

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE related to City public works and the priority hire program; amending Sections 20.37.010, 20.37.020, 20.37.040, and 20.37.050 of the Seattle Municipal Code to change references to “project labor agreement” to “community workforce agreement,” to make certain technical corrections, and to change the number of core workers open-shop contractors may bring to a project.

..body

WHEREAS, in January 2015, following the positive results of a pilot program on the Elliott Bay Seawall project, and after making legislative findings, the Seattle City Council, with concurrence from the Mayor, enacted Ordinance 124690 (“Priority Hire”), codified in Chapter 20.37 of the Seattle Municipal Code; and

WHEREAS, Priority Hire requires that a certain percentage of labor hours on City public works construction projects of \$5 million or more be performed by workers living in economically distressed areas of Seattle and King County and establishes goals for hiring of women and people of color; and

WHEREAS, analysis has shown that Priority Hire has improved access to training programs and well-paying construction jobs for local workers in economically distressed neighborhoods and increased the diversity of the workforce on City construction projects that are covered by Ordinance 124690; and

WHEREAS, on April 8, 2015, The City of Seattle entered into a project labor agreement with unions called a “Community Workforce Agreement,” which binds the unions, the City, and signatory contractors to the requirements of Priority Hire; and

WHEREAS, as codified in Chapter 20.42 of the Seattle Municipal Code, the City is committed to including Women- and Minority-owned Businesses in City contracts and to providing

1 technical assistance to Women and Minority Businesses to increase their capacity to
2 effectively compete for the award of government contracts and subcontracts; and

3 WHEREAS, a Priority Hire Annual Report was submitted by the Department of Finance and
4 Administrative Services to the Mayor and City Council in February 2017, which
5 evaluates Priority Hire from its inception, describes planned program improvements and
6 provides recommendations for legislative change intended to further improve Priority
7 Hire program outcomes while maintaining the performance of City construction projects;
8 NOW, THEREFORE,

9 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

10 Section 1. Section 20.37.010 of the Seattle Municipal Code, enacted by Ordinance
11 124690, is amended as follows:

12 **20.37.010 Definitions**

13 When used in this Chapter 20.37, the following words and phrases shall have the meanings given
14 below unless the context in which they are included clearly indicates otherwise:

15 * * *

16 “City” means The City of Seattle.

17 “Community Workforce Agreement” or “CWA” means an agreement executed between
18 the Director, on behalf of the City, and each Union that represents the workers for trades that
19 typically perform work on City public works projects, which agreement sets out the terms and
20 conditions between the City, the Unions, and signatory contractors on a Covered Project and that
21 meets the requirements of this Chapter 20.37.

22 * * *

1 “Core Employee” means an employee of an Open-Shop Contractor that meets the Core
2 Employee criteria established under a ~~((PLA))~~ CWA.

3 * * *

4 “Preferred Entry” means an agreement provided by a ~~((PLA))~~ CWA that allows Pre-
5 apprentice Graduates and Helmets to Hardhats veterans, who are also Priority Workers, entry
6 into an Apprentice Training Program ahead of other applicants.

7 * * *

8 ~~((“Project Labor Agreement (PLA)” means an agreement executed between the Director,
9 on behalf of the City, and Labor Unions that represent workers who typically perform on City
10 public works projects.))~~

11 * * *

12 “Union” is a representative labor organization whose members collectively bargain with
13 employers to set the wages and working conditions in their respective trade or covered scope of
14 work.

15 “Women and Minority Business (WMBE)” has the same meaning as given under Chapter
16 20.42, as may be amended from time to time.

17 Section 2. Subsection 20.37.020.B of the Seattle Municipal Code, which section was
18 enacted by Ordinance 124960, is amended as follows:

19 **20.37.020 Director powers**

20 * * *

21 B. The Director may reduce or waive requirements or goals of this Chapter 20.37
22 when impracticable for a Covered Project for one or more of the following reasons: when work
23 is required due to an emergency, when work is subject to limitations of a sole source, when

1 requirements or goals would be inconsistent with a grant or agreement with a public agency,
2 when requirements or goals are inconsistent with federal funding or other funding sources, when
3 the project is in a remote location, when superseded by safety or other legal requirements, or
4 absent an executed ((Project Labor Agreement)) Community Workforce Agreement.

5 Section 3. Section 20.37.040 of the Seattle Municipal Code, enacted by Ordinance
6 124960, is amended as follows:

7 **20.37.040 Priority ((Hire)) hire**

8 A. For Covered Projects which are not found impracticable under Section 20.37.020,
9 the Director shall establish in the bid documents the required percentage of Labor Hours to be
10 performed by Priority Workers. The Director shall establish the percentages separately for
11 Apprentices and for Journey-level workers. Contractors and Dispatch under a ((PLA)) CWA
12 shall seek to first hire and dispatch Priority Workers so as to meet or exceed the required
13 percentages.

14 B. For each Covered Project, the Director shall establish the greatest practicable
15 required percentage of Labor Hours to be performed by Priority Workers by using past
16 utilization percentages on similar public works projects from the previous three calendar years,
17 and shall increase that percentage by no less than two full percentage points above past
18 performance. The Director shall calibrate these required percentages annually and shall consult
19 with the Priority Hire Implementation and Advisory Committee regarding these requirements.

20 C. In order to maximize the impact of this program in Economically Distressed
21 Areas, the Director shall set project-specific requirements with the intent of achieving a total
22 percentage of no less than 20 ((%)) percent for all Labor Hours performed annually by Priority
23 Workers on the combined total of Covered Projects by 2016, and shall strive to achieve 40 ((%))

1 percent of Labor Hours performed by Priority Workers by 2025. Annual percentage rates will be
2 measured January 1—December 31 of each applicable year.

3 D. In order to meet the percentage of Labor Hours to be performed by Priority
4 Workers, the Director shall require Contractors and Dispatch under a ~~((PLA))~~ CWA to first seek
5 to employ a Priority Worker who is a Resident in an Economically Distressed Area within
6 Seattle City limits. The second priority shall be workers from Economically Distressed Areas
7 within King County ~~((, and then workers from any other Economically Distressed Area))~~ as
8 needed to meet the percentage of Labor Hours to be performed by Priority Workers. The
9 Director ~~((shall))~~ may establish in consultation with the Advisory and Implementation
10 Committee, by Director’s Rule the specific process by which Contractors, Union Dispatch and
11 the Jobs Coordinator will collaborate in order to facilitate the hiring of Priority Workers.

12 ***

13 F. The Director shall enforce the requirements in this Chapter 20.37 and may use
14 actions such as withholding invoice payments, to the extent allowed by contract, or debarment
15 ~~((to the extent allowed by contract))~~ as authorized by ~~((Seattle Municipal Code))~~ Chapter 20.70.

16 * * *

17 ~~((H))~~ J. The Director shall establish a Priority Hire Implementation and Advisory
18 Committee that includes representatives of the following groups ~~((;))~~ : 1) Labor Unions, 2)
19 community organizations, 3) Contractors, including at least one WMBE firm, and 4) ~~((;))~~
20 Apprentice and Pre-apprentice Training Programs. The Committee shall provide an advisory role
21 to the City regarding the implementation and effectiveness of the Priority Hire policy. Each of
22 the four named groups above shall make nominations from among themselves for Committee
23 representatives to the Mayor. The Mayor shall appoint no less than two and no more than

1 ((three)) four persons from each group to the Committee. The Department will convene the
2 Committee on a regular basis, at least once every quarter, and will provide the Committee with
3 information about program performance. The Director shall assign at least one staff member
4 from ((FAS)) the Department to support the work of the Committee. The Committee shall submit
5 an annual report in writing to the Mayor and City Council, and may submit recommendations,
6 findings, or other reports to the Director, Mayor, or City Council, for consideration as
7 appropriate. The Committee shall establish rules for its procedures.

8 Section 4. Section 20.37.050 of the Seattle Municipal Code, enacted by Ordinance
9 124960, is amended as follows:

10 **20.37.050 ((Project labor agreement)) Community Workforce Agreement**

11 A. The Director shall negotiate and execute a ((Project Labor Agreement)) CWA that
12 applies to all Covered Projects other than projects deemed impracticable under Section
13 20.37.020. The ((PLA)) CWA shall comply with and include the applicable terms of this
14 ((ordinance)) Chapter 20.37 and any applicable rules and standards developed by the Director.
15 The ((PLA)) CWA shall require that all Contractors agree to abide by the terms of the ((PLA))
16 CWA in order to compete and serve on the Covered Project.

17 B. The Director shall include a requirement in the ((PLA)) CWA that one of every
18 five Apprentices employed on a Covered Project be Preferred Entry candidates.

19 C. The Director shall establish provisions within the ((PLA)) CWA that encourage
20 Open-Shop subcontractors to compete and participate in Covered Projects, including reimbursing
21 existing employer sponsored dual-benefit health and pension costs paid by Open-Shop
22 Contractors, which are determined by the City to be compliant with usual benefits as defined in
23 WAC 296-127-014.

1 D. The ((PLA)) CWA shall permit an Open-Shop Contractor to employ as many as
2 ((five)) three Core Employees on each contract ((for)) ~~in~~ a Covered Project, provided the Core
3 Employees meet the Core Employee criteria set forth in the ((PLA)) CWA, and up to two
4 Apprentices enrolled in an Apprentice Training Program who are also one of the following: (i) a
5 Priority Worker, (ii) a Pre-apprentice Graduate, (iii) or an individual who furthers the City's
6 aspirational goals for women or people of color. Open-Shop Contractors are allowed to select
7 and hire ((~~up to 5~~)) these Core Employees and Apprentices before filling any further hiring needs
8 through Dispatch. Open-Shop Contractors must notify the Union and identify their Core
9 Employees and Apprentices. FAS has authority, at any time, to verify that the employees meet
10 the definition of Core Employee as established in the ((PLA)) CWA.

11 E. No worker shall be required to become a member of a Union to be eligible for
12 employment on a project under a ((PLA)) CWA with ((the)) The City of Seattle. No Contractor
13 shall be required to become affiliated with a Union to be eligible for work on a project under a
14 ((PLA)) CWA with ((the)) The City of Seattle.

15 F. The Department may provide technical assistance to WMBE and Open-Shop
16 Contractors in transitioning to a ((PLA)) CWA environment.

1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2017,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2017.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2017.

10 _____
11 Edward B. Murray, Mayor

12 Filed by me this _____ day of _____, 2017.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)