

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. O-24-39 ENACTMENT NO. _____

SPONSORED BY: Tammy Fiebelkorn and Dan Champine

1 **ORDINANCE**

2 **ADOPTING A NEW ARTICLE IN CHAPTER 5 OF THE REVISED ORDINANCES**
3 **OF ALBUQUERQUE 1994, TO ESTABLISH THE USE OF APPRENTICES FOR**
4 **PUBLIC CONSTRUCTION PROJECT CONTRACTS, TITLED “THE**
5 **APPRENTICESHIP EMPOWERMENT ORDINANCE”**

6 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
7 **ALBUQUERQUE:**

8 **SECTION 1. A new Article 11 in Chapter 5 of the Revised Ordinances of**
9 **Albuquerque is hereby adopted as follows:**

10 **§ 5-11-1 SHORT TITLE**

11 **This ordinance may be cited as “The Apprenticeship Empowerment**
12 **Ordinance.”**

13 **§ 5-11-2 DEFINITIONS**

14 **For purposes of this ordinance the following terms have the following**
15 **definitions:**

16 **APPRENTICE. Means an individual enrolled in an apprenticeship program**
17 **that is registered pursuant to the Apprenticeship Assistance Act, NMSA 1978,**
18 **Chapter 21, Article 19A, or registered with the U.S. Department of Labor’s**
19 **Office of Apprenticeship.**

20 **APPRENTICE UTILIZATION REQUIRMENT. Means that a minimum of 15%**
21 **of total labor hours within each trade with apprentices for which there is an**
22 **official apprenticeship training program must be performed by apprentices of**
23 **that trade on an applicable public construction project.**

24 **CONTRACTOR. An individual or entity engaged in the business of**
25 **constructing, altering, repairing, or improving any public construction project.**
26 **The contractor is responsible for the overall coordination and completion of**

1 the project and is required to comply with the apprenticeship utilization
2 requirement and responsible contractor qualifications as set forth in this
3 ordinance. The contractor may employ subcontractors to perform portions of
4 the work but retains overall responsibility for compliance with the ordinance
5 provisions.

6 **LABOR HOURS.** Means the total hours of workers receiving an hourly wage
7 who are directly employed on the site of the public construction project.

8 “Labor hours” includes hours performed by workers employed by the
9 contractor and all subcontractors working on the public construction project.

10 “Labor hours” does not include hours worked by superintendents and 8
11 owners.

12 **SPONSORING BODY.** Any employer, association, committee, or
13 organization that operates a Registered Apprenticeship Program. This entity
14 assumes full responsibility for administration and operation of an Official
15 Apprenticeship Training Program. Sponsors can be comprised of a single
16 business or multiple businesses. Alternatively, the sponsor can be a
17 workforce intermediary, such as an industry association or a labor-
18 management organization. Community colleges and community-based
19 organizations can also serve as sponsors of apprenticeship programs.

20 **OFFICIAL APPRENTICESHIP TRAINING PROGRAM.** Means an
21 apprenticeship training program registered pursuant to the Apprenticeship
22 Assistance Act, NMSA 1978, Chapter 21, Article 19A, or registered with the
23 U.S. Department of Labor’s Office of Apprenticeship.

24 **PUBLIC CONSTRUCTION PROJECT.** Means any City of Albuquerque
25 project subject to the provisions of ROA 1994, Section 5-5-11 in which a single
26 project construction cost is estimated to cost \$1,000,000 or more, the project
27 is publicly bid through a Request for Bids, and where the City is the project
28 owner.

29 **§ 5-11-3 APPRENTICESHIP REQUIREMENT**

30 (A) Unless such a requirement conflicts with State or Federal law, all
31 contractors performing work on any public construction project shall commit
32 to the apprenticeship utilization requirement. During the course of
33 construction, the number of hours may vary, but 15% of the total hours on the

1 actual construction job site must be performed by registered apprentices in
2 each trade in which there is an official apprenticeship training program. This
3 shall apply only to occupations with apprentices involved in the proposed
4 construction for which there is an official apprenticeship training program.
5 Work cannot be divided among contractors or subcontractors at any tier to
6 evade the apprenticeship utilization requirements. Where two or more
7 contractors or subcontractors perform work within a trade, each contractor or
8 subcontractor shall comply with the apprenticeship utilization requirements of
9 this ordinance.

10 (B) All contractors and subcontractors subject to this ordinance must
11 provide verified payroll reports on at least a monthly basis to the City
12 Purchasing Office, certifying the names of all workers performing labor hours,
13 their trade, hours worked, and designation as journey level worker or
14 apprentice.

15 (C) The contractor may submit documentation affirming that there are not
16 available apprentices in a particular trade to meet the 15% requirement of §5-
17 11-3(A). Such documentation must be signed by all sponsoring bodies of that
18 particular trade. Upon receipt of such documentation, the requirements in §5-
19 11-3(A) shall be waived for that particular trade.

20 § 5-11-4 BIDDING PREFERENCE APPLICABILITY

21 The City of Albuquerque shall award a 10% bidding preference for bidders
22 that:

23 (A) Upon submission of the bid, the contractor shall submit documentation
24 affirming there are available apprentices in a particular trade to meet the 25%
25 requirement of §5-11-4(B). Such documentation must be signed by all
26 sponsoring bodies of that particular trade; and

27 (B) Provide evidence of their ability to contractually commit to an
28 apprentice utilization requirement stating at least 25% of all labor hours on the
29 construction project site will be comprised of registered apprentices in each
30 trade who are registered with an official apprenticeship training program; and

31 (C) Provide the estimated total number of public construction project labor
32 hours and the total number of apprenticeship labor hours for the project. The
33 lowest responsible total bid, taking the preference into consideration, shall be

1 awarded the contract unless the solicitation provides for additional award
2 criteria or exceptions to this ordinance. The contract amount awarded shall be
3 the amount of the bid submitted, exclusive of the bidding preference.

4 During the course of construction, the number of hours may vary from the
5 hours submitted in the bid, but 25% of the total hours on the actual public
6 construction project must be performed by registered apprentices.

7 **§ 5-11-5 RESPONSIBLE CONTRACTOR**

8 The City shall ensure that all contractors and subcontractors at any tier
9 subject to this ordinance will comply with the following qualifications and
10 conditions at all times during their performance of work on any public
11 construction project:

12 (A) The contractor has not been debarred or suspended from performing
13 construction work by any federal, state or local government agency or
14 authority in the past five years;

15 (B) The contractor must properly classify all employees as employee rather
16 than independent contractors and treat them accordingly for purposes of
17 minimum wages and overtime, worker's compensation insurance coverage,
18 unemployment taxes, social security taxes and state and federal income tax
19 withholding.

20 **§ 5-11-6 PENALTY**

21 (A) Failure to comply with the apprentice utilization requirement and/or
22 responsible contractor conditions is evidence bearing on a contractor's
23 qualification for award of future contract and may result in up to a one (1) year
24 construction bidding suspension on a public construction project.

25 **SECTION 2. SEVERABILITY.** If any section, paragraph, sentence, clause,
26 word or phrase of this Ordinance is for any reason held to be invalid or
27 unenforceable by any court of competent jurisdiction, such decision shall not
28 affect the validity of the remaining provisions of this Ordinance. The Council
29 hereby declares that it would have passed this Ordinance and each section,
30 paragraph, sentence, clause, word or phrase thereof irrespective of any
31 provision being declared unconstitutional or otherwise invalid.

32 **SECTION 3. COMPILATION.** SECTION 1 of this Ordinance is to be
33 complied as a new Article 11 in Chapter 5 of the Revised Ordinances of

1 Albuquerque, New Mexico, 1994, titled “The Apprenticeship Empowerment
2 Ordinance.”

3 SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect on July 1,
4 2025 after publication by title and general summary.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

[Bracketed/Underscored Material] - New
[Bracketed/Strikethrough Material] - Deletion