

GENERAL ORDINANCE TO ADD A NEW CHAPTER 55 TO THE REVISED GENERAL ORDINANCES OF THE CITY OF SYRACUSE, AS AMENDED, TO BE ENTITLED THE SYRACUSE RESIDENT EMPLOYMENT ORDINANCE

BE IT ORDAINED, that the Revised General Ordinances of the City of Syracuse, as amended, are hereby amended to add a new Chapter 55 of the Revised General Ordinances of the City of Syracuse, as amended, that shall address the employment of residents of the City of Syracuse for positions that arise from Construction Contracts, Public Works Contracts and Service Contracts; and

BE IT FURTHER ORDAINED, that Chapter 55 of the Revised General Ordinances of the City of Syracuse, as amended, shall read as follows:

CHAPTER 55. SYRACUSE RESIDENT EMPLOYMENT ORDINANCE

Sec. 55-1. Title

This Chapter shall be known as the Syracuse Resident Employment Ordinance.

Sec. 55-2. Findings.

The Common Council of the City of Syracuse hereby recognizes that in a 2015 nationwide study Syracuse was ranked number one nationally as measured by the concentrated poverty of Blacks and Latinos, and number five nationally as measured by the concentrated poverty of non-Hispanic Whites. It is in the economic interest of the City of Syracuse to foster resident employment because the City's solvency is directly related to sales taxes and real property taxes. Both revenue streams rely on a working resident population and these streams will decline further if the City does not address resident unemployment, particularly in neighborhoods of concentrated poverty.

Sec. 55-3. Declaration of Policy and Purpose.

(a) It is the policy of the City of Syracuse to ensure that Syracuse Residents have employment opportunities that arise from Construction Contracts, Public Works Contracts, and

Service Contracts.

(b) It is also the policy of the City of Syracuse to increase the number of employed persons living in the City of Syracuse to bolster the City's fiscal health through sales tax and real property tax and reduce the number of property seizures due to tax-delinquent properties.

(c) In furtherance of this policy, the City of Syracuse has established a Resident Employment Ordinance which sets two Syracuse residency employment goals for the work to be performed under Construction Contracts, Public Works Contracts, or Service Contracts.

Sec. 55-4. Definitions.

(a) "*City*" shall mean the City of Syracuse and its operating departments.

(b) "*Common Council*" shall mean the Common Council of the City.

(c) "*Construction or Service Contractor*" shall mean an individual, Partnership, Corporation, joint venture or other legal entity entering into a Construction or Service Contract with the City.

(d) "*Construction or Service Contract*" shall mean any public works or non-professional services contract that is entered into by the City in an amount of one hundred thousand dollars (\$100,000.00) or more, for the purpose of erecting, improving, rehabilitating, altering, converting, extending, demolishing, or repairing real property or improvements to real property.

(e) "*Employer*" shall mean a Construction Contractor or Service Contractor, or any of their Subcontractors.

(f) "*Public Works Contract*" shall mean any contract awarded in conformance with §103 of the New York State General Municipal Law by the City for the erection, rehabilitation, improvement, alteration, conversion, extension, demolition or repair of improvements to real property, including the supervision, inspection, and other on-site functions incidental to construction, but does not include professional services.

(g) "*Referral System*" shall mean the system established by the City to provide referrals of Residents to Employers for employment covered by this Ordinance.

(h) "*Resident*" shall mean persons domiciled within the boundaries of the City of Syracuse. The domicile is an individual's one (1) and only true, fixed, and permanent home and principal establishment.

(i) "*Resident Employment Advisory Committee*" shall mean the committee established to advise the Office of Minority Affairs with the charge of furthering the intent and purpose of this chapter with a particular emphasis on establishing a protocol to be followed by Employers to establish an effective referral system to connect qualified Residents with Employers covered by this Ordinance.

(j) "*Service Contract*" shall mean a contract, awarded in conformance with §103 of the New

York State General Municipal Law, with the City for performance of services, not including Public Works Contracts, technology contracts or professional service contracts.

(k) "*Service Contractor*" shall mean any recipient of a Service Contract, and any Subcontractor performing work in furtherance of that Service Contract.

(l) "*Small Business*" shall mean any business that employs the equivalent of ten or fewer full-time employees in its total workforce.

(m) "*Subcontractor*" shall mean any and all parties with whom a Construction Contractor, Service Contractor or other Subcontractor enters into a contract to perform a portion of any construction, alteration, demolition, service or repair work.

(n) "*Work Force Hours*" shall mean the total hours worked on a Construction Contract, Public Works or Service Contract by Skilled and Unskilled Trade Workers, whether those workers are employed by the Contractor or any Subcontractor. In determining the total Work Force Hours to be furnished at the work site the number of hours devoted to all tasks customarily performed on the project site shall be included, whether or not such tasks are, in fact, performed on the project site. Construction Worker Hours excludes the number of hours of work performed by non-New York residents.

Sec. 55-5. Scope and Goals.

For any Construction Contracts, Public Works Contracts, or Service Contracts with the City that have a value of \$100,000 or more, there is hereby established the following goals for employment of Syracuse Residents:

(a) Except to the extent prohibited by federal, state, or local law or the terms of federal or state grants every Construction Contract, Public Works Contract or Service Contract shall:

- (1) Require that one (1) or more Residents perform twenty percent (20%) of the total in-state Work Force Hours ("Resident Work Force Hours") under the Contract; and
- (2) Include a Statement of the penalties set forth in Section 55.10 (d) for failure to meet the requirement of division (a) (1) of this section.

(b) An Employer must achieve these goals or document efforts to achieve these goals to the greatest extent feasible. The Office of Minority Affairs, subject to the approval of the Commissioner of Neighborhood and Business Development, shall make the final determination as to whether the goals of this Ordinance have been met.

(c) Any business that is a Small Business as defined in Section 55.4 (l) is exempt from the requirements of this Ordinance.

Sec. 55-6 Powers and Duties of the City.

In addition to the duties and powers given to the City set forth elsewhere in the City Charter, and

Municipal Code, the City, shall have the following duties and powers regarding this Ordinance:

- (a) The City shall conduct pre-bid meetings for contracts or projects subject to this Ordinance to inform potential bidders of the requirements of the Ordinance.
- (b) The City shall have the exclusive right to determine whether or not a business is a Small Business.
- (c) The City shall require all Employers with contracts or projects subject to this Ordinance to abide by its provisions.
- (d) The City shall require that Employers enforce the provisions of this Ordinance with any and all Subcontractors, successors, and assigns.
- (e) The City's Department of Neighborhood and Business Development shall actively monitor compliance with this Ordinance and will submit a quarterly report to the Common Council on the status of the implementation of this Ordinance on all Construction Contracts, Public Works Contracts and Service Contracts. Compliance will be measured from the initial day of performance and shall continue for the duration of the contract or project in question.
- (f) The City shall require that this Ordinance be incorporated into all relevant bid specifications for those construction and service contract bids meeting the applicable \$100,000 threshold.

Sec. 55-7. Resident Employment Advisory Committee.

(a) Within ninety (90) days of the enactment of this General Ordinance the City shall create and convene a Resident Employment Advisory Committee. The purpose and function of this Committee shall be to assist the Office of Minority Affairs on establishing a protocol for contractors to follow when recruiting employees and establishing an effective referral system to connect qualified Residents with Employers covered by this General Ordinance. In addition when there are allegations that a Contractor has not met the goals established in the Resident Employment Ordinance, the Committee shall bring such allegations to the attention of the Office of Minority Affairs, and issue non-binding recommendations to the Office of Minority Affairs and the Commissioner of the Department of Neighborhood and Business Development as to whether or not the Contractor is in compliance with the goals of this General Ordinance, which shall initiate the procedures outlined in Sections 55-9 and 55-10.

(b) Membership on the Resident Employment Advisory Committee shall consist of the following appointments:

- one (1) representative appointed by the Mayor;
- one (1) representative appointed by the President of the Common Council;
- one (1) representative appointed by the President of the Central and Northern New York Building Trades Council (CNNYBT);
- one (1) representative of the New York State Department of Labor Community Services Division;

- one (1) representative of the administrative entity for the service delivery area created by the Work Force Innovation and Investment Act (CNY Works);
- one representative from the Syracuse Housing Authority (SHA); and
- three (3) representatives appointed by the City's Office of Neighborhood and Business Development that represent community based organizations engaged in workforce development, training or placement services.

This Committee may establish one (1) or more working subcommittees to help achieve the goals established pursuant to this Ordinance. This committee shall meet at least quarterly in order to carry out the responsibilities created within this Ordinance.

Sec. 55-8. Responsibilities of Employers.

(a) Each Employer has, as a condition of entry into any contract subject to this Ordinance, the burden to comply with the responsibilities and goals set forth in this Ordinance, including, but not limited to:

(1) Pre-bid meetings.

Each Employer shall attend any pre-bid meeting conducted by the City for any contract or project subject to this Ordinance.

(2) Cooperation with Monitoring Efforts.

Each Employer shall make available to the City's Department of Neighborhood and Business Development records and information that are relevant to monitoring and enforcement of this Ordinance, including certified payroll reporting via a web-based tracking system (such as LCP tracker or its functional equivalent) and contracts with other entities. The City shall not use such records or information for any purpose other than monitoring or enforcement of this Ordinance and planning purposes. Each Employer shall cooperate fully and promptly with any inquiry or investigation the City deems necessary in order to monitor compliance with this Ordinance, including allowing access to job sites and employees.

(b) Binding on Successors and Assigns. Each Employer under this Ordinance shall not assign, sell or in any way transfer any portion of their interest in a City contract subject to this Ordinance without first notifying the City's Department of Neighborhood and Business Development in writing. Each Employer shall require that each of said Employer's successors and/or assigns agree to comply with all terms of this Ordinance applicable to Employers.

(c) Nondiscrimination in Conditions of Employment. Employers shall not discriminate against Residents in any terms and conditions of employment, including retention, promotions, job duties, shift assignments, and training opportunities.

(d) Reporting by Construction Contractor or Service Contractor. The Contractor shall provide for the maintenance of all records documenting that Residents of the City are employed in pursuance of the Construction Contract or Service Contract. The Contractor and Subcontractor(s) shall maintain copies of personnel documents supportive of every Resident employee's actual

record of residence. The Contractor shall designate a principal officer of its firm to be responsible for administering the Resident requirements for the Contractor and all of its Subcontractor(s) pursuant to the requirements detailed in this chapter. This officer shall meet regularly, or as may be required, with the Office of Minority Affairs to ensure compliance with the Resident requirements set forth herein. Primary responsibility for meeting established goals shall remain with the Contractor. Certified payroll reports (U.S. Department of Labor form WH-347 or equivalent) in a format specified by the Office of Minority Affairs shall be submitted monthly to the Office of Minority Affairs for applicable contracts and shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time an employee's name appears on a payroll, a hire date for the employee should be included after the employee's name. Full access to the employment records of the Contractor and Subcontractor, that document information that relates to the requirements of this chapter shall be granted to the Office of Minority Affairs, the Chief of Police, or any duly authorized representative thereof. The Contractor and Subcontractor(s) shall maintain all relevant personnel data in records for a period of at least three (3) years after final completion of work. This retention period may be extended in writing by the Office of Minority Affairs based upon audit irregularities. The Office of Minority Affairs may require affidavits and other supporting documentation from the Contractor and/or Subcontractor(s) to verify or clarify that an employee is a Resident when doubt or lack of clarity has arisen.

(e) **Compliance Reductions.** Any Construction Contract, Service Contract, or Public Works Contract shall specify that the employment of the minimum percentage of Residents may be reduced prior to or during construction only when a Contractor (or potential Contractor) or Subcontractor (or potential Subcontractor) can demonstrate the high impracticality of complying with this percentage level for particular contracts or classes of employees. The Department of Neighborhood and Business Development shall apply the standard of "efforts to the greatest extent feasible" to the efforts of the Contractor or Subcontractor when evaluating requests for reduction.

Sec. 55-9. Compliance Procedure

(a) In order to achieve the residency goals in its workforce, each contractor shall:

- (1) Provide the Office of Minority Affairs with a monthly workforce census and other employment and certified payroll records necessary to verify achievement of the workforce residency goals and demonstrate compliance with the minimum standards; and
- (2) Provide on-demand access and cooperation to the Office of Minority Affairs to review records on-site and/or at work-site premises to validate residency participation. This may include unannounced visits and on-the-spot interviews that the Office of Minority Affairs may hold with workers at the job site or at off-site work premises to verify their work status and claimed job classifications; and
- (3) With bid submission, present a proposed written recruiting program directed at attracting candidates to fill positions of employment in order to meet such residency requirements.

(b) In the event the prime contractor, supplier, professional service firm or other business providing goods or services fails to maintain residency goals through the duration of the project on their contract, the City's Minority Affairs Officer shall summon the contractor, supplier, professional service firm or other business providing goods or services to appear before the City's Minority

Affairs Officer and members of the Resident Employee Advisory Committee if deemed necessary by the City. The hearing shall be held within ten (10) business days of the notice of non-compliance from the City's Minority Affairs Officer. After the hearing the Minority Affairs Officer may make recommendations to the Director of the Office of Management and Budget of one or more of the following remedies in accordance with Section 55-10 to:

- (1) Withhold payment of any amounts due on the disputed item pending resolution of the non-compliance issue.
- (2) Withhold, suspend, cancel or terminate the contract or purchase order.
- (3) Identify such contractor as a non-responsive bidder for future contracts within the Program.
- (4) All of the mentioned penalties would be upon a contractor or service firm providing goods or services to the City who failed to comply with approved residency plan submitted with its bid for contracts in accordance with this General Ordinance.

Sec. 55-10. Non-Compliance.

(a) The Office of Minority Affairs, upon concluding that a contractor has failed to comply with any requirement of this chapter, shall report its findings, with specificity and in writing, to the Director of Management and Budget and the Corporation Counsel. The Director of Management and Budget, after consulting with the Corporation Counsel, shall then, if sufficient cause has been determined, give notice of the specific deficiencies to the prime contractor who shall then be given ten (10) days to show cause at a hearing conducted by the Director why a determination of noncompliance by the Director of Management and Budget should not be entered. A determination of noncompliance by the Director of Management and Budget shall constitute a finding by the City that the contractor breached the contract. If the Director of Management and Budget determines that the Employer failed to comply with the provisions of this Ordinance, the Employer has the burden of proving compliance with this Ordinance and its obligations under this Ordinance or "efforts to the greatest extent feasible" to comply.

(b) Such standards and procedures shall specify that the employment of the minimum percentage of Residents may be reduced prior to or during the project only when a Contractor or potential Contractor can demonstrate the high impracticality of complying with this percentage level for particular contracts or classes of employees. The Office of Minority Affairs shall apply the standard of "efforts to the greatest extent feasible" to the Contractor's or Subcontractor's efforts when evaluating requests for reduction. A reduction may be deemed appropriate by the Office of Minority Affairs if a Contractor or potential Contractor has unsuccessfully solicited a sufficient number of Residents of the City to perform the work identified in the bid specifications and has documented such effort to the satisfaction of the Office of Minority Affairs. In addition, such standards and procedures shall require that a Contractor or potential Contractor seeking a reduction shall have provided timely notice of the need for Residents of the City to an appropriate source(s) of referrals, as determined by the Office of Minority Affairs, which source(s) shall be entitled to comment on any reduction application. If the Office of Minority Affairs determines that a lesser percentage of Residents is appropriate with respect to a potential Contract for which bids will be solicited, bid specifications shall include a statement of the revised standards. The standards established by the Office of Minority Affairs shall also provide for a reduction during the project based on petition by the Contractor demonstrating serious unforeseen circumstances, such as new

governmental regulations, national or natural disasters, war and/or other disastrous events or high impracticality. Each Employer agrees to pay the civil penalties set forth in Section 55-10 (e) if they are found in non-compliance.

(c) The Director of Management and Budget as the power, in addition to any other remedy the City may have under this Ordinance or by operation of law, to suspend or terminate the pertinent contract in whole or in part, with continuance thereof conditioned upon a satisfactory showing to the City's Director of Management and Budget of the Employer's ability to comply.

(d) In the event the City believes the Employer may not be in compliance with the requirements of this Ordinance, the following procedure will be followed:

(1) The Director of Management and Budget shall cause to be delivered to the Employer a written "Notice of Non-Compliance." This Notice shall specify the matters which constitute the non-compliance; the specific action required to correct the non-compliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the Notice by the Employer. If the Notice is mailed, it will be deemed received five days after the date of mailing.

(2) If the Employer disagrees with the Notice, they shall have the burden of proving compliance with the provisions of the Ordinance and shall submit any evidence and argument to the Director of Management and Budget to establish compliance no more than thirty (30) days after receipt of the Notice by the Employer.

(3) In the event the Office of Minority Affairs subsequently agrees that compliance has occurred, the Director of Management and Budget shall cause to be delivered promptly to the Employer a written "Notice of Correction of Non-Compliance," specifying the original non-compliance which has been corrected.

(4) In the event the Office of Minority Affairs agree that non-compliance has occurred, the Director of Management and Budget shall promptly notify the Employer by a written "Notice of Failure to Correct Non-Compliance," describing the facts constituting the non-compliance.

(5) After the issuance of a written "Notice of Failure to Correct Non-Compliance," the Employer shall have the right to request a hearing before the Director of Management and Budget who shall make the final determination. The request for a hearing must be made within ten (10) working days after receipt of the "Notice of Failure to Correct Non-Compliance." If the Notice is mailed, it will be deemed received five days after the date of mailing. The hearing shall be held no sooner than twenty (20) and no later than thirty (30) days after receipt by the City of the Request for Hearing, unless otherwise agreed to by the parties. At the hearing, the Employer will be allowed to present any evidence and argument it believes proves compliance. The Director of Management and Budget, in consultation with the Office of Minority Affairs, shall issue their final determination no later than ten (10) business days after the hearing. The Employer must exhaust this administrative remedy prior to commencing further legal action.

(6) In the event no Request for Hearing is timely made, the determination of failure to correct non-compliance shall be deemed to be final.

(7) Should the Employer fail to comply with the "Notice of Non-Compliance" as specified above, and a final determination of non-compliance is made, the City may exercise any of its powers as specified in Section 55.9 of the Ordinance.

(e) Civil Penalties. The City may assess civil penalties for violations of this Ordinance by bringing an action in a Court of competent jurisdiction. Civil penalties for violations of this Ordinance are as follows: Five Hundred (\$500.00) per violation.

(f) The City shall keep a record of all violations of the hiring goals established by this Ordinance. A history of violation of the Ordinance's goals shall be a factor which is considered by the City when deciding upon any future awards of contracts to the affected Employer and may form the basis for denying any future contracts to the affected Employer.

Sec. 55-11. Miscellaneous.

(a) Severability. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the Ordinance, or the validity of its application to other persons or circumstances.

(b) Effective date. This Ordinance shall take effect six months after the date of its enactment and shall govern all contracts that have not been issued through a request to advertise bid specifications in by that date.

(c) Duration. This Resident Employment Ordinance is enacted as a temporary measure to remedy the current lack of residential employment and to ensure the use of Residents on City of Syracuse construction, public works and service projects by the City of Syracuse. This Ordinance shall remain in full force and effect, subject to review by the Common Council of the City of Syracuse. The Common Council shall regularly, but at a minimum of once every five (5) years, determine whether there is a continuing need to ensure adequate Resident employment, and make relevant findings in support of that determination, and, if necessary amend this chapter as appropriate. In addition thereto, the Common Council, with the assistance of the Office of Minority Affairs and consultation with all other appropriate city departments, shall conduct an annual review of the Resident Employment Ordinance that includes a public hearing, to determine the percentage of resident work force hours included in Section 55-5. The Common Council shall make relevant findings of that determination and as deemed necessary to achieve the intent of this Ordinance, shall amend Section 55-5 accordingly.

(d) Sources of Authority. This Ordinance constitutes an exercise of the police powers of the City, the contracting and spending powers of the City, and the powers granted to the City pursuant to Municipal Home Rule.

(e) Compliance with State and Federal Law. This Ordinance shall be enforced only to the extent that it is consistent with the laws of the State of New York and the United States of America. No employer shall be required by this agreement to violate its obligations under an Agreement governed by the National Labor Relations Act and the Labor-Management Relations Act. If any provision of this Ordinance is held by a court of law to be in conflict with state or federal law, the applicable law shall prevail over the terms of this Ordinance, and the conflicting provisions of this Ordinance shall not be enforceable.

(f) Compliance with Court Order. An Employer shall be excused from compliance with the pertinent terms of this Ordinance if the Employer is bound by a court or administrative order or decree which conflict with those terms.

(g) Material Terms. The provisions of this Ordinance are material terms of all contracts or agreements in which this Ordinance is incorporated.

;and

BE IT FURTHER ORDAINED, that all Chapters of the Revised General Ordinances of the City of Syracuse, as amended, not amended by this Ordinance shall remain in full force and effect as previously adopted.

City of Syracuse

CITY CLERK'S OFFICE

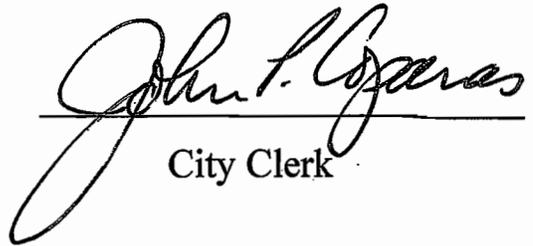
I, JOHN P. COPANAS, City Clerk of the City of Syracuse, New York do hereby certify that the attached is a true copy of an ORDINANCE:

Adopted by the Common Council on

June 6, 2016

Signed by the Mayor on

June 15, 2016



City Clerk

TO:

Mayor
Assessment Commissioner
Aviation Commissioner
Board of Elections
Bureau of Accounts
Citizen Review Board
City Auditor
City School District
Code Enforcement
Neighborhood and Business Development
Finance Commissioner
Corporation Counsel
United States Congressperson
Governor of New York State
New York State Senate
New York State Assembly
New York State Senator
Onondaga County Legislature

Management & Budget Director
Parks & Recreation Commissioner
Personnel & Labor Relations Dir.
Police Chief
Public Works Commissioner
Public Works/Bookkeeper
Purchase Department
Real Estate Division
Research Director
Water Department
Zoning Administration
United States Senator
Department of Engineering
Finance/Treasury
Finance (Water Bureau)
Fire Chief
Grants Management Director
Board of Education