

**BOARD OF COUNTY COMMISSIONERS
DAKOTA COUNTY, MINNESOTA**

DATE January 24, 1995

RESOLUTION NO. 95-55

Motion by Commissioner MaHer

Seconded by Commissioner Mueller

WHEREAS, the Dakota County Board of Commissioners believes it is in the public interest that projects involving the construction, alteration or repair of County buildings, bikeways, trails, roads and bridges be constructed by the best means and highest quality of labor reasonably available and that persons working on such public construction projects be compensated according to the fair value of the services they perform; and

WHEREAS, it is therefore the policy of this County Board that wages for laborers, mechanics or other employees on such projects, whether financed in whole or part by County funds, should be comparable to wages paid for similar work in the community; and

WHEREAS, the establishment of a prevailing wage rate to accomplish these objectives is authorized under Minnesota Statutes Section 471.345, Subd. 7; and

WHEREAS, the Minnesota Department of Labor and Industry conducts studies and certifies annually the prevailing wage rate for state funded construction projects in commercial construction in Dakota County for all classes of labor commonly or customarily used in such construction projects; and

WHEREAS, Dakota County Board Resolution No. 87-531 adopted the prevailing wage rate for all classes of labor commonly or customarily used in state funded commercial construction projects in Dakota County as certified by the Minnesota Department of Labor and Industry, for all Dakota County construction projects exceeding \$2,000,000.00 in total expenditures for the entire project; and

WHEREAS, Dakota County Board Resolution No. 92-409 modified the policy to include all Dakota County construction projects exceeding \$250,000.00; and

WHEREAS, Dakota County staff have reviewed this issue and propose that prevailing wage rate requirements be established on an individual "contract" basis in order to be consistent with current County contracting policy and practices; and

	YES		NO
Harris	<u>X</u>	Harris	_____
Maher	<u>X</u>	Maher	_____
Bataglia	<u>X</u>	Bataglia	_____
Mueller	<u>X</u>	Mueller	_____
Turner	<u>X</u>	Turner	_____
Krause	<u>X</u>	Krause	_____
Loeding	<u>X</u>	Loeding	_____

**State of Minnesota
County of Dakota**

I, **Joan L. Kendall**, Clerk to the Board of the County of Dakota, State of Minnesota, do hereby certify that I have compared the foregoing copy of a resolution with the original minutes of the proceedings of the Board of County Commissioners, Dakota County, Minnesota, at their session held on the 24th day of January 19 95, now on file in the County Administration Department, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal of Dakota County this 26th day of January, 1995
Joan L. Kendall
 Clerk to the Board

WHEREAS, Dakota County staff also recommend the inclusion of "liquidated damages" requirements within the contract regulations in order to protect the County's interests in the event a successful bidder does not comply with said prevailing wage requirements.

NOW, THEREFORE, BE IT RESOLVED, That pursuant to Minnesota Statutes Section 471.345, Subd. 7, the Dakota County Board of Commissioners hereby modifies Resolution No. 92-409 and adopts the prevailing wage rate for all classes of labor commonly or customarily used in state funded commercial construction projects in Dakota County as certified by the Minnesota Department of Labor and Industry, for all Dakota County construction contracts exceeding \$25,000 in total expenditures; and

BE IT FURTHER RESOLVED, That the following regulations associated with adoption of this prevailing wage rate supersede any regulations established under Resolution No. 92-409, and shall be applicable to all construction contracts exceeding the total expenditure limit established above which are part of County projects for the construction, alteration or repair of buildings, bikeways, trails, roads and bridges owned by Dakota County:

REGULATIONS

Section 1. Prevailing Wage Required. All invitations for bids and all contracts entered into based upon such bids for construction, alteration or repair of public buildings, bikeways, trails, roads and bridges, shall contain a provision stating that the current prevailing wage rate, as of the date of issuance of initial bid specifications, certified for state funded construction projects in Dakota County by the Minnesota Department of Labor and Industry for all classes of labor commonly or customarily used in commercial construction projects are applicable to the contract for construction as if fully set forth therein and all contractors and subcontractors shall fully comply with said prevailing wage rate for the entire contract term regardless of any contractual relationship which may exist between the contractor or subcontractor and his employees.

Section 2. Pre-Award Notice. Promptly after bid opening and prior to contract award the apparent successful bidder shall submit to the Contract Manager a list of all anticipated subcontractors and the various classes of laborers and mechanics to be employed on the contract work by the contractor or any subcontractor, together with a schedule of wage rates and fringe benefits to be paid to such employees. Such wage rates and fringe benefits shall be at least the prevailing wage rate as required in Section 1. The Contract Manager may recommend the acceptance or rejection of a bid which does not comply with this provision if such acceptance or rejection is in the County's best interests.

Section 3. Submission of Statements and Payroll Records. Upon the request of the Contract Manager, each contractor or subcontractor engaged in work under the contract shall furnish the Contract Manager within five (5) working days, a copy of payrolls showing wages paid, and a wage compliance statement with respect to wages paid each of its mechanics and laborers employed on the site of the contract work. In the event the contractor fails to supply such statements or if such statements disclose that the required prevailing wage is not being paid, the Contract Manager shall promptly notify the party issuing payment who shall forthwith withhold payments to the contractor for such period of noncompliance. During the course of and upon completion of the contract work, the Contract Manager shall have the right to require an appropriate audit of contractor's books to determine compliance or noncompliance with the provisions of these Regulations. Each contractor and subcontractor shall retain the relevant weekly payrolls for a period of not less than three years after the completion of the work.

Section 4. Failure to Pay Prevailing Wage. Every invitation for bid and contract within the scope of Section 1 shall contain the further provision that in the event it is found by the County that any laborer, mechanic or employee employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been, or is being paid, a rate of wages and fringe benefits or their cash equivalent less than rates required by these Regulations, the Contract Manager may place the contractor on a suspended or disbarment list and, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been a failure to pay said required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties shall be liable to the County for damages sustained thereby.

Dakota County, in its sole discretion, may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers, workers, and mechanics employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event Dakota County determines that the successful bidder or any of its subcontractors have failed to pay the prevailing wages to any laborer, worker, or mechanic (including apprentices) employed or working on the site of work, Dakota County may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased, and/or require the successful bidder to pay to Dakota County--and the successful bidder shall so pay--(or Dakota County may withhold and keep monies due the successful bidder) as liquidated damages an amount equal to five percent (5%) of the contract amount. Said remedies shall be in addition to any other remedies available to the County under these specifications, and/or in law, statute, or equity.

Any contractor objecting to being placed on a suspended or disbarment list by the Contract Manager shall have the right to appeal in writing to the Dakota County Administrator for review of the Contract Manager's actions.

Section 5. Failure to Comply Bars Future Contracts. The Contract Manager shall prepare and maintain a list of all persons or firms who are in default under any of the provisions of these Regulations in regard to obligations to their employees, and no further contracts shall be awarded or entered into with such persons or firms for so long as they are in default. A current copy of such list shall be kept on file in the Contract Manager's office and the Office of the County Treasurer/Auditor.

; and

BE IT FURTHER RESOLVED, That the Regulations set forth in this Resolution shall be applicable to all contracts for which bids are received after January 24, 1995, and shall remain in effect until this Resolution is modified or rescinded by the County Board.