



Legislation Text

File #: CB 118939, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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, to exempt some small subcontracts from the community workforce agreement, and to change the number of core workers open-shop contractors may bring to a project.

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 at 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, a Priority Hire Annual Report was submitted by the Department of Finance and Administrative Services to the Mayor and City Council in February 2017, which evaluated Priority Hire from its

inception, described planned program improvements, and provided recommendations for legislative change intended to further improve Priority Hire program outcomes while maintaining the performance of City construction projects; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

20.37.010 Definitions

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

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

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

20.37.020 Director powers

* * *

B. The Director may reduce or waive requirements or goals of this Chapter 20.37 when impracticable for a Covered Project for one or more of the following reasons: when work is required due to an emergency, when work is subject to limitations of a sole source, when requirements or goals would be inconsistent with a grant or agreement with a public agency, when requirements or goals are inconsistent with federal funding or other funding sources, when the project is in a remote location, when superseded by safety or other legal requirements, or absent an executed ((Project Labor Agreement)) Community Workforce Agreement

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

20.37.040 Priority Hire

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

B. For each Covered Project, the Director shall establish the greatest practicable required

percentage of Labor Hours to be performed by Priority Workers by using past utilization percentages on similar public works projects from the previous three calendar years, and shall increase that percentage by no less than two full percentage points above past performance. The Director shall calibrate these required percentages annually and shall consult with the Priority Hire Implementation and Advisory Committee regarding these requirements.

C. In order to maximize the impact of this program in Economically Distressed Areas, the Director shall set project-specific requirements with the intent of achieving a total percentage of no less than 20 ~~((%))~~ percent for all Labor Hours performed annually by Priority Workers on the combined total of Covered Projects by 2016, and shall strive to achieve 40 ~~((%))~~ percent of Labor Hours performed by Priority Workers by 2025. Annual percentage rates will be measured January 1-December 31 of each applicable year.

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

* * *

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

* * *

~~((F))~~ J. The Director shall establish a Priority Hire Implementation and Advisory Committee that

includes representatives of the following groups ((;)) : 1) Labor Unions, 2) community organizations, 3) Contractors, including at least one WMBE firm, and 4) ((;)) Apprentice and Pre-apprentice Training Programs. The Committee shall provide an advisory role to the City regarding the implementation and effectiveness of the Priority Hire policy. Each of the four named groups above shall make nominations from among themselves for Committee representatives to the Mayor. The Mayor shall appoint no less than two and no more than three persons from each group to the Committee. The Department will convene the Committee on a regular basis, at least once every quarter, and will provide the Committee with information about program performance. The Director shall assign at least one staff member from FAS to support the work of the Committee. The Committee shall submit an annual report in writing to the Mayor and City Council, and may submit recommendations, findings, or other reports to the Director, Mayor, or City Council, for consideration as appropriate. The Committee shall establish rules for its procedures.

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

20.37.050 ((Project labor agreement)) Community Workforce Agreement

A. The Director shall negotiate and execute a ((Project Labor Agreement)) Community Workforce Agreement (CWA) that applies to all Covered Projects other than projects deemed impracticable under Section 20.37.020. The ((PLA)) CWA shall comply with and include the applicable terms of this ((ordinance)) Chapter 20.37 and any applicable rules and standards developed by the Director. The ((PLA)) CWA shall require that all Contractors agree to abide by the terms of the ((PLA)) CWA in order to compete and serve on the Covered Project. The Director has the authority to establish a threshold subcontract value, as measured at the time of subcontract execution, and to exempt subcontractors performing that amount of work or less from being signatory to the CWA. The threshold for exemption shall not exceed \$100,000.

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

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

D. The ((PLA)) CWA shall permit an Open-Shop Contractor to employ as many as ((five)) three Core Employees on each contract in a Covered Project and shall permit an Open-Shop Contractor defined as a WMBE to employ as many as five Core Employees on each contract in a Covered Project, provided the Core Employees meet the Core Employee criteria set forth in the ((PLA)) CWA. Open-Shop Contractors are allowed to select and hire ((up to 5)) these Core Employees before filling any further hiring needs through Dispatch. Open-Shop Contractors must notify the Union and identify their Core Employees. FAS has authority, at any time, to verify that the employees meet the definition of Core Employee as established in the ((PLA)) CWA.

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

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

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

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

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)