10-O-0928

AN ORDINANCE BY
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AS SUBSTITUTED(2) AND AMENDED BY
COMMUNITY DEVELOPMENT & HUMAN RESOURCES COMMITTEE

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA CHAPTER 2, ARTICLE IV, SECTION 2-195 TO EXPAND THE FUNCTIONS AND DUTIES OF THE ATLANTA WORKFORCE DEVELOPMENT AGENCY; TO INSERT A NEW ARTICLE XI ENTITLED THE ATLANTA FIRST SOURCE AND ATLANTA CITYBUILD PROGRAM, WHICH NEW ARTICLE XI SHALL INCLUDE DIVISION 1 – GENERAL PROVISIONS, DIVISION 2 - FIRST SOURCE JOBS POLICY, DIVISION 3 – ATLANTA CITYBUILD PROGRAM, DIVISION 4 – ATLANTA FIRST SOURCE AND ATLANTA CITYBUILD ADVISORY COMMITTEE; DIVISION 5 – PENALTIES; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta seeks to create opportunities for unemployed or underemployed residents do not possess the job skills which hinders entry into the employment market; and

WHEREAS, the City enters into numerous public works and improvement contracts, which contracts call for various workers with building and construction trade skills to fulfill and perform the work required under the contract, and these contracts are funded by public dollars;

WHEREAS, the City has previously enacted a First Source Jobs Policy to create entry level employment opportunities for low-income city residents from contracts let by the City;

WHEREAS, the construction industry is an industry which provides a path to middle-class careers for individuals without advanced degrees and for individuals who face barriers to quality and sustainable employment;

WHEREAS, pre-apprenticeship programs play a critical function in preparing individuals who do not possess strong literacy, mathematical or educational backgrounds and who have had no prior introduction or orientation to the construction industry for entry into programs where these individuals can attain construction and building trades skills;

WHEREAS, it is the desire and the intention of the Atlanta City Council that the City expenditure of funds pursuant to certain city contracts should provide a benefit to the City's communities in the form of greater job training and employment opportunities for low-income unemployed and underemployed City residents;

WHEREAS, it is the desire and intention of the Atlanta City Council that the First Source Jobs Policy Advisory Board be reconstituted into a larger First Source and Atlanta CityBuild Advisory Board.

NOW THEREFORE, the Council of the City of Atlanta, Georgia hereby ordains as follows:

SECTION 1. That Chapter 2, Article IV, Section 2-195 [of the City of Atlanta Code of Ordinances?] is hereby amended to add a new subsection (5), which shall read as follows.

(5) Administering the First Source Jobs Policy set forth pursuant to Division 2 of Article XI, Chapter 2 of this title and administering the Atlanta CityBuild Program set forth pursuant to Division 3 of Article XI, Chapter 2 of this title.

SECTION 2. That Chapter 2, Article XI, of the City of Atlanta Code of Ordinances is hereby amended to delete the current Article in its entirety and to insert in lieu thereof the following Article, so that said Article shall read as follows.

Article XI. First Source Jobs Program

Division 1. General Provisions

Sec. 2-1651. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice means any person who is enrolled in a Certified Apprentice Program and who has resided in the City for a period of at least two (2) years preceding commencement of employment under a Construction Contract pursuant to which such person will be employed pursuant to this ordinance, at either the Construction Contractor or Subcontractor level.

AWDA means the Atlanta Workforce Development Agency.

Beneficiary means the immediate recipient of any industrial revenue bonds, commercial or industrial abatement, urban redevelopment action grants or community development block funds administered by the city or agencies substantially controlled by the city, including the economic development corporation, urban residential finance authority. The term shall only apply to those entities benefiting from such city funds or administered funds in the amount of $25,000.00 or more with 15 or more employees.

Certified Apprentice Program means a program that is registered with the U. S. Department of Labor that trains participants in construction skills related to specific trades and

occupations and that enters into a written agreement with a Pre-Apprenticeship Program to admit and place substantial numbers of Trainees into employment in the construction trades.

City means the City of Atlanta, Georgia.

City Agencies means departments, entities, agencies, or authorities, including, but not limited to, the Atlanta Development Authority and its affiliated and interlocking agencies and authorities, such as: Atlanta Beltline, Inc., the Downtown Development Authority of Atlanta and the Urban Residential Finance Authority, over which the City or its elected officials exercise administrative or policymaking authority.

City Resident means any person who resides in the City and has continuously been a resident of the City for at least two years immediately preceding their participation in the First Source, Pre-Apprenticeship Program or such individuals' work participation as an Apprentice or Skilled Construction Worker on a Construction Contract or Subcontract.

Construction Contract means a contract entered into by the City or a contract funded by the City for the performance of work which requires construction or building trades skills and has a face value that is at or greater than the Threshold Amount.

Construction Contractor means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, trust, unincorporated association or other entity, whether profit or nonprofit, that enters into a Construction Contract.

Contract means a contract entered into with the City for the performance of work on a Eligible Project that is greater than $20,000

Contractor means any person, firm, partnership, limited liability company, corporation, joint venture, proprietorship, trust, unincorporated association or other entity, whether profit or nonprofit, that enters into a Contract.

Employment Agreement means a contract executed by the City and a Beneficiary or Contractor, the terms of which shall include, among other provisions, details as to the number and description of each entry-level job for which the Beneficiary or Contractor is required to use the first source register and other applicable sections of this article.

Entry-level job means any nonmanagerial, nonprofessional or nontechnical position for which little or no prior work experience or vocational skill training is required to successfully perform the job tasks.

First Source Register means a listing of Low-Income City Residents, including graduates of programs funded by the Workforce Investment Act (WIA), which is compiled and maintained by ADWA pursuant to Sec. 2-1657 below.

Low-Income City Resident means any City Resident who meets one of the following criteria: (i) resides in a census tract within the City with a rate of unemployment in excess of

100% of the City's unemployment rate; (ii) resides in a household with a family income at or below the poverty level as defined by the Federal Office of Management and Budget (OMB); (iii) has a major barrier to employment such as disability status, veteran status, teenage parents, lacking a high school diploma or a GED, homeless, dislocated, laid-off or older workers. Such individuals must be at least 18 years old and, if not a high school graduate, must not have been enrolled in a secondary school or below within the past six months.

Pre-Apprenticeship Program means a job training program a majority of whose enrollees are Low-Income City Residents and that prepares individuals to enter into a Certified Apprenticeship program by providing them with skills training that provides an initial introduction to the construction industry, that increases literacy and mathematical skills, and that increases life skills.

Program means the Atlanta First Source, Job Training and Employment Placement Program established by this article.

Skilled Construction Worker means any person who has completed a Certified Apprentice Program, who resides in the City and who has continuously resided in the City for a period of at least two (2) years prior to such individual's work participation on a Construction Contract or Subcontract.

Threshold Amount means as to each Construction Contract a face amount of $500,000 and as to each Subcontract under a face amount of $250,000.

Trainee means a Low-Income City Resident that is enrolled in a Pre-Apprenticeship Program listed on the registry established pursuant to Section 2-1660.

Sec. 2-1652 Severability.

If any provision of this article shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this article.

Division 2. First Source Jobs Policy

Sec. 2-1653. AWDA Duties

The duties of AWDA shall include the following:

(1) Administration of this division.

(2) Establishment of written procedures to effectuate this division.

(3) Approval of Employment Agreements.

(4) Provision of all necessary forms, applications, documents and papers necessary to comply with this article.

(5) Establish training programs that include Pre-Apprenticeship programs, entrepreneurial skills programs and upgrade training for skilled workers.

(6) Establish training programs that may include Apprenticeship programs provided nothing in this provision shall require that participants join a labor union.

(7) Make determinations whether or not bidders have complied with executing the First Source Jobs Agreement and First Source Job Information Sheet.

(8) Provide recruitment efforts for both Entry Level Job workers and Skilled Construction Workers provided said Skilled Construction Workers fit within the definition of Low Income City Resident.

(9) Meet with City of Atlanta user agency representatives and the Chief Procurement Officer (or his/her designee) prior to the issuance of any bid solicitation sourced from that user agency which may appropriately include First Source requirements to discuss whether the inclusion or exclusion of the First Source provision is appropriate for said solicitation.

(10) The Director of AWDA shall provide an annual report to the Mayor and City of Atlanta Council outlining the efforts in complying with the goals of this Article, the number of jobs created, the skill sets demanded by employers and any other metric as may be requested by the Mayor and the City Council consistent with federal, state and local law.

(11) The Director of AWDA (or his/her designee) shall provide notices of workshops, training and employment opportunities (including anticipated job position requirements, full or part-time nature, employee benefits offered, if any, employer's promotion policy, possibility of advancement, employees expected hours and other policies related to the winning bidders project). Said notices shall be provided in hard copy form and electronic form to Community Based Organizations, Centers of Hope and any other local venue which may effectively inform local economically disadvantaged participants and Low Income City Residents.

(12) The Director of AWDA shall, consistent with the One Stop delivery system as designated by WIA and other WIA provisions, determine an effective training program which may include utilization of local colleges in order to provide an

adequate pool of trained, ready and able economically disadvantaged participants and Low Income City Residents for employers.

Sec. 2-1654 Office of Contract Compliance Duties

Working in conjunction with AWDA, the Office of Contract Compliance duties are:

(1) Once notified by AWDA that an Employer is not compliant with this Article, make determinations as to whether any of the penalties set forth in section 2-1657 for noncompliance are appropriate.

(2) Notify a non-compliant Employer by registered mail that the party has the right to appeal a determination of noncompliance with this article to the contract compliance hearing officer within seven days of receipt of the notice of noncompliance.

(3) Notify the Chief Procurement Officer, the head of the affected using agency and any other appropriate City officials of any determination of noncompliance with the requirements of this article and any appeal from such determination of noncompliance.

Sec. 2-1655 User Agency Duties

City of Atlanta user agencies may meet with AWDA personnel, as designated by the Director of AWDA, and the Chief Procurement Office (or his/her designee), prior to the issuance of bid solicitations to discuss the inclusion of First Source requirements in any forthcoming bid solicitations. Said user agency representative shall provide a list of potential positions and skill sets to allow AWDA to train and present an adequate pool of trained, ready and available potential participants who meet the definition of Low Income City Residents.

Sec. 2-1656 Employer Duties

Winning bidders on solicitations which include First Source requirements shall meet with the Director of AWDA (or his/her designee) after award but prior to execution of the contract to provide appropriate notification of available Entry Level, Apprentice and Skilled Labor positions prior to interviewing applicants to allow AWDA time to train and refer an adequate pool of economically disadvantaged participants to employers for consideration. Said notification shall include the following information:

1) Skill sets required for any Entry Level Jobs.

2) Employer's recruitment, hiring and retention goals consistent with an Employment Agreement which the winning bidder will execute.
3) Occupational title of the Entry Level job.
4) Hours required for the Entry Level job.
5) Expected duration of the Entry Level job.
6) Any English language proficiency requirements, or absence thereof.
7) Projected schedule, and procedures for hiring Entry Level jobs.

Sec. 2-1657. First Source Register.

(a) AWDA shall compile and maintain a First Source Register.

(b) In compiling and maintaining the First Source Register, AWDA shall contact the Georgia Department of Labor, community-based organizations, welfare agencies and any other agency whose primary target group is the economically disadvantaged.

Sec. 2-1658. Employment Agreement Required.

Under this article, the City shall require each Employer for every applicable project that is subject to this Ordinance, to enter into an Employment Agreement with the City in the form to be required by AWDA.

Sec. 2-1659. First Source Hiring Guidelines.

Prior to hiring any Entry-level Jobs, each Employer will review job applicants exclusively from the First Source Register for a period of at least thirty days prior to reviewing job applicants from any other source.

(a) Each Employer will maintain as a goal that 50 percent of Entry-level Jobs under that Employer's control will be filled with individuals from the First Source Register

(b) Each Employer will make best efforts to attain the above goal.

Each Employer will make best efforts to hire Low-Income City Residents for all Entry-level Jobs that are under the Employer's control.

Division 3 Atlanta CityBuild Program

Sec. 2-1660. Program.

(a) Subject to funding as stated in Section 2-1665, there is hereby established within AWDA a program named the Atlanta CityBuild Program. This program shall have the following purposes: (i) to administer the Atlanta CityBuild Program; (2) to increase the number of

Low Income City Residents who enroll in, participate in, and completing Pre-Apprenticeship Programs; (3) to monitor the effectiveness of Pre-Apprenticeship Programs serving Low Income City Residents; (4) to increase the number of Low Income City Residents who complete Pre-Apprenticeship Programs and then enroll in, participate in and complete Certified Apprenticeship Program; (5) to facilitate and ensure that Construction Contracts provide training and employment opportunities for City residents, including Low Income City Residents who participate in Certified Apprenticeship Programs; (6) to work in conjunction with the Department of Procurement, to make a forecast of the construction and building trades skills to be required under Construction Contracts projected to be let by the City in specified future time periods for purposes of identifying in advance the construction skills training and employment opportunities likely to be generated by such contracts; (7) to inventory the construction and building skills available in Certified Apprenticeship Programs; (8) to assist in the enforcement of the requirements of the programs; (9) to prepare and issue annual reports to the Mayor, the City Council and the public on the effectiveness of the Atlanta CityBuild Program; and (10) to work closely with the First Source Program Director and Atlanta CityBuild Advisory Board in determining how the program can be improved and made more effective.

(b) The program shall be led by a Director of the Atlanta CityBuild Program. The Director of the Atlanta City Build program shall report to the department head of AWDA

Sec.2-1661 Appropriations for Atlanta CityBuild, Pre-Apprenticeship, Apprenticeship and Skilled Labor Programs

Funding up to $500,000 for the Atlanta CityBuild, Pre-Apprenticeship, Apprenticeship and Skilled Labor Programs shall be made at such time funds are available and such funding is subject to the discretion of the Mayor and City Council.

Sec. 2-1662 Pre-Apprenticeship Programs.

AWDA shall develop and maintain a registry of Pre-Apprenticeship Programs. To be listed on the Pre-Apprenticeship Programs Registry, such program must provide reasonable evidence to the Director of the Atlanta CityBuild Program that it is able to meet the objective of preparing students to enter a Certified Apprenticeship Program. Such evidence must include a minimum of a 120 hour curriculum that covers the topics of the Occupational Health and Safety Administration 10 hour construction safety training, CPR and First Aid Training and Certification, blueprint reading, orientation, math skills, industry history, industry awareness, and tools and materials. AWDA shall have the authority to develop whatever programs it deems desirable to identify, encourage, assist, and support the establishment and maintenance of Pre-Apprenticeship Programs in the City and to monitor the performance of such Pre-Apprenticeship Programs in fulfilling the mission of preparing Low-Income City Residents for entry into Certified Apprentice Programs.

In the event that AWDA determines that its direct participation in a Pre-Apprenticeship program is in the best interest of the CityBuild Program, then the Mayor is hereby authorized to negotiate

an intergovernmental agreement with any unit of the University System of Georgia located within the City, DeKalb County, or Fulton County to establish or join a pre-apprenticeship program to facilitate and assist the City in accomplishing the objectives of this ordinance. Any such intergovernmental agreement, once negotiated, shall be presented to the Atlanta City Council for its approval, provided however, that the City shall not be authorized to participate in any pre-apprenticeship program which requires membership in a union as a condition to individuals' participation in such pre-apprenticeship program.

Sec. 2-1663 Certified Apprenticeship Programs.

AWDA shall develop and maintain a registry of Certified Apprenticeship Programs. Such registry shall include information, as to each Certified Apprenticeship Program, the construction and building trades within the scope of the program, whether such program is union or nonunion, and the number of City residents, including low income residents, who are enrolled in such programs.

Sec. 2-1664 Utilization Requirements.

For each Construction Contract the following utilization requirements shall apply:

At least ten percent (10%) of all construction work hours performed under a Construction Contract or a subcontract shall be performed by Apprentices. In determining compliance with this provision, construction work hours performed by individuals who are residents of states other than Georgia shall be excluded from the calculation.

In Construction Contracts, Construction Contractors shall use good faith efforts to ensure that twenty-five percent (25%) of construction and building trade work hours performed under a Construction Contract being performed by Skilled Construction Workers. In determining compliance with this provision, construction work hours performed by individuals who are residents of states other than Georgia shall be excluded from the calculation.

This ordinance is not intended to and shall not limit any Contractors, Construction Contractorsor Subcontractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this ordinance shall be interpreted so as to require a contractor or subcontractor to employ a worker not qualified for this position in question, or to employ or retain any particular worker. Further, this ordinance shall not be interpreted to require any Construction Contractor or subcontractor to hire any worker as a result of such worker's membership in a labor union.

Section 2-1665 Recordkeeping Requirements

The City shall be entitled to audit the books and records of a Contractor, Construction Contractor or Subcontractor. Such books and records shall be maintained by the contractor for a period of

three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is authorized in writing.Each Construction Contractor and Subcontractor shall keep, or cause to be kept records of certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each construction and building trade and skill utilized under such Construction Contract or Subcontract. Such records shall include the name, address and social security number of each worker who worked under the Construction Contract or Subcontract, his or her classification, a general description of the work each worker performed each day, the Apprentice or Skilled Construction Worker of each worker, daily and weekly number of hours worked, the self-identified race, gender and ethnicity of each worker, whether or not the worker was a low income resident, and the Certified Apprentice Program through which the worker was hired. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of the City, including representatives of the Office of Atlanta CityBuild.

Section 2-1666 Subcontractor Compliance.

Each Construction Contractor shall ensure that all Subcontractors agree to comply with applicable requirements of this ordinance. .

Sec. 2-1667 Good Faith Efforts to Comply.

Where a Construction Contractor has not met the requirements of section 2-1664 above, or has not attained the goal specified in section 2-1665, that Construction Contractor may be deemed to be in compliance by making a showing that it attempted in good faith to comply by demonstrating that it did all of the following:

(a) contacted all Certified Apprentice Programs on the AWDA registry to identify and request Apprentices and Skilled Construction Workers, on a form to be provided by the City;

(b) convened pre-bid and pre-construction meetings to educate its managers and Subcontractors on the requirements of this policy;

(c) developed and submitted a detailed hiring plan for meeting the targeted utilization requirements;

(d) contacted AWDA to seek its assistance with identifying Apprentices and Skilled Construction Workers;

(e) provided regular reports to AWDA on its compliance prior to and during its work on the Construction Contract; and

(f) documented why, despite these efforts, it was unable to meet the requirements of Section 2-1664.

Division 4 **Atlanta First Source and CityBuild Advisory Committee**

Sec. 2-1668 Composition; qualifications; terms of office.

(a) The First Source Policy Advisory Board shall be hereby reconstituted and renamed the Atlanta First Source and CityBuild Advisory Committee. The Committee shall be composed of 5 members who shall select a chair from the membership of the board. The Mayor shall select three members of the Committee

The President of the Atlanta City Council shall have one appointment. The Chair of the Community Development and Human Resources Committee shall have one appointment. AWDA shall provide the staff necessary to support the activities and functions of the Committee.

Said Board shall exist for two years from the date this ordinance shall come into effect and upon the second anniversary of its effective date said Board shall terminate.

Section 2-1669 Purposes and Functions of Advisory Committee

The Advisory Committee shall have the following purposes and functions:

(a) To assess the First Source and City Build Programs and to offer advice and guidance on ways to improve the effectiveness of such programs;

(b) To seek out best practices related to First Source, Construction Skills and Local Hire programs around the country and to bring such best practices to the Atlanta CityBuild program; and

(c) To seek out potential funding sources from governmental, philanthropic and charitable sources to increase the resources available to the First Source and the City Build Programs.

Sec. 2-1670 CityBuild Reporting

The CityBuild Director working in conjunction with the Chief Procurement Officer shall establish reporting procedures for Construction Contractors and Subcontractors to submit to AWDA and the Department of Procurement. Such reports shall be for the purposes of allowing the City to monitor compliance with and effectiveness of this policy. All reports submitted by Construction Contractors and Subcontractors shall be accompanied by a statement of compliance indicating that such reports are accurate and complete. Based upon the reports received from Construction Contractors, Subcontractors and other sources of information, the CityBuild Director shall issue on or before March 1st of each calendar year an annual report setting forth

pertinent details regarding the City's progress under this article, statistics showing the utilization of Apprentices and Skilled Construction Workers under Construction Contracts. The CityBuild Director shall issue this annual report to the Committee, to all members of the Atlanta City Council and the Mayor.

Section 2-1671 Monitoring

From time to time and in its sole discretion, AWDA and the Office of Contract Compliance may monitor and investigate compliance of Construction Contractors and Subcontractors working on a Construction Contract with requirements of this policy. AWDA and awarding departments shall have the right to engage in random inspections of job sites, subject to construction schedule and safety concerns. Each Construction Contractor and Subcontractor shall allow representatives of AWDA and awarding departments, in the performance of their duties, to engage in random inspections of job sites and to have access to the employees of the Construction Contractor or Subcontractor and the records required to be kept pursuant to Section 2-1666. The Office of Contract Compliance shall establish an administrative procedure for monitoring of compliance with this policy.

Division 5. Penalties

Sec. 2-1672 Penalties.

Upon a determination by the Office of Contract Compliance that a Construction Contractor, has failed to comply with any portion of this article, the City may impose any or all of the following penalties, based upon a determination of the severity of the noncompliance by the Construction Contractor:

(1) Withholding from the Construction Contractor in violation ten percent of all future payments under the Construction Contract until it is determined that the Construction Contractor is in compliance.

(2) Refusal of all future bids on city projects or applications for financial assistance in any form from the city or any of its departments or divisions, until such time as the Beneficiary, Contractor or Construction Contractor demonstrates that it has cured its previous noncompliance.

(3) Cancellation of the Eligible Project or the Construction Contract.

These penalties are in addition to whatever additional remedies may be available to the City under other provisions of the City Code, the terms of the Construction Contracts or Subcontracts, or at law or equity.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.