

Ordinance 0020-20 – Amendments to Racine Works Program

An ordinance to amend Chapter 46, of the Municipal Code of the City of Racine, Wisconsin.

The Common Council of the City of Racine, Wisconsin, do ordain as follows:

Part 1: Chapter 46, Article II, Section 46-41 is repealed and recreated as follows:

Sec. 46-41. - Racine Works Program.

(a) *Purpose.* U.S. Department of Labor statistics show that the unemployment rate in the City of Racine is one of the highest in the state and is consistently higher than other parts of the State of Wisconsin. The City of Racine Common Council finds that the high unemployment rate, especially among low and moderate income groups, has a substantial adverse impact on the social and economic fiber of the entire community. The Racine Works Program is designed and intended to reduce unemployment by creating work opportunities for Racine residents and by retaining current jobs of residents through imposition of a requirement that, for certain public works contracts, a designated percent of project hours worked under the contract be performed by qualified low-income Racine residents with a certification. Through targeted strategies to include more city residents in city funded projects, the objective of the Racine Works Program is to support more families joining the middle class.

(b) *Definitions.* The following words and phrases have the meaning indicated for this section:

Direct financial assistance means the value of below-market land sales, any direct subsidies to developers, and city expenditures for private improvements, with a combined value of \$1 million or more, as determined by the director of city development, targeted specifically to a project. It includes the value of tax increment financing and below-market-rate loans provided by the city.

Eligible resident means an individual who resides in the City of Racine, Wisconsin, for contracts awarded by the city, or an individual who resides in a municipality served by the water utility for water utility contracts and who meet the unemployed, underemployed or income limit requirements as set forth below. City residency for eligibility shall be maintained for the life of the resident's certification. Such residents shall have completed at a minimum a pre-apprentice program geared toward a specific trade. Residents who possess an apprenticeship or journeyman status shall also be eligible provided their current income status make them eligible. Residency may be demonstrated by tendering two of the following items or copies as proof:

1. Voter's certification form;
2. Internal Revenue Service, Form 1040, from the prior tax year;
3. Current Wisconsin Driver's license or State Identification card; or

4. Utility bill, lease, property tax bill, or other government or business document with name and address.

In order to be eligible and receive certification to participate under this section, the resident new applicant or inactive employee must be:

- Unemployed for the preceding 15 days from the date of application; or
- Underemployed: having worked 1,200 or less in the preceding 12 months from the date of application.
- Underemployed as meeting Income Eligibility Guidelines pursuant to the HUD Income Limits for low- and/or very low-income households as not exceeding 80-percent of county median income.

Once certified, that certification shall be valid for five (5) year minimum participation eligibility. Upon expiration, a previously certified participant is eligible for re-certification if they continue to meet and maintain residency in the City of Racine.

Racine Works Program (RWP) means the residents' preference program created and implemented in this section.

Qualified low income resident means a person who has completed a pre-apprentice, apprentice, or journeyman program or status in a particular trade such as carpentry, cement finishing, iron worker, plumbing, electrical, and similar trades. Qualifying contract means (1) a public works contract, as defined in Wis. Stats. § 66.0901(1)(c), awarded by the city or its water utility in an amount greater than \$200,000.00 and is paid by city source funds for city public works contracts or by water utility funds for water utility contracts, (2) a contract for site preparation, including, but not limited to, razing of buildings, filling, grading, and other similar work, or (3) a construction contract or contract for site preparation awarded by a developer for a development that received direct financial assistance from the city or from the community development. A contract shall constitute a qualifying contract irrespective of the funding source to the fullest extent possible considering the requirements of state and federal law.

Qualifying work means all labor, including skilled and non-skilled labor, and including but not limited to, general laborer, labor performed in journeyman, sub-journey, pre-apprenticeship, apprenticeship, and on-the-job training programs.

Worker hours means the total hours qualifying work performed pursuant to a qualifying contract, whether those workers are employed by the contractor or any subcontractor. In determining the total worker hours to be furnished at a construction site, the number of hours devoted to all tasks customarily performed on a construction site shall be included, whether or not such tasks are performed on the construction site. Worker hours includes work performed by persons filling apprenticeships and participating in on-the-job training

programs and work performed by supervisors and superintendents on job sites who are not hourly wage workers.

- (c) *Applicability; exceptions.* RWP applies to all qualifying contracts, excepting that in exceptional circumstances and where substantial grounds exist to exempt a contract from RWP, such contracts may be exempted from RWP requirements.

Any exceptions under this subsection require compliance with the following procedure:

- The bidding contractor requesting an exception shall submit a written proposal identifying the exceptional circumstances, and substantial grounds as the basis for the exception. Substantial grounds may include a contract or project requiring special skill or experience.
 - The written proposal shall be submitted to the Mayor, and City Administrator for consideration.
- (d) *Worker hours requirement.* Contractors performing work under a non-exempt qualifying contract shall employ or ensure employment of eligible residents in the work under such contract and subcontracts to the extent that eligible residents perform qualifying work in the amount of 20 percent of the total project worker hours.
- (e) *Verification; documentation.* The contractor shall submit a monthly workforce participation report with each pay request. Such report shall include the name, street address, municipality of residence, race, gender, and total hours worked of each employee used for the contract, including such records of subcontractors for work under subcontracts. All reports and documents regarding workforce participation shall be submitted to the city purchasing agent. At the completion of the contract and before final payment under the contract, the contractor shall certify by affidavit whether it has complied with the RWP to the city purchasing agent. Contractors shall maintain personnel records listing the name, address, race, and gender of each employee used for the contract as well as payroll records that provide information from which compliance with RWP requirements can be determined, including such records of subcontractors for work of eligible residents under the subcontract. The contractor shall provide such documents to city upon reasonable notice during the pendency of the contract and shall maintain such payroll records for a period of at least three years after city's final payment under the contract. Contractors and subcontractors shall permit a city representative to engage in on-the-job interviews with employees to assist in determining compliance with RWP.
- (f) *Administration.* RWP shall be administered by the city purchasing agent, who shall provide prospective contractors with information regarding RWP, with forms required for compliance certification, who shall also determine compliance with RWP requirements. The city purchasing agent shall, on an annual basis, provide the common council with information regarding RWP and the common council shall review the program and determine whether to enact revisions to RWP.

- (g) *Prohibition and penalty.* No contractor or agent thereof shall fail to employ and use on non-exempt qualifying contracts eligible residents for at least the percent of qualifying work specified in this section. Upon failure of a contractor or agent to timely submit any monthly workforce participation report or the required final affidavit required under paragraph (e), above, the city may withhold payment and such contractor or agent shall be prohibited from bidding on any qualifying contract until such report or affidavit is submitted. Upon failure of a contract or agent thereof to fail to employ and use on non-exempt contracts eligible residents for at least the percent of qualifying work specified in this section, such contractor or agent thereof may be cited for such failure. Upon conviction, such person shall forfeit \$10,000, or two and one-half percent of the total cost of the qualifying contract as awarded, whichever is greater, plus statutory court costs.
- (h) *Debarment.* If after recommendation of the public works and services committee, the due process board determines that a contractor or agent thereof has failed to employ eligible residents under a non-exempt qualifying contract in the percentage required in this section, or if upon recommendation of the general manager of the water utility, the due process board finds that a contractor or agent thereof has failed to employ eligible residents under a non-exempt qualifying contract in the percentage specified in this section, the common council, for department of public works contracts, and the water works commission, for water utility contracts, may not award any contract to such person unless otherwise recommended by the public works and services committee and approved by the common council or recommended by such general manager and approved by the water works commission, respectively, or unless three years have elapsed from the date the due process board made its determination, or three years have elapsed from the date of final determination by a court of competent jurisdiction that is adverse to the contractor, whichever is later.

Part 2: This ordinance shall take effect upon passage by a majority vote of the members-elect of the City of Racine Common Council and publication or posting as required by law.

Fiscal Note: N/A

Pursuant to Wisconsin Statutes section 62.09(8)(c), the mayor shall have the veto power as to all acts of the common council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.