

ORDINANCE NO. C36723

An ordinance titled “Public Dollars For Public Benefit,” relating to City public works; enacting a new Article XI, Chapter 07.06.800 of the Spokane Municipal Code, and setting an effective date.

WHEREAS, the City of Spokane funds and contracts for construction projects to construct, repair and maintain municipal facilities and infrastructure; and

WHEREAS, the City of Spokane protects the City and public interest by ensuring all such projects under its purview are constructed and administered in accordance with plans, specifications, contract provisions, and provisions protecting the social and economic justice policies of the City; and

WHEREAS, the City of Spokane will continue major construction project bids and awards in future years; and

WHEREAS, Washington is facing a critical workforce gap in an economy where the state is poised to see growing demand for eligible employees trained in industry sectors, specifically construction and skilled trades; and

WHEREAS, the City of Spokane is a strong supporter of and has found construction job training programs, including apprentice and pre-apprenticeship programs, to be an effective way to prepare individuals for entry into construction jobs, and to ensure women, people of color, and otherwise vulnerable individuals, particularly those who are Spokane residents, can acquire the necessary job skills and be prepared to successfully pursue construction careers; and

WHEREAS the City of Spokane supports the aspirations and wellbeing of all of our families and creating increased opportunities for all of our children to work, play and stay in Spokane; and

WHEREAS, the City of Spokane commits to the participating in the training of the workforce of tomorrow, ensuring equal opportunity and access for underrepresented communities seeking to develop job skills in the building trades, and creating and building a sustainable environment that improves the health of our families, our workforce, and our community; and

WHEREAS, the City of Spokane is committed to strengthening the promise of the “Helmets to Hardhats” strategy to provide increased employment opportunities for veterans; and

WHEREAS, the City Council seeks to increase and enhance the skilled construction labor force for City public works, utilizing a Project Labor Agreement (PLA) and strategies to recruit individuals who are underrepresented in the construction trades into training and job placements especially those individuals residing in economically distressed areas of Spokane; and

WHEREAS, Community Workforce Agreements and Project Labor Agreements are known to prevent waste, maximize public return, ensure equity while delivering measurable benefits to workers, communities, and taxpayers; and

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That a new Article XI, Chapter 07.06.800 of the Spokane Municipal Code is created to read as follows:

Article XI – Priority Hire Program

Section 07.06.800 Title and Intent

Section 07.06.810 Definitions

Section 07.06.820 Community Workforce Agreement

Section 7.06.830 Priority Hire Program

Section 07.06.840 Project labor Agreement

Section 07.06.850 Program Evaluation

Section 07.06.860 Program Compliance

Section 07.06.870 Exceptions and Waivers

Section 07.06.880 Penalty

Section 07.06.800 Title and Intent

This Chapter 07.06.800 shall be known as the “Public Dollars For Public Benefit Act”. The intent of this act is to develop a model community workforce agreement and priority hire policy to promote training and career opportunities for individuals in the construction trades and to establish priorities for the hiring of residents in economically distressed areas. The City is directed to execute a project labor agreement for public works projects estimated to cost \$5 million or more.

Section 07.06.810 Definitions

Where used in this chapter, unless the context clearly requires otherwise, the following terms shall have the meaning and construction set forth herein:

- A. "Apprentice" means a person who has signed a written apprenticeship agreement with and enrolled in an active registered apprenticeship program approved by the Washington state Apprenticeship and Training Council.
- B. "Community workforce agreement" means an executed agreement signed by the City of Spokane, and representatives of the NE Washington/N Idaho Building & Construction Trades Council, and other labor organizations, as applicable, under this chapter. The community workforce agreement is a project labor agreement for a single construction project that contains terms and conditions for priority hiring and preferred entry requirements.
- C. "Contractor" means a person or business entity that enters into a contract with the city or a subcontractor performing services under such a contract. A contractor employs individuals to perform work on construction projects, including general contractors, subcontractors of all tiers and both union and nonunion entities.
- D. "Economically distressed area" means a geographic area within the City of Spokane, as defined zip code, and found by the city to be in the top thirty percent of all zip codes in the City of Spokane in terms of the concentration of individuals who meet at least two of the following criteria:
 - a. have income at or below two hundred percent of the federal poverty level;
 - b. are unemployed;
 - c. or are at least twenty-five years old and without a college degree.

The City may add zip codes that meet these criteria for construction projects that are part of the city's wastewater service area in the City of Spokane. The City may adjust the list of economically distressed areas in order to enhance regional uniformity with other local jurisdictions implementing priority hire programs.

- E. "Good faith efforts" means a reasonable and sincere effort made by the contractor and its subcontractor to meet the established apprentice requirement, priority hiring requirement and other hiring goals. This effort will be documented using a standardized method, signed by the contractor representative and craft labor representatives(s).
- F. "Helmets to Hardhats" means the nationwide program that is administered by the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit corporation that connects National Guard, Reserve, retired and transitioning active-

duty military service members with skilled training and quality career opportunities in the construction industry.

- G. "Journey level" means that an individual has successfully completed a State approved apprenticeship program and has the necessary skills and knowledge of an occupation, or documented on-the-job work experience, that is recognized by any combination of a State registration agency or a Federal registration agency. To be "journey level", practical experience must be equal to or greater than the term of the apprenticeship.
- H. "Labor hours" refers to the total number of hours worked by workers receiving an hourly wage who are directly employed by the contractor and all subcontractors on a county public works project.
- I. "Model community workforce agreement" means a standardized project labor agreement that would be anticipated to apply to all construction projects required to utilize priority hire under this chapter and sets forth terms and conditions for hiring requirements to include priority hire workers, signed by the city and representatives of the NE Washington/N Idaho Building & Construction Trades Council, and other labor organizations, as applicable.
- J. "Pre-apprentice graduate" means an individual who successfully completed a State recognized pre-apprenticeship program and is readily available to enter a registered apprenticeship program or has been accepted into a Washington State registered apprenticeship program, including individuals who are completing the first or second year of apprenticeship training.
- K. "Pre-apprenticeship program" means an education-based apprenticeship preparation program that is formally recognized by the Washington State Apprenticeship and Training Council and endorsed by one or more registered apprenticeship sponsor with a focus on educating and training students to meet or exceed minimum qualifications for entry into a registered apprenticeship program.
- L. "Pre-construction meeting" means a meeting held between the City, builders, contractors, subcontractors, and other essential personnel prior to a construction project's start date to go over important information, such as, but not limited to project timelines, permits, goals, establishing of authority, communication, responsibility clarification, schedules, cost estimates, quality control, key stakeholders, and job site safety.
- M. "Preferred entry" means a program provided as part of a project labor agreement or a community workforce agreement that allows pre-apprentice graduates and veterans entry into a registered apprenticeship program ahead of other applicants.

- N. "Priority hire program" means the program created in this chapter to prioritize the recruitment and placement of priority hire workers for training and employment in the construction trades on public works projects where the estimated cost to construct is over five million dollars.
- O. "Priority hire worker" means an individual prioritized for recruitment, training, and employment opportunities because the individual meets any one or more of the following criteria:
1. a resident of an economically distressed area;
 2. A graduate of a state registered pre-apprenticeship program; or
 3. A person of color, woman, formerly justice-involved, tribal member, unhoused, or veteran.
- P. "Project labor agreement" means an executed agreement between the city or designee, on behalf of the city, and the NE Washington/N Idaho Building & Construction Trades Council, that provide standards for work hours, wages, working conditions, safety conditions, union representation, apprenticeship requirements and settlement of disputes procedures.
- Q. "Public works" or "public works project" refers to city construction projects, including parks and libraries, with an estimated cost to construct of five million dollars (\$5,000,000) or more, including all phases of multi-phase projects. Public works contracts shall not be fragmented to avoid the requirements of this chapter.
- R. "Registered apprenticeship program" means an apprenticeship program that is approved by the Washington State Apprenticeship and Training Council. Registered apprenticeship programs may include both union and non-union programs.

Section 07.06.820 Model Community Workforce Agreement

- A. The City of Spokane shall develop a model community workforce agreement and shall make a good faith effort to negotiate and execute the model community workforce agreement for each public works construction project requiring the utilization of priority hire under this chapter. The model community workforce agreement shall:
1. Include terms and conditions for the utilization of priority hire and preferred entry workers;
 2. Require that a minimum twenty five (25%) percent of all labor hours in each trade on a construction project requiring the utilization of priority hire under this chapter be performed by apprentices pursuant to a

community workforce agreement may also be counted towards fulfillment of apprenticeship labor hour requirements under an apprentice utilization plan as described in SMC 07.06.750;

3. Include provisions for pre-construction meetings;
4. Include provisions to ensure a respectful workplace that is inclusive and focuses on nondiscrimination and antiharassment behaviors and provides procedures for workers to address concerns;
5. Include provision for the recruitment, retention and mentoring of construction workers, including priority hire and preferred entry workers, and workers who reside in the City of Spokane as they advance from apprentice positions into journey level positions;
6. Include an order of precedence provision that includes any applicable collective bargaining agreements in the order of precedence after the model community workforce agreement;
7. Where free and ample parking is not available at a public works construction project, include provisions to ensure vehicle parking at or nearby, or alternatively, at a dedicated parking area from which the contractor provides transportation, all at no cost to workers;
8. Be structured to streamline paperwork and reporting requirements; and
9. Include a multi-employer retirement plan and full family medical plan for workers.

- B. If the City of Spokane is unable to negotiate and execute a model community workforce agreement despite good faith efforts, the City will develop and execute a community workforce agreement specific to each public works project, which must contain terms and conditions for the use of priority hire workers as well as provisions related to a respectful workplace.
- C. Contractors who submit work bids on public works construction projects requiring the utilization of priority hire under this chapter shall evidence good faith efforts that the contractor can reasonably make to meet the requirements of this chapter, including the percentage labor hour requirements, that are consistent with the terms and conditions set forth in the applicable community workforce agreement.

Section 07.06.830 Priority Hire Program

To administer the Priority Hire program, the City of Spokane shall:

- A. Analyze the indicators for economically distressed areas and prepare a list of zip codes that are found to be economically distressed areas and update that list at least once every five years. Any changes proposed by the manager to the criteria for determining economically distressed areas are subject to approval by public rule;
- B. Provide technical assistance to contractors on the recruitment and reporting requirements of the priority hire program to promote participation in the priority hire programs; and
- C. Develop a prompt-payment program for subcontractors performing services for a contractor to lower the burden of participation in the priority hire program, based on an assessment of the effectiveness of existing payment programs. The prompt-payment program may include features such as revolving fund or other mechanism to provide cash flow relief for payments to the general contractor or sub-contractor.

Section 07.06.840 Project Labor Agreement

The City of Spokane shall negotiate and execute a Project Labor Agreement (PLA) that applies to all covered public works projects other than projects deemed an exception under this chapter, with the NE Washington/N Idaho Building & Construction Trades Council. The PLA shall comply with and include the applicable terms of this ordinance and any applicable rules and standards developed by the City of Spokane. The PLA shall require that all Contractors agree to abide by the terms of the PLA to compete and serve on the covered public works project.

The following shall be considered during negotiations.

- A. The City of Spokane shall include a requirement in the PLA that a minimum of twenty-five (25%) percent of all labor hours in each trade on a construction project requiring the utilization of priority hire under this chapter be performed by priority hire candidates.
- B. The City of Spokane shall establish provisions within the PLA 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.
- C. The PLA shall permit a contractor 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. Open shop contractors are allowed to select

and hire up to five core employees before filling any further hiring needs through dispatch. Open shop contractors must notify the union and identify their core employees. The City of Spokane has authority, at any time, to verify that the employees meet the definition of core employee as established in the PLA.

- D. The PLA shall include full family healthcare and multi-employer retirement for all workers.
- E. No worker shall be required to become a member of a union to be eligible for employment on a project under a PLA with the City of Spokane. No contractor shall be required to become affiliated with a union to be eligible for work on a project under a PLA with the City of Spokane.
- F. The City of Spokane may provide technical assistance to a Women or Minority Business Enterprise (WMBE) and open shop contractors in transitioning to a PLA environment.
- G. All craft jurisdictions under the PLA will be defined under WAC 296.127.

Section 07.06.850 Program Evaluation

- A. The City of Spokane shall establish benchmarks and metrics to evaluate the priority hire program, such as project costs; completion times; workplace safety; utilization rates and graduation rates of priority workers, women and racial minorities from pre apprentice and apprentice training programs; and changes in the percentage of dollars paid to WMBE contractors working on covered projects. Metrics should also include the economic impact and the return on investment resulting from implementing the Community Workforce Agreement.
- B. The City of Spokane shall report findings to the Mayor and the Spokane City Council annually and make these findings available on a public dashboard.
- C. The Mayor and City Council will review program results during 2028 to determine if the program should be expanded or amended by increasing or decreasing thresholds.

Section 07.06.860 Program Compliance

The Administration shall implement a system for monitoring the use of apprentices and priority hire workers in construction projects subject to this chapter. Such monitoring may include identifying individual apprentices and priority hire workers by apprenticeship registration number, reviewing standardized documents provided by the contractor, determining the apprentice and priority hire hours worked by minorities, women, and veterans; and assessing whether the contractor has complied with the apprenticeship or priority hire requirement established in the negotiated contract.

Section 07.06.870 Exceptions and Waivers

- A. During the term of a construction contract subject to this chapter, the City of Spokane may reduce or waive the apprentice and/or priority hire labor hour goals upon their determination that at least three of the below conditions are met as documented by the contractor and reviewed by the executive or designee:
1. The contractor has demonstrated that it has utilized good faith efforts to meet the established percentage requirement but remains unable to fulfill the goal'
 2. In order to meet the requirement, the contractor will be forced to displace members of its workforce;
 3. The reasonable and necessary requirements of the contract render apprentice or priority hire utilization infeasible at the required levels;
 4. The contractor has demonstrated in writing that it has contacted the trade-specific registered apprenticeship program or attempted to hire priority hire workers, yet an insufficient number of apprentices or priority hire workers are available to meet the contract requirements; or
 5. The contractor has demonstrated that it has met or is meeting apprenticeship or priority hire requirements on all existing city construction projects during the 12 months prior to execution of a new contract with the city.

Section 07.06.880 Penalty

- A. For each unmet labor hour required by this Article X, there shall be imposed a penalty equal to thirty percent (30%) of the highest paid craft hourly rate on the Public Works project as determined by prevailing wages on each contractor who violates the provisions of this article. For a second violation within five years of the first violation, the penalty shall be sixty percent (60%), and for a third or subsequent violation within five years of the first violation, the penalty shall be ninety percent (90%). General contractors shall only be liable for penalties based on their failure to meet the "per craft" requirements established in SMC 07.06.720(A).
- B. The specific facts and circumstances and the existence and extent of any good faith efforts to comply shall be considered when determining whether a contractor is subject to debarment under SMC 07.06.610(B).

The City Administrator shall dedicate all revenues derived from penalties imposed for violation of this Article X to grants to state-approved pre-apprenticeship programs to assist minorities, women, and residents of CEZs as defined in this Article X.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 3. Clerical Errors. Upon approval by the city attorney, the city clerk is authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

Section 4. Effective Date. This ordinance shall be effective _____, 2025 or on that date set forth in Section 19.B of the Spokane City Charter, whichever is later.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date