



# Denver Auditor's Office

**Proposed Prevailing Wage Ordinance Change**



# History of Prevailing Wage in Denver

- ▶ 1891 - Kansas passes first US prevailing wage law
- ▶ 1931 - Federal government enacts Davis-Bacon Act
- ▶ 1950 - Denver adopts its own prevailing wage ordinance

## Historic Goal of Prevailing Wage Legislation -

US Department Labor sought to prevent the government as a large and powerful employer from having a negative influence on regional wages



# Risks Created by Outdated Ordinance

- ▶ Disputes within the City concerning prevailing wage
- ▶ Employees paid incorrectly
- ▶ Expensive litigation
- ▶ Fewer contractors willing to work for the City
- ▶ Violators continuing to work for the City
- ▶ Contractors encouraged to find loop holes
- ▶ Difficult prevailing wage enforcement



# Auditor's Prevailing Wage Work Group

Auditor O'Brien convened a work group of industry experts:

Rick Allen, Rocky Mtn. District Council 5

Howard Arnold, Pipefitters Local 208

Craig Clark, NECA and Dynalectric

Dave Davia, CAMPC

Deanne Durfee, Assistant City Attorney

Rusty Gonzales, Hispanic Contractors

Dale Heter, Mortenson

Robert Kibler, ISS

Antonio Ledezma, Jalisco

Jim Mantele, IBEW Local 68

John Marlow, U.S. Engineering

Karen Niparko, Career Service Authority

Ron Ruggiero, SEIU Local 105

Taryn Edwards, Saunders

RD Sewald, Sewald-Hanfling

Kurt Steenhoek, Plumbers Local 3

Dwayne Stephens, Sheet Metal Workers Local 9



# Create Clear and Consistent Rules

**Problem - Current Ordinance includes Outdated and Ambiguous Terms**

- ▶ **Necessary Editing -**

  - Remove outdated references to no longer existing City agencies, ordinances, and practices

- ▶ **Clarify the Scope of Prevailing Wage -**

  - Prevailing wage applies to work performed on City land or paid for by City funds, consistent with Davis-Bacon Act

- ▶ **Align Prevailing Wage Enforcement with the City's Contracting Process**





# Discourage Prevailing Wage Violations

## Problem - Current Ordinance Lacks Meaningful Deterrents

- ▶ **Create and Use Modern Fine System-**  
Replace existing \$20 fine with \$50 a week fine per violation where remediation is not made in 30 days, consistent with Davis-Bacon Act
- ▶ **Create Escalating and Flat Fines for Repeat and Willful Violators-**  
Stiffer fines for repeat and flagrant violators
- ▶ **Extend Underpayment Fines to False and Failure to Report Violations**



# Repair Debarment Process

## Problem - Structure of City's Debarment Panel Prevents Debarment

- ▶ **Create an Odd Numbered Panel -**  
Increase debarment panel from existing 4 members to 5 members by adding the Director of the Division of Small Business Opportunities
- ▶ **Address Panel Conflicts -**  
Ensure all panel members, including the Auditor are permitted to participate



# Create Due Process

**Problem - Current Ordinance does not Provide a Means of Challenging a Prevailing Wage Determination**

► **Employee a Hearing Process-**

Extend the City's use of a hearings officer as a means of bidding resolution to any prevailing wage dispute that adversely affects a party (contractor, employer, employee, or the City)





# Reinforce Independent Enforcement

**Problem - Historic “Past Practices” have Muddled the Roles of the Auditor’s Office and the Career Service Authority in Prevailing Wage Enforcement**

## Reestablish Individual Agency Roles -

- ❖ Career Service Authority will create all wage classifications
- ❖ The Auditor’s Office will enforce the applicable prevailing wages
- ❖ The agencies will cooperate where they can share expertise



# Goals of Updating the Ordinance

- ▶ Make a modern ordinance that works for everyone
- ▶ Encourage contracting with and working for the City
- ▶ Protect City contractors and developers
- ▶ Create a positive work environment for contract employees
- ▶ Eliminate litigation arising from prevailing wage
- ▶ Defend the City from bad actors
- ▶ Increase the City's vendor pool



# Questions?

**Denver Auditor's Office**

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# Thank You!