

# **ALLEGHENY COUNTY LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE PROGRAM GUIDELINES**



ALLEGHENY COUNTY  
ECONOMIC DEVELOPMENT

Allegheny County Economic Development

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## PURPOSE

The Local Economic Revitalization Tax Assistance (LERTA) Program aims to encourage private investment and the revitalization of blighted properties within Allegheny County (the “County”). LERTA provides a means to increase investment, expand the economic base, increase employment opportunities and contribute to the redevelopment of blighted and underutilized property. Authorization of a LERTA can be driven either by a municipality seeking to redevelop a deteriorated area or by a developer for a specific development project. The *Allegheny County LERTA Program Guidelines* have been created by Allegheny County Economic Development (ACED) in order to provide an understanding of the County’s policy and requirements for municipalities or developers utilizing LERTA.

## PROGRAM DESCRIPTION

The Allegheny County LERTA Program exists pursuant to the Commonwealth of Pennsylvania Local Economic Revitalization Tax Assistance Act 76<sup>1</sup> of 1977 (the “Act”). The Act provides an additional mechanism for local taxing authorities<sup>2</sup> to contribute to the economic development of their respective jurisdictions through the exemption of real property tax. LERTA allows for an exemption for the assessed valuation of new construction or improvements<sup>3</sup> to certain industrial, commercial or other business property in deteriorated areas<sup>4</sup> to facilitate new development. An exemption can be provided on the assessment attributable to a portion of the actual cost of new construction or improvements or up to an established maximum cost uniformly established by the municipal governing body.

## PROCEDURE<sup>5</sup>

**LERTA Project Review Form** A municipality or developer will prepare and submit a LERTA Project Review Form (Attachment A) to ACED for consideration. This form requires a written narrative of the proposed development as well as a preliminary site plan and rendering. A summary of the financing sources, proposed private and public improvements, an estimate of the amount of LERTA exemption and a justification for LERTA assistance are also included. For developers, submission of the LERTA Project Review Form must be accompanied by the application fee. This fee will be paid in consideration of ACED’s administrative services in reviewing the LERTA Project

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<sup>1</sup> P.L. 237, No. 76, 72 P.S. § 4722, et seq.

<sup>2</sup> See Section 4724.

<sup>3</sup> See Section 4724.

<sup>4</sup> See Section 4725.

<sup>5</sup> See Sections 4725, 4726 and 4727.

Review Form and seeking legislative approval of the LERTA Plan (Exhibit A). There is no fee for municipal submissions of the Project Review Form.

**ACED Review** The LERTA Project Review Form will be evaluated by the ACED to determine project eligibility. The municipality or developer will be promptly notified of eligibility under requirements set forth by the Commonwealth and County.

**Community Engagement** The developer will solicit from the governing body of the municipality a listing of all local community groups, whether incorporated or not. Notification will be sent to these groups inviting interested parties to participate in a meeting to evaluate the proposed development and LERTA Plan. ACED will facilitate the resulting meeting and incorporate any agreement concerning community engagement into the LERTA Plan<sup>6</sup>.

**LERTA Plan** The LERTA Plan will include the following:

- Background on the project developer (if applicable)
- Description of the proposed development
- Estimated costs of the proposed development (including public infrastructure)
- Economic and fiscal impact of the proposed development (during construction and at build out)
- Estimated LERTA exemption schedule
- Pledged parcels within the deteriorated area
- Current assessed value within the deteriorated area
- Projected assessed value within the deteriorated area
- Maps of the deteriorated area and existing property conditions
- Proposed changes to all applicable local plans, ordinances and codes
- Statement on community engagement (if applicable)

For municipal submissions seeking participation of the County, a LERTA Plan does not necessarily have to be completed. The above information should be included in the LERTA Project Review Form however.

**Public Hearing** Prior to the adoption of the ordinance or resolution authorizing the LERTA exemption, the municipal governing body must affix the boundaries of the deteriorated area or areas during a public hearing. Tax parcels within the boundaries of the LERTA should be identified. Determination of such deteriorated areas<sup>7</sup> should take into account criteria set forth in the Urban Redevelopment Law<sup>8</sup> of Pennsylvania of May 24, 1945.

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<sup>6</sup> Defined as an agreement between a project developer and one or more community groups. Such agreement could govern the scope of the project.

<sup>7</sup> See Section 4725 (a) wherein an area is defined as blighted if any one of the following conditions exist: “unsafe, unsanitary, and overcrowded buildings; vacant, overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties, excessive land coverage, defective design or arrangement of buildings, street or lot layouts; economically and socially undesirable land uses.”

<sup>8</sup> P.L. 991, No. 385, 35 P.S. § 1701, et seq.

**Authorizing Legislation** Per the Act, the participating taxing authorities will by ordinance or resolution, agree to exempt the assessment attributable to a portion of the actual cost of new construction or improvements or up to an established maximum cost uniformly established by the municipal governing body. The length of proposed LERTA schedule shall not exceed ten years. Such ordinance or resolution will also specify a description of each deteriorated area as determined by the municipal governing body.

**Procedure for Obtaining Exemption** An applicant desiring the LERTA exemption pursuant to the authorizing ordinance or resolution must notify each local taxing authority granting the exemption in writing on a form provided at the time a building permit is issued<sup>9</sup>. A copy of the request will be forwarded to the Allegheny County Office of Property Assessment (OPA). Upon completion of the new construction or improvements, OPA will assess separately the new construction or improvements and calculate the amount of the assessment eligible for exemption in accordance with the limits established by the local taxing authorities. The applicant and local taxing authorities will be notified of the reassessment and amounts of assessment eligible for exemption.

**Annual Report** For the duration of the LERTA, an annual report shall be provided by the municipality or developer, no later than the 1<sup>st</sup> of October, giving a detailed status report on the development outlined in the LERTA Plan (sample included as Attachment B).

## **POLICY**

The following section outlines the requirements governing the Allegheny County LERTA Program. ‘General Requirements’ are those of the Act. ‘Specific Requirements’ are those which govern LERTA projects where the County participates. ‘Evaluation Requirements’ are requirements addressed through the ACED LERTA Project Review Form (Attachment A).

### **GENERAL REQUIREMENTS<sup>10</sup>**

Under the Act, eligible LERTA exemptions can be provided within deteriorated areas for new construction or improvements to commercial, industrial, and other business property. Exemptions cannot be granted for residential development. The length of the schedule of taxes exempted shall not exceed ten years. The LERTA exemption does not terminate upon sale or exchange of property.

### **SPECIFIC REQUIREMENTS**

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<sup>9</sup> See Section 4724 where “If no building permit or other notification of new construction or improvements is required, at the time construction commences.”

<sup>10</sup> See Section 4723 & 4726.

## Allegheny County LERTA Guidelines

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For LERTA projects where a municipality or developer requests the County's participation in the exemption:

- All developments must be consistent with the goals and objectives outlined in *Allegheny Places*, the Allegheny County comprehensive land use and growth management plan. Developments must also apply with all applicable local plans, ordinances and codes.
- Commercial/Industrial developments must leverage private investment (particularly in distressed communities), create and sustain quality jobs for County residents, generate a net increase in consumption by both creating new jobs and filling an unmet demand for commercial/industrial activity in the County and generate sufficient revenue to support additional service requirements.
- The County typically participates in an exemption for five (5) years. The exemption can be one hundred percent (100%) of the County's real estate taxation upon the assessed valuation attributable to the construction, reconstruction or improvement(s) in the first year. In each succeeding year, the exemption shall decline by twenty percent (20%). Those developments located in County strategic investment areas<sup>11</sup>, create significant economic impact or feature significant elements of sustainable design<sup>12</sup> are eligible for greater participation.
- The County will only take legislative action on a LERTA following approval by the participating local taxing bodies.
- Project developers are encouraged to engage local community groups, whether incorporated or not, to participate in the evaluation of proposed developments. Such participation is geared towards formulation and execution of an agreement concerning community engagement. Where applicable, meetings will be held to provide the opportunity for community groups to interact directly with project developers.
- The Pennsylvania Prevailing Wage Act will apply to all projects receiving LERTA benefits.<sup>13</sup>

### EVALUATION REQUIREMENTS

As described above, applicants must submit a completed LERTA Project Review Form to ACED prior to consideration of a LERTA (developers must also submit application fee). The form will provide the ACED with the information necessary to determine the eligibility of the development and establish terms for the structure of the proposed LERTA.

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<sup>11</sup> County strategic investment areas include distressed communities, brownfield redevelopment sites and the PIT Corridor.

<sup>12</sup> As determined by ACED through the TIF Project Review Form in accordance with the national standards of the US Green Building Council.

<sup>13</sup> See "Attachment C" Allegheny County Prevailing Wage Legislation

## Allegheny County LERTA Guidelines

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In general, the following criteria will be used to complete this evaluation:

Economic and fiscal impact of the new development. The number, type, and wages of the employment to be created, impact on competition and neighboring businesses and projected tax revenue.

Demonstration of need for LERTA. A municipality or developer must demonstrate that without the LERTA the proposed area will be subject to continued deterioration and economic distress. Developers may be required to provide a justification based on profit, return on investment or other measure deemed appropriate.

Value Added. The extent to which the development will add value to the local economy and avoid shifting of resources within the County. Also, the extent to which the development satisfies an unmet demand for a product or service in the region.

Private investment leverage. The ratio of private to public investment.

Development type (commercial and industrial). Developments which involve the development of new office, high technology, manufacturing facilities are more likely to create high wage jobs, and therefore have a significant economic impact on the regional economy. LERTA for retail developments, which generally create large numbers of lower wage jobs compared to other sectors, will be deemed to be less attractive.

Development location. The development must be consistent with the goals and objectives outlined in *Allegheny Places*, the Allegheny County comprehensive land use and growth management plan, and all applicable local plans, ordinances and codes. Developments within county strategic investment areas (distressed communities, brownfield redevelopment sites and the PIT Airport Corridor) or those featuring significant elements of sustainable design will receive greater weight during the evaluation.

Other Relevant Criteria. Additional development criteria will be considered at the discretion of ACED.

**ATTACHMENT A  
LERTA PROJECT REVIEW FORM**

## Allegheny County LERTA Project Review Form

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The Local Economic Revitalization Tax Assistance (LERTA) Program process in Allegheny County is initiated upon submission of the LERTA Project Review Form (the “Form”). Allegheny County Economic Development (ACED) will evaluate the Form to determine project eligibility. The municipality or project developer (the “Applicant”) will be promptly notified of eligibility under requirements set forth by the Commonwealth and County.

The completed Form should be mailed or delivered to the following address with the full application fee included:

Allegheny County Economic Development  
425 Sixth Avenue, Suite 800  
Pittsburgh, PA 15219  
Attn: Assistant Director, Special Projects & Finance

Phone: 412-350-1000  
Fax: 412-642-2217

For developers, submission of the Form must be accompanied by a **\$1,500** fee (see Exhibit A). Acceptance of the Form does not imply support of the proposal.

**Allegheny County LERTA Project Review Form**

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DATE

***I. Applicant Information:***

1. Name of Applicant:
2. Business Name and Address:
3. Phone Number:
4. Fax Number:
5. E-Mail Address:
6. Type of Business Entity:    Sole Proprietorship                      Partnership  
   Corporation                                      Other  
   Limited Liability Corporation
7. Please provide a development history by identifying past projects you have completed with a focus on similar developments if applicable:
8. Please list other members of your development team and subcontractors:

***II. Project Location:***

1. Municipality:
2. School District:
3. Municipal address or location description (if an address is not available) of the project:
4. Currently, does the Applicant own or lease the property? (Check one)  
Own                      Lease                      Neither

**Allegheny County LERTA Project Review Form**

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5. At project completion, who will occupy (operate business on) the site? (Check one)

Owner       Renter       Both

6. Evidence of Site Control:

A. If the Applicant owns the development site, attach a copy of the Applicant's deed. Also indicate:

Mortgage Holder(s):

Name, address, and phone numbers of other persons or entities having an ownership interest in property to be redeveloped, if applicable:

Name: Address: Phone:	Name: Address: Phone:	Name: Address: Phone:
Name: Address: Phone:	Name: Address: Phone:	Name: Address: Phone:

B. If the Applicant has a contract or option to purchase the development site, attach a copy of the purchase/option contract. Also indicate:

Date contract was signed:

Closing/expiration date:

7. Owner Affidavit: If the Applicant currently leases or plans to lease the property, have the owner (and all entities having ownership interest in the property) sign the attached Owner's Consent Letter.

Legal name of Owner as noted on the deed(s):	
Owner's name:	
Owner's address:	
Owner's phone number:	



**Allegheny County LERTA Project Review Form**

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***III. Project Description***

1. Please provide information on why the proposed area will be subject to continued deterioration and economic distress without the LERTA.

2. Has any other government assistance (grants, tax incentives, or other economic benefits) been provided to the applicant or the property or has an application been made? (Check one): Yes No

If so, describe the type and amount of assistance provided or the status of the application:

4.

Construction Start Date:	
Build Out Schedule:	

5. Project Narrative: Please provide a broad overview of the project.

\* Please attach a preliminary site plan and rendering to illustrate the proposed development.

6. Land Area (acres) of development site:

Current:                    acres

Proposed:                    acres

**Allegheny County LERTA Project Review Form**

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7. Land Use. Check the appropriate boxes for existing or proposed land use of the redevelopment site and indicate the building areas dedicated to each use.

Category	Building Area			
	Existing	Proposed	Existing SF	Proposed SF
Retail	<input type="checkbox"/>	<input type="checkbox"/>		
Office	<input type="checkbox"/>	<input type="checkbox"/>		
Other Commercial	<input type="checkbox"/>	<input type="checkbox"/>		
Residential	<input type="checkbox"/>	<input type="checkbox"/>		
Mixed-Use Commercial/Residential	<input type="checkbox"/>	<input type="checkbox"/>		
Industrial/Manufacturing	<input type="checkbox"/>	<input type="checkbox"/>		
Warehouse	<input type="checkbox"/>	<input type="checkbox"/>		
Other:	<input type="checkbox"/>	<input type="checkbox"/>		

8. Public Infrastructure Improvements:

Item	Estimated Cost
<b>Total:</b>	<b>0</b>

\* Please attach a preliminary plan to illustrate the proposed public improvements.

9. Job Creation/Retention. List the current and projected number of part-time and full-time jobs before and after project completion.

	Current	Projected
Full Time Employees:		
Part Time Employees:		
Construction Related Jobs:		
<b>Total Employees:</b>	<b>0</b>	<b>0</b>

10. Has this project been reviewed by local planning?  Yes  No

**Allegheny County LERTA Project Review Form**

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\*Please provide an opinion letter from local planning.

11. Will the Applicant actively engage local community groups, whether incorporated or not, to participate in the evaluation of proposed developments?

Yes No

12. Will the Applicant pay the LERTA application fee (if applicable)?

Yes No

17. Other Comments (Please add any other comments in support of this Application):

18. Signature

I, the undersigned, affirm that the descriptions, numerical and financial estimates, and all other information concerning the proposed development I have provided in this application are true and complete to the best of my knowledge. I have read and understood the requirements described in this application. Furthermore, I certify that I am authorized to initiate the LERTA Program process on behalf of the development described.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_  
(Applicant)

**SOURCES OF FUNDING**

Has permanent financing been secured?

Yes  No

Equity	\$	
Construction Financing	\$	Rate: %
Other Sources (Specify:	\$	
Other Sources (Specify:	\$	
Other Sources (Specify:	\$	
Other Sources (Specify:	\$	
Other Sources (Specify:	\$	
Other Sources (Specify:	\$	
<b>TOTAL SOURCES</b>	<b>\$0</b>	

**USES OF FUNDING/PROJECT BUDGET**

Uses	Private Equity	Private Financing	Other	Public Loans	Public Grants	LERTA	Total
Land Acquisition and Preparation							0
Land Acquisition							0
Demolition/Site Preparation							0
Environmental Remediation							0
Earthwork/Grading/Site Preparation							0
Utility Hook-Ups							0
Parking Areas/Private Streets							0
On-Site Improvement							0
Landscaping							0
On-site Public Improvements							0
Off-site Public Improvements							0
Other (Specify: )							0
<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Allegheny County LERTA Project Review Form**

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<b>Uses - Hard Costs</b>	<b>Private Equity</b>	<b>Private Financing</b>	<b>Other</b>	<b>Public Loans</b>	<b>Public Grants</b>	<b>LERTA</b>	<b>Total</b>
Building Construction/Rehabilitation							<b>0</b>
General Conditions							<b>0</b>
General Contractor Overhead/Profit							<b>0</b>
Other (Specify: )							<b>0</b>
<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Uses - Soft Costs</b>							
Environmental Studies							<b>0</b>
Construction Period Taxes/Insurance							<b>0</b>
Construction Period Interest							<b>0</b>
Professional Fees							<b>0</b>
Financing Fees							<b>0</b>
Marketing/Leasing Fees & Commissions							<b>0</b>
Reserve Accounts							<b>0</b>
Developers Fees							<b>0</b>
Project Contingency							<b>0</b>
Other (Specify: )							<b>0</b>
<b>Subtotal</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL USES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**EXHIBIT A**  
**FEE SCHEDULE**

## **LERTA Fee Schedule**

For developers, submission of the LERTA Project Review Form must be accompanied by the \$1,500 application fee. The submission will not be accepted until the fee is received. This fee will be paid in consideration of ACED's administrative services in reviewing the LERTA Project Review Form and seeking legislative approval of the LERTA Plan. Projects that are not approved upon completion of ACED's evaluation of the LERTA Project Review Form, or those not receiving legislative approval, will be eligible for a partial refund of this fee.

There is no fee for municipal submissions of the Project Review Form.

*Payment of any fee does not guarantee project approval by the County, ACED or any affected taxing body. The fees notated above are standard fees, but may be subject to change for a nonstandard request.*

**ATTACHMENT B**  
**LERTA ANNUAL REPORT TEMPLATE**

**Allegheny County LERTA Program Evaluation Annual Status Report**

<b>Total Project Costs (include private development &amp; infrastructure costs):</b>
<b>Total Square Feet Developed (by product type):</b>
<b>If Different then Projections within approved LERTA Plan Please Explain:</b>
<b>Current Vacancy Rate (by product type):</b>
<b>Planned Future Development &amp; Cost (include available acreage)</b>
<b>Additional Comments:</b>

**ATTACHMENT C  
PREVAILING WAGE LEGISLATION**

Bill No. 5506-10

No. 07-10-OR

## AN ORDINANCE

An Ordinance amending and supplementing the Allegheny County Code of Ordinances, Division 2: County Government Operations, through the creation of a new Chapter 280, entitled "Wages: County and County-subsidized Projects," to require contractors who provide building service and food services to Allegheny County to pay prevailing wages to employees employed pursuant to such contracts, and to require that building service, food service, grocery, and hotel employees employed on projects receiving County subsidies be paid prevailing wages.

*The Council of the County of Allegheny hereby enacts as follows:*

***Section 1. Amendment of the Code***

The Allegheny County Code of Ordinances, Division 2: County Government Operations, is hereby amended through the creation of a new Chapter 280, entitled "Wages: County and County-subsidized Projects," and comprised as follows:

**§ 280-1. Applicability of Chapter to County service contracts.**

- A. Every County Service Contract, as defined within this Chapter, shall comply with County of Allegheny and Commonwealth of Pennsylvania laws, ordinances, and regulations pertaining to the Pennsylvania Prevailing Wage Act of August 15, 1961; P.L. 987, No. 442, as amended August 9, 1963, P.L. 653, No. 342, 43 P.S. §165-1 et seq. (West 1992 & Supp. 2004), and with the provisions of this Chapter.
- B. Every County Service Contract shall contain a provision stating the contractor and all of its subcontractors shall pay at least the applicable prevailing wages required by the terms of this Chapter, the Pennsylvania Prevailing Wage Act approved August 15, 1961, P.L. 987, No. 442, as amended August 9, 1963, P.L. 653, No. 342, 43 P.S. § 165-1 et seq. (West 1992 & Supp. 2004), and the regulations issued pursuant thereto. Every County Service Contract shall contain a provision stating that the County may, upon a finding of noncompliance as provided within this Chapter, withhold from any sums due to the contractor or to any subcontractor under that contract any amount necessary to allow for

the payment of workers employed in the performance of any County Service Contract in accordance with the terms of this Chapter, or for public work subject to the Pennsylvania Prevailing Wage Act approved August 15, 1961, P.L. 987, No. 442, as amended August 9, 1963, P.L. 653, No. 342, 43 P.S. § 165-1 *et seq.* (West 1992 & Supp. 2004), and the regulations issued pursuant thereto the difference between the wages required by the contract to be paid and the wages actually paid to such employees, and the County Controller may make such payments directly to the appropriate workers.

- C. The prevailing wages for each craft classification of workers needed to perform all County Service Contracts, subject to the terms of this Chapter and, to the extent applicable, the Pennsylvania Prevailing Wage Act approved August 15, 1961 P.L. 987, No. 442, as amended August 9, 1963, P.L. 653, No. 342, 43 P.S. § 165-1 *et seq.* (West 1992 & Supp. 2004), and the regulations issued pursuant thereto shall be incorporated into and made a part of the contract.
- D. Every County Service Contract shall contain a provision stating the contractor shall require all subcontractors to comply with and be bound by all provisions of this section as if they, themselves, were contractors.

#### **§ 280-2. Prevailing Wages Required.**

- A. Building service and food service employees shall be paid at least the prevailing wage according to their job classification for all work performed pursuant to a County service contract.
- B. Building service, food service, hotel, and grocery employees shall be paid at least the prevailing wage according to their job classification for all work performed on or related to projects that will receive a County subsidy approved after this ordinance takes effect, provided such employees work on the project at least fifty (50) hours per year. With respect to building service and food service employees, developers, owners, managers, and contractors shall be obligated to ensure that such employees are paid a prevailing wage.

#### **§280-3. Definitions.**

- A. "Building service employee" shall mean a person performing work in connection with the care and maintenance of property, including but not limited to watchman, security officer, concierge, doorperson, cleaner, janitor, custodian, superintendent, porter, engineer, maintenance person, handyperson, elevator operator, elevator starter, window cleaner, and groundskeeper.
- B. "Food service employee" shall mean a person performing work in connection with the preparation and service of food and beverages, including but not limited to cafeteria attendant, line attendant, cook, preparatory cook, butcher, baker, server, cashier, catering worker, dining attendant, dishwasher, food or merchandise vendor, pantry worker, waiter,

and waitress, but shall exclude employees directly employed by independently-owned restaurants other than cafeterias.

- C. “Hotel employee” shall mean a person performing work in connection with the care and maintenance of hotels and servicing of hotel guests, including but not limited to housekeeper, kitchen employee, laundry employee, room attendant, house attendant, public area attendant, turndown attendant, bell attendant, door attendant, driver, telephone operator, server, bus attendant, bartender, cashier, host, concierge, reservation attendant, and front desk attendant.
- D. “Grocery employee” shall mean a person performing work in connection with the preparation and selling of merchandise in grocery stores, including but not limited to chief meat cutter, assistant chief meat cutter, meat cutter, apprentice meat cutter, wrapper, manager, assistant manager, lead, front-end coordinator, clerk, chef, cook, baker, cake decorator, and receiver.
- E. Building service work” for purposes of subsection 280-3.G. shall mean work in connection with the care and maintenance of (1) commercial office and institutional buildings of at least one hundred thousand (100,000) square feet; (2) commercial office and institutional complexes totaling at least one hundred thousand (100,000) square feet; and (3) residential buildings of at least fifty (50) units or more. The determination of the minimum square footage and minimum number of units shall be made at the time the contract is put out for bid.
- F. “Food service work” for purposes of subsection 280-3.G. shall mean work in connection with the preparation and service of food and beverages in cafeterias in (1) commercial office and institutional buildings of at least one hundred thousand (100,000) square feet; and (2) commercial office and institutional complexes totaling at least one hundred thousand (100,000) square feet. “Food service work” shall not include direct employment in independently-owned restaurants other than cafeterias. The determination of the minimum square footage shall be made at the time the contract is put out for bid.
- G. “County service contract” shall mean any contract for the performance of building service or food service work entered into by (1) the County with any contractor, and (2) any contract to perform building service or food service work for the County. “County service contract” shall also mean any subcontract for building service or food service work, regardless of whether the primary contract is for such work.
- H. “County subsidy” shall mean any grant, loan that is forgiven or discounted below the market rate over the life of the loan, bond financing, infrastructure improvements related to a project, below-market sale or lease of property, or other form of financial assistance related to a project with an aggregate value of at least one hundred thousand dollars (\$100,000) but shall not include an educational or training grant. For purposes of determining whether the assistance threshold is met, all affiliates, controlled organizations, controlling organizations, and/or organizations having an identity of interest with the assistance recipient shall be treated as a single entity. Market value shall

be determined by a third party that shall not include the County or the County subsidy recipient.

- I. "County" shall mean Allegheny County and any related County agency, department, or authority.
  
- J. "Project" for purposes of §280-2.B. shall mean any of the following: (1) a commercial office building of at least one hundred thousand (100,000) square feet, or a commercial office complex totaling at least one hundred thousand (100,000) square feet; (2) a residential building of at least fifty (50) units; (3) a building of at least one hundred thousand (100,000) square feet containing commercial office space and residential units; (4) a hotel or motel of at least one hundred thousand (100,000) square feet; (5) a building of at least one hundred thousand (100,000) square feet containing hotel or motel units and residential units; (6) a building of at least one hundred thousand (100,000) square feet containing hotel or motel units and commercial office space; (7) a store having grocery sales floor area (selling items which are commonly found in a grocery store) space of at least twenty five thousand (25,000) square feet; (8) a shopping mall of at least one hundred thousand (100,000) square feet; and (9) a sports stadium, performance hall or amphitheater larger than one hundred thousand (100,000) square feet. The determination of the minimum square footage and minimum units shall be updated to reflect any expansion of the Project, including any additional phase in a multi-phase Project. "Complex" shall mean two or more buildings that are commonly owned managed or operated and either (a) in close physical proximity; or (b) developed pursuant to a common development plan or financed pursuant to a common plan of financing. All affiliates, controlled entities, controlling entities, agents, successors, and assigns shall be considered to be a single entity for the purposes of determining common ownership, management, or operation.
  
- K. "Prevailing wage" shall mean:
  - 1. for building service and food service employee (a) the aggregate of (i) the higher of either the wage paid to the median number of employees in the job classification at similar locations in the County, or the wages determined by the Secretary of Labor for the job classification under the Service Contract Act, 41 U.S.C §351 et seq.; and (ii) the higher of either the additional benefits given to the median number of employees in the job classification at similar locations in the County, which shall be converted to an hourly wage supplement, or the additional benefits determined by the Secretary of Labor for the job classification under the Service Contract Act, 41 U.S.C. §351 et seq.; and (b) the greater amount of either (i) the paid leave provided to the median number of employees in the job classification at similar locations in the County, which shall not be converted to an hourly wage supplement, or (ii) the paid leave determined by the Secretary of Labor for the job classification under the Service Contractor Act, 41 U.S.C. §351 et seq.

“Similar locations” for (a) building service workers in commercial or institutional buildings, shopping malls, and sports stadiums shall mean commercial office buildings of at least one hundred thousand (100,000) square feet; (b) building service workers in residential buildings shall mean residential buildings of at least fifty (50) units; and (c) for food service workers shall mean cafeterias in commercial office or institutional buildings of at least one hundred thousand (100,000) square feet.

2. for hotel employee (a) the aggregate of (i) the wage paid to the median number of employees in the job classification in hotels of at least one hundred thousand (100,000) square feet in the County; and (ii) the additional benefits given to the median number of employees in the job classification in hotels of at least one hundred thousand (100,000) square feet in the County, which shall be converted to an hourly wage supplement; and (b) the paid leave provided to the median number of employees in the job classification in hotels of at least one hundred thousand (100,000) square feet in the County, which shall not be converted to an hourly wage supplement.
  3. for grocery employee the (a) aggregate of (i) the wage paid to the median number of employees in the job classification in grocery stores in the County having grocery space of at least thirty thousand (30,000) square feet; and (ii) the additional benefits given to the median number of workers in the job classification at grocery stores in the County having grocery space of at least thirty thousand (30,000) square feet, which shall be converted to an hourly wage supplement; and (b) the paid leave provided to the median number of employees in the job classification in grocery stores in the County having retail space of at least thirty thousand (30,000) square feet, which shall not be converted to an hourly wage supplement.
  4. for all classifications of employees described above in subsections (1)-(3), the prevailing wage shall mean the higher of either the prevailing wage determined pursuant to subsections (1)-(3), or the wage required by any other provision in the Allegheny County Code of Ordinances for such classification.
- L. “Institution” shall mean a group of buildings or structures that are under common or related ownership, that are located in a contiguous area, notwithstanding rights-of-ways; that contain two (2) or more different uses as integral parts of the functions of the organization, such that different structures contain different primary uses; and that contain a combined minimum of one hundred thousand (100,000) total square feet of gross floor area.
- M. “Complex” shall mean two or more buildings that are commonly owned managed or operated and either (a) in close physical proximity; or (b) developed pursuant to a common development plan or financed pursuant to a common plan of financing. All affiliates, controlled entities, controlling entities, agents, successors, and assigns shall be

considered to be a single entity for the purposes of determining common ownership, management, or operation.

- N. "Covered Employer" shall mean any employer obligated to pay employees a prevailing wage pursuant to the Allegheny County Code of Ordinances.

**§280-4. Periodic wage determinations.**

The Allegheny County Controller shall issue prevailing wage determinations at least once every 12 months, and as frequently as necessary to reflect any increases in the prevailing wage, and shall post such determinations on the official County web site. Wage rates of employees shall be increased accordingly, and in the case of County service contracts, the contractor's billable rate under the County service contract shall be increased accordingly.

**§280-5. Required recordkeeping; confidentiality.**

- A. Every covered employer shall keep an accurate record showing the name, address, job classification, wages and benefits paid or provided, and number of hours worked for each employee. The record shall be preserved for two (2) years from date of final payment. The records shall be available for inspection by the Controller or the Controller's authorized agent at all reasonable hours, and the covered employer shall permit the agents to interview employees during hours on the job.
- B. Every covered employer shall file yearly Federal Form WH-347 or its equivalent which shall specify for each employee the employee's name, address, Social Security Number, job classification, hourly wage rate paid, the number of hours worked each day, the number of hours worked each week, all deductions made from gross pay, and net weekly pay, with the Controller or the Controller's authorized agent. Every covered employer shall file a statement yearly with the Controller or the Controller's authorized agent certifying that all workers have been paid no less than the wage required by their contract, or if any wages remain unpaid to set forth the amount of wages due and owing to each worker respectively, and that the job classification for each employee conforms with the work performed. Social security numbers shall be kept confidential by the Controller, unless otherwise required by law.
- C. The Controller must notify in writing all covered employers at least once every twelve (12) months of their obligation to file annually the Federal Form WH-347. The notification must include a copy of Federal Form WH-347 with instructions for completing the form, the dates that the completed form is due throughout the preceding 12 months, contact information for an employee within the Office of the Controller where questions can be referred, a notice of the penalties that can be assessed if the covered employer becomes non-compliant, and a poster no smaller than standard letter size that includes the name, address and telephone number of the Controller, the applicable prevailing wages for the job classifications at the covered employer, and a statement

advising workers that if they have been paid less than the prevailing wage rate they may notify the Controller and request an investigation. The controller's failure to provide the previously described written notification to covered employers does not relieve covered employers of their obligation under this law.

- D. Every covered employer shall post at the job site in an area easily accessible by all employees the name, address and telephone number of the Controller, the applicable prevailing wages for the job classification, and a statement advising workers that if they have been paid less than the prevailing wage rate they may notify the Controller and request an investigation.

#### **§280-6. Enforcement.**

- A. Complaint procedure. Any individual or organization may file a complaint with the Controller for any violation of this section.
- B. Review and investigation. The Controller shall review and investigate the complaint and shall make a finding of compliance or noncompliance within (60) days of the complaint being filed, including a determination of whether an employer is covered by this law. The covered employer shall permit authorized agents of the Controller to observe work being performed upon the work site, to interview employees, and examine the books and records relating to the payrolls being investigated to determine whether or not the covered employer is in compliance with this section. Failure of The Controller to issue a finding of compliance or noncompliance does not relieve the covered employer of their obligations under this law.
- C. Finding of noncompliance. If at any time the Controller, upon investigation of a complaint or upon independent investigation, finds that a violation of this section has occurred, it shall issue a finding of noncompliance and notice of corrective action to the covered employer. The finding of noncompliance shall specify the areas of noncompliance, indicate such corrective action as may be necessary to achieve compliance, and impose deadlines for achieving compliance.
- D. Dispute of finding of noncompliance. A covered employer may dispute a finding of noncompliance and notice of corrective action by requesting a hearing within thirty (30) days of the date of the finding. The Controller shall appoint a hearing officer, who shall affirm or reverse the finding of noncompliance based upon evidence presented by the applicable department and the covered employer. Where the finding of noncompliance and notice of corrective action requires wage restitution, the covered employer must, as a precondition to a request for a hearing, provide evidence that such wages have either been paid or placed into an escrow account for the satisfaction of the judgment of the hearing officer. A covered employer who does not request a hearing, or who fails to pay or escrow wages as provided herein, waives the right to dispute a finding of noncompliance. A finding of noncompliance and notice of corrective action shall become final if either the covered employer fails to request a hearing within thirty (30)

days as provided in this paragraph, or the hearing officer affirms such finding after a hearing.

- E. Referral for criminal investigation. If at any time the applicable department or Controller determines that a criminal violation may have occurred, including but not limited to a violation of the prohibition against unsworn falsification of statements to authorities, the applicable department or Controller shall refer the matter to the district attorney for criminal investigation.
- F. Subpoena powers. If necessary for the enforcement of this section, the Controller may issue subpoenas to compel the attendance and testimony of witnesses and production of books, papers, records and documents relating to payroll records necessary for hearing, investigations, and proceedings. In case of disobedience of a subpoena, the Controller shall apply to a court of appropriate jurisdiction for an order requiring the attendance and testimony of witnesses and the production of books, papers, records and documents, and other relief as the court deems appropriate.
- G. Retaliation barred. A covered employer shall not discharge, reduce the compensation or otherwise retaliate against any employee for making a complaint to the covered employer, its agents, the applicable department, or the Controller, to enforce his or her rights under this section. The Controller shall investigate allegations of retaliation or discrimination. If, after notice and an opportunity for a hearing, the allegations are found to be true, the Controller shall order appropriate relief, including reinstatement of a discharged employee with back pay. A covered employer may dispute a finding of retaliation or discrimination by requesting a hearing as provided in subsection D. above.
- H. Violation by a subcontractor of a covered employer shall also be deemed a violation by the covered employer.

#### **§280-7. Sanctions.**

- A. In the event the Controller or hearing officer determines that a covered employer has failed to comply for more than sixty (60) days after a notice of corrective action has become final, or in the event the hearing officer determines that any portion of a covered employer's dispute of a finding of noncompliance is frivolous or was brought for the purpose of delaying compliance, the Controller or hearing officer shall order the following penalties and relief: (1) wage restitution for the affected employee(s); (2) liquidated damages in the amount of three times the wages owed; (3) a directive to the applicable department to withhold any payments due the covered employer, and to apply such payments to the payment of fines or the restitution of wages; (4) attorneys fees; and (5) rescission of any County service contract.
- B. In the event that the Controller or hearing officer determines that a covered employer has willfully or more than twice in a three-year period failed to comply with this section, the Controller or hearing officer, in addition to the sanctions that may be imposed pursuant to subsection (A), shall (1) in the case of a County service contract, order debarment of the

contractor pursuant to applicable law; and (2) in the case of a project receiving a County subsidy, order the payment of a fine in the amount of no less than thirty thousand dollars (\$30,000).

**§280-8. Regulation.**

The Controller may issue regulations to implement the provisions of this section.

***Section 2. Effective date***

The terms of this ordinance shall take effect sixty (60) days after approval.

***Section 3. Severability***

If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

***Section 4. Repealer***

Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

***PRIMARY SPONSOR: COUNCIL MEMBER ROBINSON***

***CO-SPONSORS: PRESIDENT FITZGERALD, VICE PRESIDENT MARTONI AND COUNCIL MEMBERS MACEY, FUTULES, FINNERTY, CLEARY, DeFAZIO, GREEN HAWKINS, BURN AND ELLENBOGEN***

Enacted in Council, this 20<sup>th</sup> day of April, 2010,

Council Agenda No. 5506-10




Rich Fitzgerald  
President of Council

Attest:   
Allegheny County Council

Chief Executive Office April 27, 2010

Approved:   
Dan Onorato  
Chief Executive

Attest:   
~~Donna Fodi~~ DEREK USHER  
Executive's Secretary - DEPUTY CO. MANAGER