

ORDINANCE NO. 5465

AN ORDINANCE to amend and reordain Article D (Contract Formation and Method Of Source Selection), Division 1 (Competitive Sealed Bidding) to add Section 3-3-31.2 (Payment of Prevailing Wage for work performance on construction contracts) and Division 2 (Competitive Negotiations) to amend Section 3-3-63.1 (Service Contract Wages) both of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement), of the Code of the City of Alexandria, Virginia, 1981, as amended, to establish Prevailing Wage provisions for public construction contracts.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article D, Division 1, of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding the text shown in underline as follows:

Section 3-3-31.2. Payment of prevailing wage for work performed on construction and construction related maintenance contracts.

(a) Each public works contract that is for construction and construction related maintenance greater than \$250,000 shall require that the bidders, offerors, contractors, and subcontractors pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the construction or construction related maintenance contract at or above the prevailing wage rate.

(1) "Construction" shall have the same meaning set out in Section 3-3-6(7) of Article A (GENERAL PROVISIONS) of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

(2) "Construction Related Maintenance means those contracts for skilled trades with already established labor classifications under the Davis-Bacon Act, 40 U.S.C. § 276 et seq, for major system installation repair or replacement such as plumbing, carpentry, painting, HVAC, and electrical.

(3) "Public works" means the operation, construction, or maintenance, of any public facility or immovable property owned, used, or leased by the City, including transportation infrastructure projects.

(4) "Prevailing Wage Rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding classes of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality in which the public facility or immovable property

that is the subject of construction is located, as determined by the Commissioner of Labor and Industry on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

(b) Contractor Responsibilities

(1) Upon the award of any contract subject to the provisions of this Section 3-3-31.2, the contractor to whom such contract is awarded shall certify, under oath, to the Purchasing Agent and the Commissioner of Labor and Industry, the pay scale for each craft or trade employed on the project to be used by such contractor and any of the contractor's subcontractors for work to be performed under such contract. This certification shall, for each craft or trade employed on the project, specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits, provide an itemization of the amount paid in wages and each applicable benefit, and list the names and addresses of any third-party fund, plan or program to which benefit payments will be made on behalf of employees.

(2) In addition to applying the prevailing wage rates to its own employees pursuant to the terms of its contract with the City, the contractor under each such contract shall include the provisions of this Section 3-3-31.2 in every subcontract so that such provisions will be binding upon each subcontractor. The contractor agrees to assume the obligation that the wage requirements will be observed in fulfilling the requirements of the contract. The appropriate enforcement sanctions may be invoked against the contractor and any such subcontractor in the event of such subcontractor's failure to comply with any of the provisions of this Section 3-3-31.2.

(3) A contractor or subcontractor who employs any mechanic, laborer, or worker to perform work contracted to be done under the construction contract at a rate that is less than the prevailing wage rate (i) shall be liable to such individuals for the payment of all wages due plus interest at an annual rate of eight (8) percent accruing from the date the wages were due; and (ii) shall be disqualified from bidding on contracts with any public body until the contractor or subcontractor has made full restitution of the amount described in clause (i) owed to such individuals. A contractor or subcontractor who willfully violates this Section 3-3-31.2 shall be guilty of a Class I misdemeanor.

(4) Within ten (10) days of a Notice to Proceed, each contractor and subcontractor must post a clearly legible statement of the general prevailing wage rate for each craft and classification involved, as determined by the Commissioner of Labor and Industry, including the effective date of any changes thereof, in a prominent and easily accessible place at the work site or at any such places as are used by the contractor or subcontractors to pay workers their wages. This posting must be made during the entire time work is being performed. This posting must be made in those languages determined by the Purchasing Agent, in consultation with the American Community Survey, that provide meaningful access to the information in the posting to workers with limited English proficiency. Within ten (10) days of such posting, a contractor or subcontractor shall certify to the Purchasing Agent and the Commissioner of Labor and Industry its compliance with this subsection.

(5) Each contractor, and its subcontractor subject to this Section, shall keep, maintain, and preserve (i) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker; and (ii) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the construction project is employed each work day and week. The contractor or subcontractor shall make such records available to the Purchasing Agent or the Department of Labor and Industry within ten (10) days of a request, or per a regular schedule established in the construction contract, and shall certify that records reflect the actual hours worked and the amount paid to its workers for whatever time period is requested. The contractor or subcontractor must preserve these records for a period of six (6) years after the expiration or earlier termination of the applicable contract.

(6) Contractors and subcontractors shall fully cooperate with any contract compliance requirements specified in the executed contract documents, including but not limited to site visits, staff interviews to validate wage rates, and the submission of payroll records.

(c) Any interested party, which shall include a bidder, offeror, contractor, or subcontractor, shall have standing to challenge any bid specification, project agreement, or other public contract for public works that violates the provisions of this section. Any interested party bringing a successful action under this section shall be entitled to recover reasonable attorney fees and costs from the responsible party.

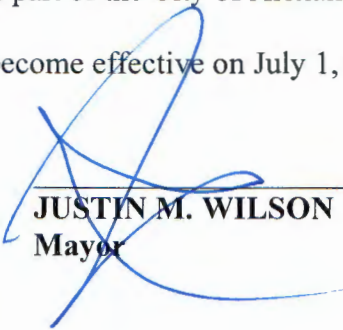
(d) The Purchasing Agent, in consultation with the City Manager or designee, shall have the authority to promulgate additional departmental procedures, not inconsistent with the provisions of this Section 3-3-31.2, designed to administer and enforce this Section.

Section 2. That Article D, Division 2, of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding the text shown in underline as follows:

Section 3-3-63.1. The provisions of section 3-3-31.1 and section 3-3-31.2 shall apply to public contracts awarded by competitive negotiation, unless excluded pursuant to section 3-3-31.1(c).

Section 3. That Article D as amended pursuant to Section 1 and Section of this ordinance, be, and the same hereby is, ordained as part of the City of Alexandria City Code.

Section 4. That this ordinance shall become effective on July 1, 2023.



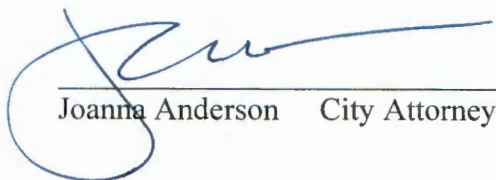
JUSTIN M. WILSON
Mayor

ATTEST:



Gloria A. Sitton, CMC City Clerk

Approved as to Form:



Joanna Anderson City Attorney

Final Passage: November 12, 2022