

City of Barre
Chapter 24 – COMMUNITY INVESTMENT ORDINANCE
#2023-01

The City Council of the City of Barre, Vermont will hold a second reading and public hearing on Tuesday, May 23, 2023 at 7:30 P.M. in the City Council Chambers to discuss the following revision to the Code of Ordinances, new Chapter 24 – Community Investment Ordinance, as follows:

The City Council of the City of Barre hereby ordains that the Code of Ordinances of the City of Barre, Vermont is hereby amended by adding Chapter 24 – Community Investment Ordinance, to read as follows:

Note: **Bold/Underline indicates additions**
[brackets/Strikeout indicates deletions]

Sec. 24-1. Definitions

- (a) **Contractor: All persons, corporations, agencies, firms, businesses, developers, bidders, proposers, trade contractors, installers, general contractors, or other named entity that has been awarded a "project" as defined in this article and is the named signatory with the City and has direct privity of contract with the City, except so-called designer or engineering services. The contractor is solely responsible for the overall compliance of any project and for organizing, planning, hiring, appointing, contracting, retaining, and subcontracting with appropriate individuals and firms to ensure compliance with this article. The contractor is responsible for gathering, tracking and submitting all required compliance data and forms from all tiered subcontractors that have been hired or otherwise retained to perform work on the project and is responsible for ensuring that all contractors supplement or amend the forms as needed during the duration of the project.**
- (b) **Construction services: any construction, rehabilitation, alteration, conversion, extension, or repair of buildings, streets, or other improvements to real property for a city-funded capital, general, or enterprise fund project.**
- (c) **Construction services period: fifty (50) percent plus one day of an approved project timeline.**
- (d) **Minority group members: US citizens, permanent residents, or individuals who are authorized to work in the United States who are Native American or Alaska Native, Asian, Black or African American, Latino or Hispanic, and Native Hawaiian or other Pacific Islander.**
- (e) **Subcontractor: Those persons, corporations, agencies, firms, businesses, developers, bidders, proposers, trade contractors, and/or installers, that have contracted or been retained by the contractor or other subcontractor for the provision of services and materials related to and a part of the project.**

Sec. 24-2. Responsible contractor requirements.

- (a) **Whenever the City of Barre is procuring construction services that cost in excess of \$200,000 for any single project, the provisions of this section shall be incorporated into the procurement documents and made part of the specifications and contract. Any person, company, or corporation shall acknowledge as part of such documents receipt and understanding of said provisions with their bid or proposal.**
- (b) **Notwithstanding the above, the prequalification requirement shall not apply to subcontractors on a city-funded project where the total value of the work to be performed by that subcontractor is the lesser of twenty-five (25) percent of the contract value or one hundred thousand dollars (\$100,000.00) or less.**
- (c) **The provisions of this section may be waived by the Manager at any point of the construction services period upon the following findings:**
 - (i) **The construction services relate to the repair or replacement of equipment which can only be serviced by specific vendors due to age, required certifications and/or training, or uniqueness of the equipment;**
 - (ii) **No other responsible or responsive bidders are identified;**
 - (iii) **Responsible or responsive bidders are unable to accept additional work, or waiting for such bidders to begin work would cause a delay of six months or longer;**
 - (iv) **An emergency situation;**
 - (v) **Loss of available funding, or if any of the provisions of this section conflict with federal and/or state rules and/or regulations.**
- (d) **The Manager shall notify the Council in writing whenever the provisions of this section are waived.**
- (e) **The decision by the City Manager to waive any provision under Section 24-2(c)(ii + iii) may be overturned by a two-thirds majority of the Council. An override vote must be completed within fifteen (15) days after receiving notification from the Manager.**

Sec. 24-3. Conditions for bidding.

- (a) **All bidders or proposers and all subcontractors, etc. shall as a condition for bidding or subcontracting verify in such manner as prescribed by the City at the time of submission in response to a Request for Proposal and prior to entering into a subcontract, that they are in compliance with the following conditions and, for the duration of the project, shall comply with the following provisions:**
 - (i) **The contractor(s), subcontractor(s), etc. must comply with the obligations established by the City for payment of a "Responsible Wage", which shall effectively incorporate the rates and fringe benefits authorized by Vermont Capital Construction Act in the Northern area including the appropriate apprentice classification. Responsible wage rates and fringe benefits shall**

only apply to construction trades workers working directly on the specified construction project;

- (ii) The contractor(s), subcontractor(s), etc. under the bidder must properly classify actual employees as employees rather than independent contractors and treat them accordingly for workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding, to the extent required by Vermont statute (21 V.S.A. § 387). Nothing in this section shall preclude the employment of independent contractors as bidders, proposers, and/or subcontractors if such individuals operate as independent contractors;**
- (iii) The contractor(s), subcontractor(s), etc. prove in a form and manner prescribed by the City that they are a legitimate business entity, not an employee improperly misclassified;**
- (iv) The contractor(s), subcontractor(s), etc. must be in compliance with the federal Affordable Care Act (ACA), to the extent required by law.**
- (v) The contractor(s), subcontractor(s), etc. must be in compliance with the federal Davis-Bacon and Related Acts (DBRA), to the extent required by law.**

Sec. 24-4. Incentivizing hiring of City residents, women and minorities.

- (a) The City shall incentivize hiring of underrepresented populations in construction services, including City residents, women, and minorities by deducting two (2) percent off the total bid for scoring purposes if the contractor(s), subcontractor(s), etc. can demonstrate their ability to hire, maintain, and assign to the project any of the following qualified employee demographics such that any single demographic or combination thereof equals ten (10) percent of the project's workforce:**
 - (i) City residents;**
 - (ii) Women;**
 - (iii) Minority group members;**
 - (iv) Veterans; and/or**
 - (v) People with disabilities**
- (b) If the contractor, subcontractor, etc. is awarded a contract based on a demonstrated ability to hire and maintain ten (10) percent or more of the qualified employee demographics but fails or is unable to maintain such proportions throughout a majority of the construction services period, the City shall be authorized to seek a two (2) percent reduction off the total bid.**
- (c) The contractor(s), subcontractor(s), etc. shall provide proof and documentation of the staffing proportions under this section at the request of the City in a form and manner prescribed by the City.**

Sec. 24-5. Documentation of work site records.

- (a) The contractor(s), subcontractor(s), etc. must maintain complete and appropriate daily entries of employees physically on-site, including the location of the project;**

current date; employee name; and the time of each entry or exit.

- (b) **Such records shall be made available for review upon request.**
- (c) **The work site shall contain a prominent notice that employees are entitled by law to receive the prevailing wage rate plus fringe benefits for their work on the project.**
- (d) **Prior to being awarded contracts, all contractor(s), subcontractor(s), etc. shall provide to the City proof that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the State of Vermont or in the City.**

Sec. 24-6. Compliance with conditions.

- (a) **All contractors, subcontractors, etc. who are awarded or who otherwise obtain contracts for construction services under this section shall comply with each of the obligations set forth in this section to the extent required by this section and Vermont statutes, and an authorized representative of each bidder or subcontractor under the bidder shall at the request of the City in a form and manner prescribed by the City certify compliance with such provisions.**

(b) Any contractor(s), subcontractor(s), etc. who fails to comply with the provisions of this ordinance shall be, at the sole discretion of the City, subject to one or more of the following sanctions:

- (i) **After a reasonable period of time not to exceed sixty (60) days to provide an opportunity to correct, suspension of work on the project until compliance is obtained; and**
- (ii) **Permanent removal from any further work on the project due to abrogation of the contract which shall be deemed just cause termination of the agreement.**

ADOPTION HISTORY

- First Reading at regular City Council meeting held on Tuesday, April 25, 2023. Second Reading and Public Hearing set by Council for Tuesday, May 23, 2023.
- Proposed language printed in Times Argus newspaper on Friday, May 19, 2023.
- Second Reading and Public Hearing held on Tuesday, May 23, 2023. Adopted at regular City Council meeting held on _____ and entered in the minutes of that meeting which are approved on _____.
- Posted in public places on _____.
- Notice of adoption published in the Times Argus newspaper on _____.
- Effective _____.

Dated this _____ day of _____, 2023.

Carolyn S. Dawes
City Clerk/Treasurer