

An ordinance amending Chapter 82 of the Saint Paul Administrative Code revising the City's prevailing wage ordinance.

THE COUNCIL OF THE CITY OF SAINT PAUL DOES ORDAIN:

Section 1

Chapter 82 of the Saint Paul Administrative Code is hereby amended to read as follows:

Sec. 82.07. - Minimum wages on public contracts.

- (a) ~~All contracts in the amount of ten thousand dollars (\$10,000.00) or more hereinafter entered into for the purpose of performing any work for the City of Saint Paul involving either new construction work or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings or any other public works involving the improvement of public property, including the removal of public nuisances, shall be made upon the basis that the wages paid to the occupational groups utilized in such works shall not be less than the wages and fringes paid to comparable positions in the classified Civil Service system.~~
- (b) ~~To the extent permitted by state statute and court decision, as to contracts above described and involving the services of drivers who own and operate trucks, their compensation shall be determined by the formula established by the commissioner of the state department of labor and industry pursuant to Minnesota Rules, section 5200.1105 and the results obtained therefrom. The compensation formula shall be applicable to such drivers retained directly or subcontracted for under the above contracts. Payments required hereunder shall be payable directly to drivers and shall be made without deduction of any kind unless required by law.~~
- (c) ~~Any vendor who is determined to be the lowest responsible bidder who plans to accomplish all or a portion of the work using self-employed independent contractors, subcontractors and partnership contractors must provide the City with bona fide demonstration of status of such entities prior to the final award of any contract that falls within the definition of this section. If there is a substitution of a self-employed independent contractor or subcontractor during the execution of the contract, the proof of status must be~~

~~submitted to the Labor Standards Compliance Office of the City. All such self-employed independent contractors, subcontractors and partnership contractors must have executed a written contract/subcontract agreement for their work performance.~~

~~—The City will accept any four (4) of the following as a bona fide demonstration of status:~~

- ~~—(1) Identification of a registered trade name and location of a telephone listing under that name;~~
- ~~—(2) A contractor's license;~~
- ~~—(3) A subcontractor's bond;~~
- ~~—(4) Proof of workers' compensation insurance coverage;~~
- ~~—(5) If the subcontractor is a partnership, a copy of the executed partnership agreement and Federal Tax Identification Numbers applicable to that partnership agreement;~~
- ~~—(6) A copy of the previous year's tax filing;~~
- ~~—(7) Any other determination regarding status as defined by the state or Federal Department of Revenue.~~

~~For independent truck owners factors which will be used to determine status include a cab card and a valid driver's license which have correlating identification, as well as the factors contained in Minnesota Rules, Section 5224.0290.~~

~~(d) Failure on the part of the general contractor to demonstrate contractor/subcontractor status or failure to pay prevailing wages may result in contract payment delay, cancellation of the contract, debarment under Chapter 95 of the Saint Paul Administrative Code, and/or payment of a fee equal to five (5) percent of the entire contract price to the City as liquidated damages.~~

~~—If status cannot be determined clearly enough by submission of the above information or documentation, the subcontractor status will be disallowed and the individual(s) will be included on the engaging company's payroll as employees and will be entitled to receipt of the prevailing wage for all work performed.~~

~~(a) **Policy.** It is the policy of the City of Saint Paul that all work for development, buildings, roads, and other works paid for with public funds~~

be constructed and maintained by the best means and highest quality labor that is reasonably available and that persons working on public works be compensated according to the real value of the services they perform. Accordingly, it is the policy of the City of Saint Paul that the wages of workers on publicly-owned and publicly-funded projects be comparable to wages paid for similar work in the local community.

(b) Definitions.

1. *Apprenticeship Program* means a bona fide apprenticeship program registered with the U.S. Department of Labor or with a state apprenticeship agency.
2. *Certified Payroll Records* means payroll records furnished under oath signed by an owner or officer of an employer to the contracting authority and the project owner every week, including a certified payroll report with respect to the wages and benefits paid each employee during the preceding week specifying for each employee: name; identifying number; prevailing wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.
3. *Department* means the Saint Paul Department of Human Rights and Equal Economic Opportunity.
4. *Prevailing Hours of Labor* means not more than eight hours per day or more than 40 hours per week.
5. *Prevailing Wage Rate* means the rate of wages and benefits certified and published as prevailing by the Minnesota Department of Labor and Industry.
6. *Project* means any new construction work, demolition work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, removal of public nuisances or any other improvement of public or private property.
7. *Restitution* means an amount at least equal to the amount of underpayment of prevailing wages.

8. *Relending or Regranting Program* means a program whereby public funds are either loaned or granted by the City or HRA to an intermediary such as a community development corporation, which serves as a pass-through agency for the award of public assistance.

9. *End Borrower or Grantee* means the end borrower or grantee who receives public funds from an intermediary under a Relending or Regranting Program and uses such funds to pay for Project costs.

- (c) **Application.** This ordinance applies to all City or Saint Paul Housing and Redevelopment Authority Projects in the amount of twenty-five thousand dollars (\$25,000.00) or more.

This ordinance also applies to all Projects in the amount of twenty-five thousand dollars (\$25,000.00) or more involving the erection, construction, demolition, remodelling or repairing of a privately owned building, other facility or property where the City or the Saint Paul Housing and Redevelopment Authority provides financial assistance for the work to be performed in the form of a grant, loan, loan guarantee, tax increment financing, tax abatement, tax credit or revenue from bonds. With respect to a Relending or Regranting Program, the threshold level of \$25,000 of Project costs is determined on an individual basis by the cost of the Project of each End Borrower or Grantee.

This ordinance does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in his or her trade. A trainee and a helper are not exempt under this provision; the contractor must assign the trainee or helper a job classification that is the "same or most similar" to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee's or helper's skill.

For housing developments, this ordinance incorporates and follows the same exemptions found in Federal Davis Bacon statutes and their regulatory implementation.

- (d) **Prevailing Wage Required.** All contractors and subcontractors must pay workers, at a minimum, the Prevailing Wage Rate.
- (e) **Prevailing Hours of Labor.** Workers employed directly on a Project by a contractor or subcontractor, agent, or other person doing or contracting to do all or part of the work of the Project, may not work more hours than the Prevailing Hours of Labor, unless paid for all hours in excess of the

Prevailing Hours at a rate of at least one and one-half (1-1/2) times the prevailing hourly basic rate of pay.

(f) **Notice.** All contractors and subcontractors must post on the Project the applicable Prevailing Wage rates in at least one conspicuous place for the duration of the Project. The posted information must include a breakdown of the hourly basic rates of pay as well as contributions for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefit.

(g) **Compliance Monitoring and Enforcement.** (i) The designated City Compliance Officer will monitor compliance and investigate complaints of violations of this section.

(ii) All contractors must furnish copies of Certified Payroll Records for all work on the Project for which payment of prevailing wages is required under this ordinance. Certified payrolls shall be submitted weekly to the City's designated Compliance Officer. Such Certified Payroll Records must contain all of the information listed in section (b) of this ordinance.

(iii) The City's designated Compliance Officer may request additional records reasonably required to monitor compliance with this Ordinance.

(h) Self-Employed Independent Contractors, Owners, Supervisors and Foremen

(i) Self-employed or independent contractors performing labor must be paid prevailing wages for the classification of work performed. Any vendor who plans to accomplish all or a portion of the work using self-employed, independent contractors, subcontractors, or partnership contractors must provide the City, as part of their contract bid, with bona fide demonstration of status of such entities. If there is a substitution of a self-employed independent contractor or subcontractor during the execution of the contract, the proof of status must be submitted to the City's designated Compliance Officer. All such self-employed, independent contractors, subcontractors, or partnership contractors must have executed a written contract or subcontract agreement for their work performance. The City will accept any four (4) of the following as a bona fide demonstration of status. If status cannot be determined clearly enough by submission of the below information or documentation, the subcontractor status will be disallowed and the individual(s) will be included on the engaging

company's payroll as employees and will be entitled to receipt of the prevailing wage for all work performed.

(1) Identification of a registered trade name and location of a telephone listing under that name;

(2) A contractor's license;

(3) A subcontractor's bond;

(4) Proof of workers' compensation insurance coverage;

(5) If the subcontractor is a partnership, a copy of the executed partnership agreement and Federal Tax Identification Numbers applicable to that partnership agreement;

(6) A copy of the previous year's tax filing;

(7) Any other determination regarding status as defined by the state or Federal Department of Revenue.

(ii) Owners, supervisors, and foremen performing labor under the contract must be paid prevailing wages for the classification of work performed.

(i) Trucking

A. For the purposes of this Ordinance, payment of prevailing wage and/or truck rental rates is required for work considered to be under the contract using the standards set forth in Minnesota Statutes section 177.41-177.44 and Minnesota Rules 5200.1000 to 5200.1120.

B. A contractor acquiring trucking services from an Independent Truck Owner, Multiple Truck Owner, or Truck Broker to perform or provide covered hauling activities shall comply with the payment of the certified State of Minnesota truck rental rates.

C. The prime contractor shall submit on its behalf and on behalf of all subcontractors a Month-End Trucking Report and Statement of Compliance Form along with each Independent Truck Owner, Multiple Truck Owner, and Truck Broker report to the City of Saint Paul. The contractor must use

Month-End Trucking Report and Statement of Compliance Forms and report forms approved by the City.

D. A contractor with employee truck drivers shall adhere to the requirements established in sections (d), (e) (f) and (g) of this ordinance.

E. If the prime contractor fails to submit its month-end trucking reports and certification forms and those of any subcontractor, Independent Truck Owner, Multiple Truck Owner, or Truck Broker, the Department may take such actions as prescribed in section (k).

(j) Bid Specifications and Contract Terms. The obligations of this section are expressly incorporated into the bid specifications and requests for bids or proposals for all Projects and are material and binding terms and conditions of all contracts and subcontracts for Projects.

(k) Prevailing Wage Violations. Failure to pay the Prevailing Wage Rate or to follow the Prevailing Hours of Labor, as determined by The City of Saint Paul, may result in an order for restitution to be paid, contract payment withholding sufficient to satisfy back wages or restitution assessed, contract payment delay, cancellation of the contract, debarment under Chapter 95 of the Saint Paul Administrative Code, and/or withholding or payment of a fee equal to five (5) percent of the entire contract price to the City as liquidated damages. None of the foregoing remedies are intended to be exclusive of any other remedy, but each is in addition to every other remedy listed above or otherwise available.

(l) Enforcement. Orders for restitution issued pursuant to this Ordinance may be enforced in Ramsey County District Court.

(m) Severability. If any provision or application of this chapter is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in force or effect.

Section 2

This ordinance shall take effect and be in force thirty (30) days following its passage, approval and publication. With respect to Projects on private property, the ordinance is effective for all projects for which an application for public financing is submitted after the effective date.