

SECTION 435. PREVAILING WAGE REGULATIONS

(Added, Bill No. 2020-11)

435.01. Purpose.

It is in the public interest that developments and buildings constructed with financial assistance from the city be constructed and maintained by the best means and highest quality of labor reasonably available and that persons working on the buildings and developments be compensated according to the real value of the services they perform and that wages of laborers, workers and mechanics on developments and buildings financially assisted by public funds be comparable to wages paid for similar work in the community as a whole.

435.03. Definitions.

Subdivision 1. The following definitions apply in this Section:

- (a) "Basic Hourly Rate" means the hourly wage paid to any employee.
- (b) "Prevailing Wage Rate" shall have the meaning contained in Minn. Stat. § 177.42, Subd. 6, as determined for the area including the City of Richfield by the Minnesota Department of Labor and Industry.
- (c) "Apprentice" means a person employed and registered in a bona fide apprenticeship program registered with the U.S. Department of Labor or with a state apprenticeship agency. "Apprentice" shall also include a person in the first 90 days of probationary employment as an apprentice who is not registered in the program but who has been certified by the U.S. Bureau of Apprenticeship and Training or a state apprenticeship agency or council to be eligible for probationary employment as an apprentice.
- (d) "Project" means erection, construction, reconstruction, remodeling, demolition, or routine maintenance of City streets, utilities, storm water infrastructure, buildings or parks where the estimated cost of the work exceeds \$300,000.00 and the City of Richfield (City) or the Richfield Housing and Redevelopment Authority (HRA) lets the work under contract and the project is financed in whole by City or HRA funds. This includes projects where the City or HRA has received funds previously from another source and uses such funds for the Project.

"Project" shall not include contracts for the purchase, rental, repair, or maintenance of motor vehicles or other equipment or personal property. Contracts involving the insertion of public funds, such as tax increment financing, shall not be considered a Project unless the City or HRA is a direct party to the contract.

- (e) "Laborer, Mechanic" means all persons utilized, employed, or working on a Project who are doing work usually done by mechanics and laborers, including proprietors, partners, and members of cooperatives.

435.05. Wage and Hours for City and HRA Projects.

Subdivision 1. Any contract for a Project with an estimated total cost of over \$300,000.00 shall contain a stipulation that no laborer, mechanic, or apprentice employed directly upon the Project work site by the contractor or any subcontractor shall be permitted or required to work at a rate of pay less than the Prevailing Wage Rate.

Subd. 2. The prevailing wage rates, prevailing hour of labor and hourly basic rates of pay shall be set forth specifically in the contract. All contracts for Projects must include applicable schedules of prevailing wage rates.

Schedules of applicable prevailing wage rates shall be present on all Project job sites and shall either be posted on the site or be on the person of any supervisor in charge of the job site.

Subd. 3. Upon request of the City or HRA, any contractor or subcontractor working on a Project shall furnish the City or HRA with a copy of all payrolls relating to the Project. Such payroll reports shall be submitted on U.S. Department of Labor Standard Forms or their equivalent to the employee of the City or HRA in charge of supervising contract performance. Payroll so submitted shall include the classification of each employee and shall set out accurately and completely all the information required to be maintained under 29 C.F.R. part 5, section 5.5(a)(3)(i).

Subd. 4. No contractor or subcontractor working on a Project shall evade or attempt to evade the provision of this Section through the use of non-recognized training programs. The only employees involved in training programs that shall be allowed to work on Projects covered by this Section shall be Apprentices.

435.07. Applicability.

This Section shall not apply to contracts for projects estimated to cost less than \$300,000.00; nor to employees who do no more than deliver materials to the work site. This Section shall apply to employees who deliver asphalt, concrete, or mineral aggregate such as sand, gravel, or stone where such material is incorporated into the Project by depositing the material substantially in place, either directly or through spreaders, from the transporting vehicle.

435.09. Violations and Penalties.

Subdivision 1. The contractor shall be the responsible party to ensure the payment of prevailing wages by the contractor or by any subcontractor employed by or performing work as a part of a Project.

Subd. 2. A contractor or any subcontractor who violates the prevailing wage provisions of a contract shall be liable directly to the underpaid laborer or mechanic for the unpaid wages. A contractor or subcontractor, by agreeing to perform work on a Project, agrees that laborers or mechanics have such a cause of action against the contractor or subcontractor.

Subd. 3. Failure to pay prevailing wages may result in, but is not limited to: contract payment delay, cancellation of the contract, non-issuance of a tax increment financing note, or delay, reduction, or cessation of tax increment note payments.

Subd. 4. Upon receipt by the City or HRA of a written complaint alleging a violation of this Section or on the initiative of the City or HRA, the City or HRA may refer the complaint to the Minnesota Department of Labor and Industry to determine whether there has been a violation of this Section. If the Minnesota Department of Labor and Industry declines to conduct an investigation, the City or HRA may elect, in its own discretion, to either investigate the matter or refer it to an independent investigator. The City, HRA, and the Minnesota Department of Labor and Industry shall have the right to interview, during working hours, any employees, whether employees of the contractor or any subcontractor.

Subd. 5. Any person violating this Section shall be guilty of a misdemeanor with each day of violation constituting a separate offense.

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