposal for a County Construction Contract shall verify the following information on its Responsible Contractor Affidavit form:

* * *

>>(iii) 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.

(iv) The contractor must certify that:

- a. the contractor participates in an apprenticeship program that is registered with the Florida Department of Education or the United States Department of Labor; or
- b. the contractor commits that at the time it executes a County Construction Contract, the contractor will be participating in an apprenticeship program that is approved by the Florida Department of Education or the United States Department of Labor.<<

- (b) >>Responsible<< 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 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 Affidavit[s]>>, including certification and verification of Apprentice qualifications as specified by this section<<.

(6) *Workforce Performance Reports:*

- >>(a) The contractor shall require that each of its subcontractors maintain accurate and timely records identifying the name, address, trade classification, and labor hours for Apprentices used by the subcontractors on the County Construction Contract.

- (b) Failure of a contractor to comply with the requirements of this ordinance may subject the contractor to all remedies available to the County at law, including but not limited to, debarment pursuant to Section 10-38 of the Code, suspension of the contractor from consideration for the award of future contracts, and termination of the County Construction Contract.<<

- ~~[[a]]~~>>(c)<< Within thirty (30) days of completion of a County 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:

* * *

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

* * *

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

~~[(e)]~~>>(e)<< When evaluating a prospective contractor's bids or proposals for future County 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>>(s)<< within ~~[[ninety (90)]]~~>>(60)<< days of the effective date of this ordinance, which at a minimum:

* * *

>>(e) Reporting. County staff shall annually prepare a report of County Construction Contracts that includes: (1) total dollar value of awards; (2) the number of Apprentices hired; (3) the number of Apprentices working; (4) the number of Labor Hours worked by Apprentices; and (5) the total Labor Hours expended. The annual reporting shall commence one year after adoption of the IO(s).<<

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:

October 18, 2022

Approved by County Attorney as
to form and legal sufficiency:

GBL
dsh

Prepared by:

David Stephen Hope

Prime Sponsor: Commissioner Jean Monestime

Co-Sponsor: Commissioner Raquel A. Regalado