

City of New Rochelle, N.Y.

Introduced On:

Introduced By:

Held:

Adopted:

No. 113

Council Members Louis J. Trangucci,

Moved: Albert A. Tarantino, Jr., Jared R.

(and) Rice, Ivar Hyden, Barry R. Fertel,

Seconded: Elizabeth M. Fried, and Mayor Noam Bramson

Dist	Member	Yeas	Nays	Abstain	Absent
1 st	Trangucci	✓			
2 nd	Tarantino	✓			
3 rd	Rice	✓			
4 th	Hyden	✓			
5 th	Fertel	✓			
6 th	Fried	✓			
Mayor	Bramson	✓			

Approved As To Form:

[Signature]
Chief of Staff for Policy and Government Affairs/Corporation Counsel

Suppl. 21.1

SUBJECT
OR
TITLE }

RESOLUTION ESTABLISHING AN ECONOMIC
OPPORTUNITY AND NONDISCRIMINATION POLICY
FOR THE CITY OF NEW ROCHELLE (REVISED).

BE IT RESOLVED by the Council of the City of New Rochelle:

There is hereby established, an Economic Opportunity and Nondiscrimination Policy for the City of New Rochelle, applicable to City-awarded contracts and specified economic development projects, as follows.

I. Introduction.

A. Intent. The City of New Rochelle finds and determines that contracts awarded by the City, and economic development projects supported by the City or benefitting from zoning enhancements, provide a crucial opportunity for advancing City policy objectives, including targeting employment and business opportunities. In addition, prohibiting barriers to employment and invidious discrimination in City-supported contracts and projects is an important goal of the City in its expenditures and economic development activities.

B. Definitions. The following terms shall have the following meanings in this Policy:

"City" shall mean the City of New Rochelle.

"City Contract" shall mean a contract awarded by the City of New Rochelle, or a subcontract thereunder.

"Construction Contractor" shall mean a business performing construction work, or subcontracting to another entity to perform construction work, in furtherance of a City Contract or in construction of a Public-Private Project. "Construction Contractor" includes Prime Contractors.

"Developer" shall mean a developer of a Public-Private Project.

Authenticated and certified this

17th day of May, 2016

5/11/16

[Signature]
Mayor
[Signature]
City Clerk

“Employer” shall mean a business employing at least five individuals to work either in fulfillment of a City Contract, or on-site within a Public-Private Project. “Employer” does not include construction contractors.

“First Source Center” shall mean a source designated by the City for prompt referral of qualified and/or trained workers to Construction Contractors and Employers, for purposes of this Policy.

“M/WBE” shall mean a business concern that is at least 51% owned by one or more individuals who are African American, Hispanic American, Native American, Asian-Pacific American or Asian-Indian American, or female; and whose management and daily business operations are controlled by one or more of these owners.

“Opportunity Youth” shall mean New Rochelle residents between the ages of 16 and 24 who are unemployed or underemployed.

“Prime Contractor” shall mean a Construction Contractor that is party to a City Contract, or a prime contractor retained to perform construction work on a Public-Private Project.

“Public-Private Project” shall mean a development project (i) that receives financial aid, assistance, or funding from the City, including any public financing or contribution, such as loans, loan guarantees, tax credits, tax abatements, or infrastructure construction; (ii) for which the City is transferring ownership of or leasing right to occupy any real property, including rights-of-way or street vacation, whether at or below market rate; (iii) for which the City is entering into a development agreement or similar agreement; (iv) for which a developer has opted into the Downtown Overlay Zone; or (v) for which the City includes compliance with this Policy a term or condition of a voluntarily negotiated agreement, requested discretionary permit, or requested legislative action.

“Subscribing Employer” shall mean a Construction Contractor that employs an apprentice in accordance with the standards of apprenticeship through agreement with an apprenticeship program registered with the New York State Department of Labor.

“Targeted Worker” shall mean a qualified and/or trained worker referred to a Construction Contractor or Employer by the First Source Center, either for the currently available position, or for any position within the previous twelve months.

II. Employment and Training Opportunities.

A. Construction Employment.

1. Hiring Procedures. Each Construction Contractor shall take the following steps in the following order, in an effort to employ Targeted Workers to perform at least 20% of the work hours on the project or contract.

Step One: Utilize the Construction Contractor's discretion to assign to perform project work to any current employees who are Targeted Workers;

Step Two: If the Construction Contractor utilizes a union hiring hall to retain workers, utilize name call, rehire, similar procedures in the relevant collective bargaining agreement, and an explicit request, to retain Targeted Workers;

Step Three: If the above steps have not enabled employment of Targeted Workers to perform at least 20% of the work hours on the project or contract, request referral of Targeted Workers from the First Source Center; and

Step Four: Reasonably consider workers that have been referred by the First Source Center within five business days of request therefor.

If the Construction Contractor has not filled available jobs with Targeted Workers through the steps set forth above, it may recruit and hire workers through any mechanism, and shall continue to reasonably consider workers that have been referred by the First Source Center for up to fifteen days after initial notification. Employers that need to hire on an emergency basis in order to maintain operations may hire from any source immediately, but still shall notify the First Source Center about available positions, and reasonably consider any candidates referred before hiring is complete.

2. New Apprentice Employment Requirements for Prime Contractors. For each 20,000 construction work hours performed by a Prime Contractor and its subcontractors of any tier, such Prime Contractor and/its subcontractors of any tier shall act as a Subscribing Employer for at least one individual newly enrolled as an apprentice in an apprenticeship program registered with the New York State Department of Labor, and employ such new apprentice for an aggregate total of at least one thousand 1,000 hours of work on the prime contract or subcontracts.

B. Non-construction Employment. Each Employer shall undertake the following steps in the following order, in an effort to hire Targeted Workers to fill at least 25% of available jobs on the project or contract.

Step One: Notification of Job Opportunities. When an Employer has an opening for an on-site job available, the Employer shall notify the First Source Center of the job opening and provide a description of job responsibilities and qualifications. Job qualifications shall be limited to qualifications directly related to performance of job duties.

Step Two: Consideration of Targeted Workers. The Employer shall then use standard hiring practices, including interviews, to consider all Targeted Workers referred by the First Source Center and meeting the qualifications described in the referral request during a five-day period after initial notification, or until all open on-site jobs are filled, whichever is sooner. The Employer shall make good faith efforts to

fill all available on-site jobs with Targeted Workers. If at the conclusion of the five-day period the Employer has been unable to fill all openings for on-site jobs with Targeted Workers, the Employer may use other recruitment methods. Employers that need to hire on an emergency basis in order to maintain operations may hire from any source immediately, but still shall notify the First Source Center about available positions, and reasonably consider any candidates referred before hiring is complete.

C. Hiring Discretion. Nothing in this Policy requires that any Construction Contractor or Employer hire any particular individual; each Construction Contractor shall have the sole discretion judge the qualification of and to hire or decline to hire any individual referred by the First Source Center or any other source. In order to improve the First Source system and the City's job training pipeline, each Employer that declines to hire all First Source referrals for an available position shall provide to the First Source Center a written account of reasons for rejecting such candidates.

D. First Source Center.

1. Role and Responsibilities. The City shall designate a First Source Center, which shall refer qualified and/or trained workers to employers pursuant to this Policy. The First Source Center shall coordinate referrals from multiple sources in and around New Rochelle. Referrals of workers to employers under this policy shall include available information on candidates, including background, qualifications, contact information, relevant training or skills, and resumes and references.

2. Outreach and Recruitment. The First Source Center shall concentrate outreach and recruitment on New Rochelle residents, and shall coordinate with referral and workforce development sources serving New Rochelle residents.

3. Prioritization of Opportunity Youth. In making referrals to employers, the First Source Center shall prioritize referrals of Opportunity Youth, where such candidates meet employer qualifications.

III. Business Opportunities.

A. Construction Contracts.

1. Prime Contracting. The City and each Developer shall have a goal of awarding at least 10% of prime contracts for construction work, including trucking services, to businesses based in the City. The City and the Developer shall make affirmative efforts to provide outreach to M/WBEs, including notification of bidding opportunities to a list of sources provided by the City, responsive communications with M/WBEs that express interest in bidding, and full and fair considerations of bids submitted by M/WBEs.

2. Subcontracting. Each Prime Contractor shall have a goal of awarding at least 20% of the dollar value of subcontracts for construction work, including trucking services, to businesses based in the City. Each Prime Contractor shall make affirmative efforts to provide outreach to M/WBEs, including notification of bidding opportunities to a list of sources provided by the City, responsive communications with M/WBEs that express interest in bidding, and full and fair considerations of bids submitted by M/WBEs.

3. Contracts and sub-contracts for construction shall include the requirement to submit quarterly utilization reports in a form provided by the City indicating the number and percentage of Targeted Workers and M/WBEs employed at a job site, with certified payroll sheets listing employees' bi-weekly payroll.

B. Service Contracts. The City, each Developer, Employers, and management entities operating portions of Public-Private Projects shall have a goal of awarding at least 20% of the dollar value of service contracts (not including construction contracts) to be performed on-site at the project to businesses based in the City. Entities awarding service contracts shall make affirmative efforts to provide outreach to M/WBEs, including notification of bidding opportunities to a list of sources provided by the City, responsive communications with M/WBEs that express interest in bidding, and full and fair considerations of bids submitted by M/WBEs.

1. Service contracts shall include the requirement to submit quarterly utilization reports in a form provided by the City indicating the number and percentage of Targeted Workers and M/WBEs employed on Public-Private Projects, with certified payroll sheets listing employees' bi-weekly payroll.

IV. Implementation.

A. Application. This Policy applies to and shall be incorporated into all City Contracts and into contracts between the City and Developers related to Public-Private Projects. When parties referenced in this Policy engage subcontractors, tenants, and other parties to operate in Public-Private Projects or as participants in fulfillment of City Contracts, this Policy shall be incorporated by reference into relevant contracts as a material term, enforceable by the City as a third-party beneficiary.

B. Monitoring. All parties with responsibilities under this Policy agree to provide information requested by the City as necessary to determine compliance with this Policy. Developers, Prime Contractors, and Employers shall provide annual public reports regarding compliance with this Policy. The City shall make available to the public in electronic format all such reports.

C. Enforcement. Developers, Construction Contractors, and Employers are subject to liquidated damages in cases of noncompliance with this Policy. The City Manager shall release a schedule of liquidated damages pertaining to particular violations of this Policy. When this Policy is included as a term of a contract, it incorporates by

reference the most recently released version of the liquidated damages schedule, and any other Policy clarifications released by the City. Liquidated damages shall be assessed by the City only in cases of sustained, material noncompliance, and after notice and opportunity to correct. Developers, Construction Contractors, and Employers also agree to remedies of specific performance and other contractual or equitable remedies related to compliance with this Policy. The liquidated damages schedule shall contain procedures relating to notice and opportunity to cure, and an appeals process in cases of assessment of liquidated damages. The City Manager may revise the liquidated damages schedule and other Policy clarifications over time, in light of implementation experience, with the goal of fostering successful implementation of this Policy without an adversarial or punitive approach.

D. Severability. If any provision of this Policy or any application thereof to any person or circumstances is held invalid by final judgment of any court of competent jurisdiction, such invalidity shall not affect other provisions or application of this Policy, which can be given effect without the invalid provision or application, and to this end the provisions of this Policy are declared to be severable.

V. Nondiscrimination Policy. The City and each Construction Contractor, Employer, and Developer shall refrain from discrimination or harassment based on race, ethnicity, national origin, gender, sexual orientation, age, religion, disability, veteran status, or any other basis prohibited by law, in all activities in furtherance of or on site of work performed in relation to a City Contract or a Public-Private Project. Such entities shall take active steps to ensure that all activities related to City Contracts and Public-Private Projects are conducted without discrimination or harassment on these bases, by all employees and representatives.

Authenticated and certified)
this 17th day of May, 2016)

NOAM BRAMSON, Mayor
BENNIE F. GILES, III, City Clerk