

1.

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 118282

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4 AN ORDINANCE relating to City public works; providing findings regarding priority hire;
5 establishing a policy to promote training and career opportunities for individuals in the
6 construction trades; establishing priorities for the hiring of residents in economically
7 distressed areas with particular priority for Seattle and King County; directing the
8 Department of Finance and Administrative Services to execute a project labor agreement
9 for public works projects estimated to cost \$5 million or more; directing that the program
10 be evaluated and reported on annually; adding a new Chapter 20.37 to the Seattle
Municipal Code, which includes Sections 20.37.010, 20.37.020, 20.37.030, 20.37.040,
20.37.050, 20.37.060, 20.37.070, and amending Seattle Municipal Code Sections
20.38.005 and 20.38.010 in connection thereto.

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

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

16 WHEREAS in 2013 the City of Seattle spent approximately \$219 million on public work
17 contracts through payments to private construction companies; and

18 WHEREAS, the City's capital investment dollars create the equivalent work hours of two jobs
19 per million dollars spent, providing enough total hours to equal approximately 438 full
time construction jobs in 2013, with a similar number of total hours in most years; and

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

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

1 WHEREAS, under Seattle Municipal Code Chapter 20.38, the City requires a percentage of
2 contract labor hours on public works to be performed by apprentices enrolled in
3 registered apprentice training programs, and pre-apprentice and apprentice training
4 programs have successfully established a meaningful diversity of apprentice workers; and

5 WHEREAS, apprentices on City projects in 2013 include 38 percent people of color and more
6 than 14 percent women representing a greater percentage of worker hours on City
7 projects than the percentage of people of color and women in journey level craft hours;
8 and

9 WHEREAS, since 2002 the City of Seattle has pursued aspirational programs for women and
10 minority business participation in City funded construction work, and established pursuit
11 of aspirational goals for such businesses beginning in 2005 through Seattle Municipal
12 Code Chapter 20.42; and

13 WHEREAS, the City's Women and Minority Business (WMBE) aspirational goals have
14 increased the share of dollars spent with underutilized women and minority businesses
15 for construction of City funded projects; and

16 WHEREAS, the City's progress in WMBE business utilization evidences the opportunity to
17 develop similar improvements for women and minority workers in construction, and also
18 recognizes that the gains made by WMBE firms need to be specifically considered,
19 protected and not harmed by any new City contracting policies for construction firms
20 performing public works for the City; and

21 WHEREAS, the City has executed a Community Workforce Agreement on the Alaskan Way
22 Seawall Replacement Project with aspirational goals and successful outcomes to increase
23 employment of women, racial minorities and those from economically distressed areas as
24 defined by zip code; and

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

WHEREAS, on September 23, 2013, the Council adopted joint Resolution 31485, which
established a Construction Careers Advisory Committee (CCAC) and asked CCAC
members to recommend to the Mayor and City Council policies, programs and resources
to increase career opportunities for underrepresented workers on public works projects
funded by the City of Seattle; and

WHEREAS, the City commissioned professional studies and analyses to guide the CCAC and
the City, including the *Construction Industry Labor Market Assessment*, Community

1 Attributes Inc., March 2014; *Worker Profile in City of Seattle Construction Projects*,
2 UCLA Labor Center, February 2014; and *Exploring Targeted Hire: An Assessment of*
3 *Best Practices in the Construction Industry*, UCLA Labor Center, March 2014; and

4 WHEREAS, the CCAC delivered its report to the Mayor and City Council on July 30, 2014, and
5 recommended the City adopt an ordinance to require a PLA for all city funded projects at
6 or above a construction budget of \$5 million; and

7 WHEREAS, the CCAC recommended that the PLA also provide accommodations for non-union
8 contractors, include resources for training programs, and require higher rates for hiring
9 pre-apprentice and apprentice workers as well as mandating the hiring of residents in
10 economically distressed areas, particularly in Seattle and King County, and encouraging
11 aspirational goals for the hiring of women and racial minorities; and

12 WHEREAS, the Mayor and City Council considered the CCAC's recommendations, other
13 jurisdictions' experiences, the City's experience under the Alaskan Way Seawall
14 Replacement Project Community Workforce Agreement that was executed on September
15 7, 2012, and input from contractors, labor union representatives, community advocates,
16 women and minority businesses, training providers and policy experts;

17 NOW, THEREFORE,

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

19 Section 1. The City Council makes the following legislative findings of fact and
20 declarations of intent:

21 A. Based on studies commissioned by the City of Seattle, recommendations of the
22 Construction Careers Advisory Committee, and numerous public discussions, the Mayor and
23 City Council find that it is in the City's and public's best interest to increase the supply of
24 qualified construction workers, particularly those historically underrepresented in the
25 construction industry, including women, racial minorities, and those who live in economically
26 distressed areas of Seattle and King County.

1 B. The Mayor and City Council have a commitment to ensuring equity in the public
2 works workforce where disparities exist between underrepresented workers' availability to work
3 and their opportunity to be hired and establish a career in the construction trades.

4 1. Chapter 20.42 of the Seattle Municipal Code requires contractors to
5 actively solicit employment of women and minority group members, and authorizes the Director
6 of Finance and Administrative Services to assist contractors awarded or bidding on City projects
7 in such efforts.
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9 2. The City commissioned the *Construction Industry Labor Market*
10 *Assessment*, which found that women, irrespective of race, are underrepresented in the
11 construction industry. Between 2009 and 2013, 10 percent fewer women finished their
12 apprentice training program than males (p.35).
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14 3. The *Construction Industry Labor Market Assessment* also found that
15 between 2009 and 2013, 14 percent fewer racial minority apprentices finished their apprentice
16 training program than white apprentices (p.36).
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18 4. The *Construction Industry Labor Market Assessment* also found that
19 underrepresented workers face barriers to completing apprentice training. Between 2009 and
20 2013, 65 percent of the racial minorities exiting apprenticeships did not complete the programs
21 compared to 51 percent of the white apprentices who failed to complete the program. During that
22 same time period, 65 percent of all women, irrespective of race, failed to complete their
23 programs compared to 55 percent of all men (p.35-36).
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25 5. According to American Community Survey data, the County's average
26 unemployment rate in 2012 was 6.7 percent; however, the unemployment rate was greater for
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1 certain portions of the County's population: Latinos were at 8.4 percent, head-of-household
2 women were at 7.6 percent; and African-Americans were at 12.9 percent.

3 C. The Mayor and City Council find that Seattle has geographic areas of economic
4 distress as evidenced by poverty indicators; including poverty levels, concentrated
5 unemployment, and gaps in educational attainment. Additionally, areas in King County, outside
6 of the City, have similar areas of economic distress that affect workforce availability and
7 Seattle's neighboring communities in the County. The City seeks to act effectively and
8 expeditiously to encourage solutions toward economic growth and job creation in areas of the
9 City that are economically distressed as evidenced by comparatively high levels of poverty,
10 unemployment rates and education attainment.
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12 1. The City finds that these geographic areas in Seattle and King County
13 that have high levels of poverty, unemployment, and low-educational attainment rates may be
14 defined by zip codes, and the City finds that these areas require measures to encourage economic
15 growth, job creation and/or job retention for residents of these areas.
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17 2. The Seawall CWA has an aspirational goal to hire 15% of the
18 workforce from economically distressed zip codes as defined and prioritized by the City.
19 Seawall Article IX. The City compared zip codes in King County using the following criteria:1)
20 number of people living under 200% of the Federal Poverty Level, 2) number of unemployed
21 individuals, and 3) number of individuals without a college degree. Zip codes with a high
22 concentration, i.e. density per acre of at least 2 out of the 3 criteria, were identified as
23 Economically Distressed Areas. For the Seawall project the City identified 15 zip codes in
24 Seattle and 11 zip codes in King County.
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2 D. The Mayor and City Council find that a Project Labor Agreement (“PLA”) is an
3 effective tool to manage public works projects, reduce risk of project delays, reduce schedule
4 interruptions, and reduce labor disruptions and labor shortages. A PLA is also an effective tool to
5 improve job-site safety and overall working conditions.

6 1. The *Exploring Targeted Hire: An Assessment of Best Practices in the*
7 *Construction Industry* study reports that PLAs are an effective tool to increase access to qualified
8 labor, assure labor harmony and prioritize employment of targeted disadvantaged workers (p.24).

9 2. In September 2012, the City executed a PLA entitled the “Alaskan Way
10 Seawall Replacement Project Community Workforce Agreement” (the “Seawall PLA”). In
11 addition to provisions to avoid project delays and achieve labor harmony, the Seawall PLA
12 includes aspirational goals to promote employment opportunities on the project for women,
13 racial minorities and those from economically distressed areas as defined by zip code, and the
14 Seawall PLA is successfully achieving these goals.

15 3. The City’s experience with the Seawall PLA offers evidence that PLAs
16 may be negotiated in a manner that allows non-union (“open-shop”) contractors to successfully
17 bid, compete and win contract awards. City data shows that as of August 22, 2014, the
18 percentage of open-shop subcontracts is 56.9 percent in the Alaskan Way Seawall Replacement
19 Project whereas traditional city roadway projects have a rate of 56.4 percent open-shop
20 subcontracts.
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1 4. The City has a commitment to providing education, training and
2 technical assistance to open shop contractors unfamiliar with a union environment and those
3 unaffiliated with a labor union.

4 5. The City's experience with the Seawall PLA also provides evidence that
5 PLAs are consistent with the utilization of Women and Minority Businesses; as of July 31, 2014,
6 23 percent of total construction payments on the project went to Women and Minority
7 Businesses as compared to the typical 14 percent the City has historically experienced on
8 roadway projects when considering all such projects within the past three calendar years.
9

10 E. The City commissioned the *Construction Industry Labor Market Assessment*, which
11 found that the City may reasonably anticipate a reduced surplus of qualified labor and possible
12 labor shortages in certain construction trades by 2019. The City is concerned that these labor
13 shortages may increase construction costs on the City's public works projects unless the City
14 supports efforts to increase the supply of trained apprentices and journey-level workers for local
15 public works projects. Other pertinent findings from this study that support the City's need to
16 minimize the risk of anticipated labor shortages are as follows:
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18 1. The demand for construction trade workers is calculated to increase
19 through 2019, leaving only a 5.8 percent marginal surplus of workers by 2019 (pg. ii), such that
20 the City may expect worker shortages in certain construction trades needed to execute the City's
21 public works projects.
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23 2. Workers likely to respond to new training and employment
24 opportunities are those who (i) live in a local region that promotes new training and employment
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1 opportunities, (ii) can travel to a jobsite located in the local region a worker lives in without
2 significant advance notice and (iii) are unemployed or living in poverty.

3 3. The Washington Legislature has found, in RCW 39.04.300, that a
4 trained and qualified workforce is critical to accomplish public works and that qualified
5 apprentice training programs are essential to, and effective in, assuring an adequate supply of
6 trained workers. RCW 39.04.320 (1)(a) provides that for all public works estimated to cost \$1
7 million or more, the contract specification shall require that no less than 15 percent of labor
8 hours be performed by an apprentice, absent statutory exceptions or adjustments for specific
9 projects for specific reasons. Under Seattle Municipal Code Chapter 20.38 titled
10 "Apprenticeship Program," the Department of Finance and Administrative Services and its
11 Director are responsible for implementation of these requirements on City of Seattle public
12 works contracts.
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15 4. *Exploring Targeted Hire: An Assessment of Best Practices in the*
16 *Construction Industry*, a study commissioned by the City, found that policies in Milwaukee,
17 Cleveland, the City of Los Angeles, and San Francisco and other jurisdictions are effective for
18 recruiting those individuals that are available, but not fully represented in the construction labor
19 supply (p.27, p.32).
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21 F. The City has a commitment to reduce environmental impacts by promoting
22 environmentally sustainable practices that reduce commuting distances, lower transportation
23 costs, lower greenhouse gas emissions and brake dust emissions, thereby fulfilling the goals of
24 Council Resolution 31447 that adopted the Seattle Climate Action Plan in June 2013.
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1 1. City public works projects employ construction workers living
2 throughout the tri-county region, and beyond, who travel to construction job sites located within
3 the City and King County. A City-commissioned study, *The Worker Profile in City of Seattle*
4 *Construction Projects* found that among the construction trade workers employed on City public
5 work projects, 69 percent of the workforce travel into King County from other regions, resulting
6 in negative impact to the environment.

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8 2. City data indicates the City could reduce more than 80,000 miles driven
9 by prioritizing those residing closer to City public works job sites. The *Worker Profile in City of*
10 *Seattle Construction Projects* study shows that in a review of 33 City-funded projects, 6% of the
11 workers lived in Seattle; with 25% being from King County.

12 Section 2. A new Chapter 20.37 "Priority Hire" is added to the Seattle Municipal Code
13 as follows:

14 **Chapter 20.37 – Priority hire**

15 **20.37.010 Definitions**

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

19 "Apprentice" means any worker enrolled in an Apprentice Training Program.

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21 "Apprentice Training Program" means a program registered and in compliance with the
22 Washington State Apprenticeship and Training Council as defined by RCW 49.04 and WAC
23 296-05-011 and WAC 296-05-013.

24 "City" means The City of Seattle.

1 “Contractor” means any person, firm, partnership, owner operator, limited liability
2 company, corporation, joint venture, proprietorship, trust, association or other legal entity that
3 employs individuals to perform work on Covered Projects, including general contractors,
4 subcontractors of all tiers, and both union and non-union entities.

5 “Core Employee” means an employee of an Open-Shop Contractor that meets the Core
6 Employee criteria established under a PLA.

7 “Covered Project” means a City public works project with a project budget at or above \$5
8 million.

9 “Department” means The Department of Finance and Administrative Services or any
10 successor department.

11 “Director” means The Director of Finance and Administrative Services or his or her
12 designee or successor.

13 “Dispatch” is the process by which a union refers workers for employment to contractors
14 under the authority of a collective bargaining agreement. The process typically mandates the
15 distribution of work via a “first in, first out” priority but can legally be adjusted via special
16 agreements to allow for out of order dispatching and priority worker hiring.

17 “Economically Distressed Area” means a geographic area defined by zip code and found
18 by the Director to have a high concentration of individuals; 1) living at or below 200% of the
19 Federal Poverty Level, 2) unemployed, and or 3) without a college degree, compared to other zip
20 codes. King County zip codes, with a high density per acre of at least two out of the three
21 criteria, will be identified as Economically Distressed Areas. There shall be two classes of such
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1 zip codes: tier one zip codes located within the City of Seattle and tier two zip codes located
2 within King County and outside of the City of Seattle.

3 “Helmets to Hardhats” means a nonprofit program that connects National Guard,
4 Reserve, retired and transitioning active-duty military service members with skilled training and
5 quality career opportunities in the construction industry.

6 “Jobs Coordinator” means a City Employee or third party entity that facilitates the
7 hiring of Priority Workers in collaboration with Contractors and Union Dispatch.
8

9 “Journey-level” means an individual who has sufficient skills and knowledge of an
10 occupation, either through a formal Apprentice Training Program or through practical on-the-job
11 work experience, to be recognized by a state or federal registration agency and/or an industry as
12 being fully qualified to perform the work of the occupation. Practical experience must be equal
13 to or greater than the term of apprenticeship.
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15 “Labor Hours” means hours performed on Covered Projects by workers who are subject
16 to prevailing wages under RCW 39.12.

17 “Non-manual Position” means a job position on a public works project that is not
18 primarily for the purpose of performing physical construction work, including but not limited to,
19 superintendents, supervisors, staff engineers, quality control and quality assurance personnel,
20 time keepers, mail carriers, clerks, office workers, messengers, guards, safety personnel,
21 emergency medical and first aid technicians and other engineering, administrative, supervisory
22 and management employees.
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1 “Open-Shop Contractor” means a Contractor that is not a signatory to a collective
2 bargaining agreement with a Union representing the trade(s) of the Contractor’s workers, also
3 known as non-union Contractors.

4 “Pre-apprentice” means a student enrolled in a construction Pre-apprentice Training
5 Program recognized by the Washington State Apprenticeship and Training Council.

6 “Pre-apprentice Graduate” means an individual who completed a Pre-apprentice Training
7 Program and has been accepted into an Apprentice Training Program, including those who are
8 still completing their first year of Apprentice training.

9 “Pre-apprentice Training Program” means an education-based program, recognized by
10 the State of Washington Apprenticeship and Training Council and endorsed by one or more
11 registered apprenticeship sponsors, with a focus on educating and training students to meet or
12 exceed minimum qualifications for entry into an Apprentice Training Program upon graduation.
13

14 “Preferred Entry” means an agreement provided by a PLA that allows Pre-apprentice
15 Graduates and Helmets to Hardhats veterans, who are also Priority Workers, entry into an
16 Apprentice Training Program ahead of other applicants.
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18 “Priority Worker(s)” means an individual prioritized for recruitment, training, and
19 employment opportunities because the individual is a Resident in an Economically Distressed
20 Area.
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22 “Project Budget” means the construction budget for the project that includes all costs
23 estimated to be paid to Contractors, including contingency funds, as estimated at the time of bid
24 or, if absent a bid, at the time of the contract award.
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1 “Project Labor Agreement (PLA)” means an agreement executed between the Director,
2 on behalf of the City, and Labor Unions that represent workers who typically perform on City
3 public works projects.

4 “Resident” means a person who provides evidence to the satisfaction of the Director
5 demonstrating that the person lives at a particular address.

6 “Training Programs” are pre-apprenticeship and/or registered apprenticeship programs.

7 “Union” is a representative labor organization whose members collectively bargain with
8 employers to set the wages and working conditions in their respective trade or covered scope of
9 work.
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11 “Women and Minority Business (WMBE)” has the same meaning as given under Chapter
12 20.42, as may be amended from time to time.

13 **20.37.020 Director powers**

14 A. The Director shall implement and administer this Chapter 20.37 and may develop and
15 adopt rules consistent with the requirements of this Chapter 20.37.

16 B. The Director may reduce or waive requirements or goals of this Chapter 20.37 when
17 impracticable for a Covered Project for one or more of the following reasons: when work is
18 required due to an emergency, when work is subject to limitations of a sole source, when
19 requirements or goals would be inconsistent with a grant or agreement with a public agency,
20 when requirements or goals are inconsistent with federal funding or other funding sources, when
21 the project is in a remote location, when superseded by safety or other legal requirements, or
22 absent an executed Project Labor Agreement.
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24 **20.37.030 Training assistance**

1 The Director may assist local Pre-apprentice or Apprentice Training Programs to
2 encourage additional programs, classes and curriculum that may increase graduation, retention
3 and employment rates of women, racial minorities, other pre-apprentice program participants,
4 and or Priority Workers.

5 **20.37.040 Priority Hire**

6 A. For Covered Projects which are not found impracticable under Section 20.37.020, the
7 Director shall establish in the bid documents the required percentage of Labor Hours to be
8 performed by Priority Workers. The Director shall establish the percentages separately for
9 Apprentices and for Journey-level workers. Contractors and Dispatch under a PLA shall seek to
10 first hire and dispatch Priority Workers so as to meet or exceed the required percentages.
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12 B. For each Covered Project, the Director shall establish the greatest practicable required
13 percentage of Labor Hours to be performed by Priority Workers by using past utilization
14 percentages on similar public works projects from the previous three calendar years, and shall
15 increase that percentage by no less than two full percentage points above past performance. The
16 Director shall calibrate these required percentages annually and shall consult with the Priority
17 Hire Implementation and Advisory Committee regarding these requirements.
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21 C. In order to maximize the impact of this program in Economically Distressed Areas,
22 the Director shall set project-specific requirements with the intent of achieving a total percentage
23 of no less than 20% for all Labor Hours performed annually by Priority Workers on the
24 combined total of Covered Projects by 2016, and shall strive to achieve 40% of Labor Hours
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1 performed by Priority Workers by 2025. Annual percentage rates will be measured January 1-
2 December 31 of each applicable year.

3 D. In order to meet the percentage of Labor Hours to be performed by Priority Workers,
4 the Director shall require Contractors and Dispatch under a PLA to first seek to employ a Priority
5 Worker who is a Resident in an Economically Distressed Area within Seattle City limits. The
6 second priority shall be workers from Economically Distressed Areas within King County, and
7 then workers from any other Economically Distressed Area as needed to meet the percentage of
8 Labor Hours to be performed by Priority Workers. The Director shall establish in consultation
9 with the Advisory and Implementation Committee, by Director's Rule the specific process by
10 which Contractors, Union Dispatch and the Jobs Coordinator will collaborate in order to
11 facilitate the hiring of Priority Workers.
12

13 E. For Covered Projects, the Director shall ensure the availability of a Jobs Coordinator
14 to perform the following functions: maintain a database of pre-qualified Priority Workers for
15 referral to work on a Covered Project; network with various work source centers, community,
16 non-profit and faith-based organizations to facilitate the identification of Priority Workers; and
17 facilitate referral and coordination around training and employment of Priority Workers between
18 contractors, Unions and Training Programs.
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20 F. The Director shall enforce the requirements in this Chapter 20.37 and may use actions
21 such as withholding invoice payments or debarment to the extent allowed by contract as
22 authorized by Seattle Municipal Code Chapter 20.70.
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24 G. Public works bidders shall evidence good faith efforts to achieve aspirational goals
25 for a percentage of Labor Hours performed by women and racial minorities. The Director shall
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1 establish the greatest practicable aspirational goals, using the average of past utilization on
2 similar projects in the previous three calendar years and increasing that percentage by no less
3 than two full percentage points beyond past performance. The Director shall calibrate such goals
4 annually.

5 H. In determining compliance with the percentage hiring requirements of sections
6 20.37.050 (A) and (B), the Director shall exclude from the calculation Labor Hours performed
7 by Residents of states other than the State of Washington. The Director shall track Labor Hours
8 performed by Residents of states other than the State of Washington and shall review this
9 percentage annually together with the Priority Hire Implementation and Advisory Committee.
10

11 I. If approved by the Director, Contractors may receive a credit of up to 10% applied to
12 their required Priority Worker hours by 1) hiring Priority Workers to fill Non-manual Positions;
13 and 2) continuing to employ workers in these positions for the duration of the Contractor's work
14 on the Covered Project.
15

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

6 **20.37.050 Project labor agreement**

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

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

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

21
22 D. The PLA shall permit an Open-Shop Contractor to employ as many as five Core
23 Employees on each contract in a Covered Project, provided the Core Employees meet the Core
24 Employee criteria set forth in the PLA. Open-Shop Contractors are allowed to select and hire up
25 to 5 Core Employees before filling any further hiring needs through Dispatch. Open-Shop
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1 Contractors must notify the Union and identify their Core Employees. FAS has authority, at any
2 time, to verify that the employees meet the definition of Core Employee as established in the
3 PLA.

4 E. No worker shall be required to become a member of a Union to be eligible for
5 employment on a project under a PLA with the City of Seattle. No Contractor shall be required
6 to become affiliated with a Union to be eligible for work on a project under a PLA with the City
7 of Seattle.
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9 F. The Department may provide technical assistance to WMBE and Open-Shop
10 Contractors in transitioning to a PLA environment.

11 **20.37.060 Program evaluation**

12 A. The Department shall establish benchmarks and metrics to evaluate the program, such
13 as project costs; completion times; workplace safety; utilization rates and graduation rates of
14 Priority Workers, women and racial minorities from Pre-apprentice and Apprentice Training
15 Programs; and changes in the percentage of dollars paid to WMBE Contractors working on
16 Covered Projects.
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18 B. The Department shall report findings to the Mayor and City Council annually.

19 C. The Mayor and City Council will review program results during 2016 to determine if
20 the program should be expanded or amended by increasing or decreasing thresholds.
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22 Consideration should also be given to imposing a small fee on non-compliant contractors to help
23 fund the program.

24 **20.37.070 Severability**
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1 Any term or provision prohibited by law shall be ineffective to the extent of such
2 prohibition without invalidating the remainder of this Chapter 20.37.

3 Section 3. Section 20.38.005 of the Seattle Municipal Code, as last amended by
4 Ordinance 120794, is amended as follows:

5 **20.38.005 Apprentice requirements**~~((utilization.))~~

6 A. On public works contracts with an estimated construction cost of \$1 million~~((One~~
7 ~~Million Dollars (\$1,000,000)))~~ or more, the Director ~~((is authorized to))~~~~((is authorized to))~~
8 require that ~~((up to fifteen((15) percent))~~ no less than 15% and no more than 20% of the contract
9 Labor Hours be performed by Apprentices~~((enrolled in training programs approved~~
10 ~~or recognized by the Washington State Apprenticeship and Training Council (SAC).~~
11 ~~Furthermore, it is the City's intent that, on public works projects with an apprentice utilization~~
12 ~~requirement, there shall be a goal that twenty one (21) percent of the apprentice labor hours be~~
13 ~~performed by minorities and twenty (20) percent of the apprentice labor hours be performed by~~
14 ~~women)).~~

15 B. In determining the percentage for each project, the Director may consider such factors
16 as project size, project duration, Labor Hours anticipated for the project, skills required, the
17 likely crafts required for the project, historic utilization rates and Apprentice availability.

18 C. The Director shall establish aspirational percentage goals for Apprentices who are
19 women and those who are racial minorities using similar factors. Contractors may be allowed to
20 offer utilization below the aspirational percentage goals by substituting other efforts to meet
21 the intent of building a trained construction workforce for a portion of the utilization percentages
22 for women and minorities.

1 Section 4. Section 20.38.010 of the Seattle Municipal Code, as last amended by
2 Ordinance 123361, is amended as follows:

3 **20.38.010 Definitions**~~((:))~~

4 ~~((When used in this chapter:))~~ The following words and phrases shall have the meanings
5 hereinafter described unless the context in which they are included clearly indicates otherwise:

6 "Apprentice" shall have the same meaning as given under Section 20.37.010, as may be
7 amended from time to time.

8
9 ~~((A.))~~ "Apprentice ~~((4))~~Labor ~~((h))~~Hours" means the total hours required to be worked by
10 ~~((a))~~Apprentices on a public works project.

11 ~~((B.))~~ "Director" means the Director of Finance and Administrative Services or his or her
12 designee, or any successor.

13 ~~((C.))~~ "Labor ~~((h))~~Hours" means ~~((the total))~~ hours ~~((of))~~ performed by ~~((of))~~ workers
14 who are subject to prevailing wages under RCW 39.12. ~~((receiving an hourly wage who are~~
15 ~~directly employed on the site of the public works project. "Labor hours" shall include hours~~
16 ~~performed by workers employed by the contractor and all subcontractors working on the project.~~
17 ~~"Labor Hours" shall exclude hours worked by foremen, superintendents, owners and workers~~
18 ~~who are not subject to prevailing wage requirements.))~~

19
20
21 Section 5. Severability. The provisions of this ordinance are declared to be separate and
22 severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of
23 this ordinance, or the invalidity of its application to any person or circumstance, shall not affect
24 the validity of the remainder of this ordinance, or the validity of its application to other persons
25 or circumstances.
26

1 Section 6. 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 _____, 2015, and signed by
5 me in open session in authentication of its passage this
6 ____ day of _____, 2015.

7
8
9 _____
10 President _____ of the City Council

11 Approved by me this ____ day of _____, 2015.

12
13 _____
14 Edward B. Murray, Mayor

15
16 Filed by me this ____ day of _____, 2015.

17
18 _____
19 Monica Martinez Simmons, City Clerk

20 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
LEG Finance and Administrative Services	Patricia Lee 386-0078 Nancy Locke/684-8903	Jennifer Devore 615-1328

Legislation Title:

AN ORDINANCE relating to City public works; providing findings regarding priority hire; establishing a policy to promote training and career opportunities for individuals in the construction trades; establishing priorities for the hiring of residents in economically distressed areas with particular priority for Seattle and King County; directing the Department of Finance and Administrative Services to execute a project labor agreement for public works projects estimated to cost \$5 million or more; directing that the program be evaluated and reported on annually; adding a new Chapter 20.37 to the Seattle Municipal Code, which includes Sections 20.37.010, 20.37.020, 20.37.030, 20.37.040, 20.37.050, 20.37.060, 20.37.070, and amending Seattle Municipal Code Sections 20.38.005 and 20.38.010 in connection thereto.

Summary of the Legislation:

This legislation supports recommendations made by the Construction Careers Advisory Committee (CCAC), appointed by Mayor and Council in 2013. The committee recommended that contractors performing City-funded public works projects of \$5 million or more in construction budget (including contingency but excluding city soft costs) be required to prioritize hire of residents from economically distressed zip codes, especially in Seattle and King County. The legislation amends existing SMC 20.38 to increase apprentice hiring requirements. The legislation introduces new requirements for hiring graduates from local pre-apprentice institutions and sets aspirational goals for hiring women and racial minorities. The legislation directs the Department of Finance and Administrative Services (FAS) to support pre-apprentice and apprentice programs in ways that may increase graduation and employment of such workers. Finally, the legislation directs FAS to execute a Project Labor Agreement (PLA) for those same projects. The PLA will support effective priority hire by relying upon existing union mechanisms that train and dispatch workers. The PLA also ensures the City is notified of worker disputes and provides a grievance process, allowing the City to assure fair and responsive administration of such grievances. The PLA will contain provisions that encourage open shop subcontractors to compete and participate including mitigating unique dual benefit health and pension costs and allowing employment of up to five of their core employees.

Background:

In 2013, the Mayor and City Council appointed CCAC members, including general contractors, women- or minority-owned business contractors, labor, training providers and community advocates, to develop recommendations that could encourage or require the hiring of underrepresented workers on public works projects funded by the City of Seattle.

The CCAC reviewed studies commissioned by FAS about the demographic profile of city construction workers, the construction labor market, and best practices in prioritized hiring. The Mayor and City Council considered the CCAC's recommendations to develop legislative policies to enact specific programs to support them.

Please check one of the following:

X This legislation has financial implications.

This legislation proposes the same dollar threshold for the PLA as for the prioritized hiring, with both thresholds at \$5 million or more. If the Council legislates a different dollar threshold for the PLA than for priority hire requirements, projected City administrative costs will increase significantly, and funding will need to be adjusted accordingly.

There are costs associated with the PLA. The legislation requires the City to reimburse "dual benefits" payments that contractors make on behalf of their core employees while they work on projects governed by a PLA. Preliminary estimates indicate that such reimbursement costs could range from \$150,000 to \$275,000 annually, depending on the number and type of projects that fall within the PLA thresholds. Less visible costs could be incurred if fewer contractors bid on City jobs, or if the program were to increase bidders' costs. While industry studies and City experience on the Alaskan Way Seawall Replacement Project (aka the Elliot Bay Seawall Project) suggest this is not a measurable risk, some stakeholders and studies suggest these costs should be anticipated. FAS has no estimate of an associated bid price increase.

The following tables reflect the funding and staffing that FAS staff estimate the proposed program will require during 2015-2016. These figures are not fully reflected in the Mayor's forthcoming 2015-2016 Proposed Budget, since that document was finalized while negotiations over this legislation were ongoing. The Proposed Budget provides funds to at least launch the program in early 2015. The 2015-2016 Budget adopted by the City Council retains the funding in the Mayor's Proposed Budget and adds \$100,000 in each year for community based outreach and education. In addition, the Proposed Budget will delay cost recovery from capital departments until 2016 when the City has more certainty about FAS program costs. To the extent that legislation adopted by

Council requires resources in excess of FAS's budget, Mayor and Council may consider providing additional resources in future supplemental legislation or budget actions.

Projected Costs:*

2015 Projected Costs*	2016 Projected Costs*
\$978,833	\$1,198,389
\$978,833	\$1,198,389

*NOTE: This legislation does not appropriate any funds. The figures above are advisory. Support for this program will be handled through regular budget processes. Projected costs include costs that are typically appropriated and do not include rent, equipment and motor pool costs.

Projected Regular Positions, Including FTE Impact:**

Position Title and Department	Position # for Existing Positions	PT/ FT	2015 Positions**	2015 FTE**	2016 Positions**	2016 FTE**
Strategic Advisor 1 - Enforcement	N/A	FT	1	1.0		
Strategic Advisor 1 -Enforcement	N/A	FT	1	1.0		
Strategic Advisor 1 -Enforcement	N/A	FT	1	1.0		
Strategic Advisor 1 -Enforcement	N/A	FT			1	1.0
Admin Staff Analyst	N/A	FT	1	1.0		
Sr Planning and Development Spec - Pre-Apprentice Coordinator	N/A	FT	1	1.0		
Strategic Advisor 1 - Ombudsman	N/A	FT			1	1.0
Senior Contract Analyst -Worker Recruiter	N/A	FT	1	1.0		
TOTAL			6	6.0 FTE	2	2.0 FTE

**Note: This legislation does not create any positions. Figures above are advisory. Required positions will be addressed through regular budget processes.

Do positions sunset in the future? No

a) What is the financial cost of not implementing the legislation?

The program authorized by this legislation will provide construction career opportunities that can stabilize workers, neighborhoods and the city's economic base, potentially providing some reduction in social service costs associated with chronic unemployment and under-employment. Additionally, a study conducted by Community Attributes anticipates an increasingly tight labor market through 2019, leaving only a marginal 5.8 percent surplus of workers by 2019 such that the City may expect worker shortages for certain trades. This projected workforce shortage would likely cause increased labor costs on City-funded construction contracts. The program authorized by this legislation will provide an expanded workforce in the construction trades to ameliorate a potential shortage of workers.

b) Does this legislation affect any departments besides the originating department?

Yes, capital departments (SPU, SCL, SDOT and FAS) will see an increase in FAS cost allocations in 2016. The following departments would each pay a portion of total costs depending on the dollar thresholds. The costs reflected below are based on estimates of future projects with the exclusion of projects that are 1) funded with federal USDOT dollars as USDOT would likely prohibit the use of PLAs, and 2) those projects located in very remote areas, such as SCL's projects in Pend Oreille County.

	All projects	Only projects of \$5 million or more that are predicted for 2015-2016	Only projects of \$10 million or more that are predicted for 2015-2016
SCL	9.42%	21.7%	21.6%
SDOT	42.29%	26.9%	25.3%
FAS	7.27%	21.9%	24.5%
SPU	41.02%	29.5%	28.6%

c) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

While San Francisco still accomplishes a number of projects using PLA agreements, for remaining projects it also utilizes a secondary worker referral system that costs approximately \$3.5 million per year. The City could implement a similar referral program instead of employing a PLA but, like San Francisco, would need to increase funding considerably in order to do so. Instead of providing resources to support pre-apprentice and apprentice training programs and students, the City could pursue federal and state grant opportunities with local partners to fund the program.

d) Is a public hearing required for this legislation?

No.

e) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

f) Does this legislation affect a piece of property?

No.

g) Other Issues:

None.

List attachments to the fiscal note below: