

ORDINANCE NO. 2024-14

**AN ORDINANCE ESTABLISHING PREVAILING WAGE FOR
CERTAIN CITY FUNDED CONSTRUCTION PROJECTS IN THE
CITY, THEREBY AMENDING CHAPTERS 1 AND 23, AND
APPENDIX A OF THE CITY CODE**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Section 1.11 of Chapter 1 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

§ 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES.

A violation of the following provisions of the city code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article II.

- (53) Chapter 21, Article V, Administration and Nonconformity; ~~[and]~~
- (54) Chapter 23, Article I, Earned Sick and Safe Leave~~[-]~~; and
- (55) Chapter 23, Article II Prevailing Wage.

Section 2. That Chapter 23 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 23: ~~[EARNED SICK AND SAFE TIME]~~ LABOR

ARTICLE II: PREVAILING WAGE

§ 23.30 FINDINGS AND PURPOSE.

The City Council finds that: It is in the public interest that Projects, as defined herein, be constructed, maintained and provided by the highest quality of labor that is reasonably available and that persons working on such Projects be compensated according to the real and equitable value of the work they perform and that the wages for such work are comparable to wages paid for similar work in the community as a whole.

§ 23.31 DEFINITIONS.

(a) TERMS. For the purposes of this article, the following words and phrases have the meanings ascribed to them in this section:

APPRENTICESHIP PROGRAM means a bona fide apprenticeship program registered with the U.S. Department of Labor or recognized by a governmental agency of the State of Minnesota.

BASIC HOURLY RATE means the hourly wage paid to any employee.

CERTIFIED PAYROLL RECORDS means payroll records furnished under oath signed by an owner or officer of an employer and provided to the City department, division, or office named in the contract no more than fourteen (14) days after the end of each pay period including a certified payroll report with respect to the wages and benefits paid each employee during the preceding week specifying for each employee: name; prevailing wage master job classification; number of hours worked each day; total hours worked in the week; 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.

CITY means the City of Bloomington, the Housing and Redevelopment Authority in and for the City of Bloomington, and the Port Authority of the City of Bloomington.

CITY FUNDS means contract payments, grants, loans, loan guarantees, tax increment financing, tax abatements, tax credits, lease payments, loan payments, contract for deed payments, revenue from bonds, or any other financial assistance.

COMPLIANCE OFFICER means those positions designated by the City Manager to investigate complaints pertaining to this article on behalf of the City.

COVERED PERSONS means contractors, subcontractors, holders of interests in real property, agents, or other persons regardless of the form of business entity used by the Covered Person, including but not limited to individuals, sole proprietorships and independent contractors, performing all or part of the work on Projects.

DEPARTMENT means the department, division, or office of the City designated to undertake a Project.

PREVAILING WAGE RATE shall have the meaning contained in Minnesota Statutes, Section 177.42, Subd. 6, as determined from time to time by the Minnesota Department of Labor and Industry for the area where the Project is located. The Minnesota Department of Labor and Industry shall determine the prevailing wage rate in accordance with Minnesota Statutes, Sections 177.41-177.44, and applicable rules promulgated thereto, including but not limited to Minnesota Rules Parts 5200.1000-5200.1120.

PREVAILING HOURS OF LABOR means the hours of labor per day and per week worked within the area by a larger number of workers of the same class than are employed within the area for any other number of hours per day and per week. The prevailing hours of labor may not be more than eight hours per day or more than 40 hours per week.

PROJECT(S) means any 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 where (a) the Project is financed in whole or in part with City Funds and (b) the estimated cost of the Project exceeds \$175,000.

§ 23.32 PREVAILING WAGE RATE AND PREVAILING HOURS OF LABOR REQUIRED.

(a) Prevailing Wage Required. Except as otherwise provided below in Section 23.36

[exceptions], all Covered Persons shall pay Laborers, Mechanics, and Workers directly performing work on a Project, at a minimum, the Prevailing Wage Rate.

(b) Prevailing Hours of Labor. Laborers, Mechanics and Workers employed directly on a Project by a Covered Person may not work more hours than the Prevailing Hours of Labor, unless paid for all hours in excess of the Prevailing Hours of Labor at a rate of at least one and one-half (1 ½) times the Basic Hourly Rate of pay.

(c) Notice. Each Covered Person must post a notice describing the applicable Prevailing Wage Rate in at least one conspicuous place located on the Project site for the duration of the Project.

§ 23.33 CONTRACT REQUIREMENTS.

The requirements and obligations contained in this article are deemed to be 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. The Prevailing Wage Rates, Prevailing Hours of Labor and Hourly Basic Rates of pay must be set forth specifically in the contract. All contracts for Projects must include applicable schedules of Prevailing Wage Rates.

§ 23.34 MONITORING AND COMPLIANCE.

(a) Submission of Certified Payroll Records. Each Covered Person must furnish copies of Certified Payroll Records for all work performed on the Project no later than fourteen (14) calendar days after each pay period to the Department.

(b) Compliance Officer. The Compliance Officer will investigate all complaints and monitor compliance upon receipt of a complaint regarding violations of this article. The Compliance Officer may request additional records reasonably required to monitor compliance or investigate complaints regarding this article. Upon request made by the Compliance Officer, each Covered Person shall promptly provide additional records reasonably required to monitor compliance with this article. Each Covered Person shall permit the Compliance Officer physical access to the site where the Project is located at any time for the purpose of monitoring compliance with this article.

§ 23.35 VIOLATIONS AND PENALTIES.

(a) Civil Enforcement. In addition to pursuit of criminal sanctions as provided in clause (b), of this section, a violation of this article may result in the City undertaking the following actions: seeking injunctive relief to compel specific performance of the requirements contained in this article; withholding funds owed by the City to the violating party pursuant to an agreement in amounts sufficient to fully remedy and satisfy the violation together with the withholding of a fee equal to five (5) percent of the entire contract price to the City as liquidated damages; or the termination of the contract between the City and the violating party. 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.

(b) Criminal Enforcement. Any Covered Person who violates a provision of this article shall be guilty of a misdemeanor with each day of violation constituting a separate offense.

(c) Administrative enforcement. As set forth in City Code Appendix A, the City Attorney may order any appropriate relief for a determination including, but not limited to, back pay and fines.

§ 23.36 EXCEPTIONS.

This article does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in their trade. A trainee and a helper are not exempt under this provision; the Covered Person 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.

§ 23.37 NO CONFLICTS OR PREEMPTIONS INTENDED.

Except as otherwise stated herein, no provision of this article is intended nor shall be construed as being in conflict with any Federal, State of Minnesota, County or municipal laws, ordinances, rules, regulations or policies related to the matters to be regulated herein. Further, the obligations and requirements contained in this article shall be deemed to be in addition to the obligations and requirements contained in any such federal, state, county or municipal laws, ordinances, rules or regulations. Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

§ 23.38 SEVERABILITY.

If any part, term, or provision of this article is held by a court of competent jurisdiction to be invalid or unconstitutional, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this article, which remaining portions shall continue in full force and effect.

Section 3. That Appendix A of the City Code is hereby amended by deleting those words that are contained in brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

APPENDIX A: ADMINISTRATIVE RELIEF AND FEE SCHEDULE

This appendix contains the various reliefs and fees adopted by ordinance in the listed sections of the City Code.

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| <i>CODE SECTION</i> | <i>CROSS-REF</i> | <i>DESCRIPTION</i> | <i>FEE</i> |
|---|------------------|--------------------|------------|
| * * * | | | |
| <u>CHAPTER 23: PREVAILING WAGE ORDINANCE</u> | | | |
| <u>RELIEF AND ADMINISTRATIVE PENALTIES</u> | | | |

| | | | |
|------------------|--|------------------------------|--|
| <u>§23.35(a)</u> | | <u>Relief for violation.</u> | <u>Injunctive relief to compel specific performance.</u> <u>Withholding funds owed by the City to the violating party pursuant to an agreement in amounts sufficient to fully remedy and satisfy the violation together with the withholding of a fee equal to five (5) percent of the entire contract price to the City as liquidated damages.</u> <u>Termination of the contract between the City and the violating party.</u> |
| <u>§23.35(c)</u> | | <u>Relief for violation.</u> | <u>Any appropriate relief ordered by the City Attorney including, but not limited to, back pay and fines.</u> |

* * *

Section 4. Effective Date. This Ordinance is effective upon publication.

Passed and adopted this 17th day of June, 2024.

DocuSigned by:
Tim Beuse
331490D391D44BF...

Mayor

ATTEST:

DocuSigned by:
Safaa Mercer
03AEB276ACA1454...

Secretary to the Council

APPROVED:

DocuSigned by:
Melissa J. Manderschied
5064A00FA896406...

City Attorney