



BISHOP TRIBAL COUNCIL

ORDINANCE NO. T2001-02

AS AMENDED JUNE 24, 2003

ORDINANCE OF THE TRIBAL COUNCIL OF THE BISHOP PAIUTE TRIBE REQUIRING THE PAYMENT OF TRIBALLY ESTABLISHED PREVAILING WAGES ON CERTAIN CONTRACTS WITH THE TRIBE OR TRIBAL HOUSING ENTITY

The Tribal Council of the Bishop Paiute Tribe hereby ordains as follows:

This ordinance shall be known as the "Bishop Paiute Tribal Prevailing Wage Ordinance", and is implemented pursuant to 25 USC Section 4114(b) to supercede the Davis-Bacon and Copeland Acts where applicable. Those areas not addressed by this "Law" are still governed by the Department of Labor regulations pertaining to the Davis-Bacon and related acts. This Law is only applicable to projects funded with NAHASDA and HUD 37 Act funding or where the Bishop Tribal Council (Tribe) *may* deem applicable as to funding sources.

The ordinance shall read as follows:

SECTION ONE.

§1.00 Definitions.

§1.01 "Act" shall mean the Native American Housing Assistance and Self-Determination Act of 1996, as amended, Pub. L. 104-330, 25 U.S.C. § 4101 et seq. (NAHASDA) and Public Law 106-568, 40 USC 276 a. at seq.

§1.02 "Agreement" shall mean any contract or agreement for assistance, sale or lease funded under the act.

§1.03 "C.O.D," shall mean the Bishop Paiute Tribe's Community Development Department, which has been delegated responsibility for the Indian Housing Block Grant (IHBG).

§1.04 "Prevailing Wage" shall mean the wages as determined by the Tribe as prevailing on the Bishop Paiute Reservation and within the C.D.D.'s area of operation for each class of architect, technical engineer, draftsman, technician, laborer and mechanic employed in the development and operation of affordable housing and community facility renovation projects and services utilizing IHBG or '37 Act funds.

§1.05 "Tribe" shall mean the Bishop Paiute Tribal Council.

PREVAILING WAGE ORDINANCE: AS AMENDED 6-24-03 - I-

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§1.06 "Employed" means to receive compensation from another party for services (work) performed. Owners of a company working on a project are not "Employed", and may be exempt from any requirements of this "Law".

SECTION TWO.

§2.00 Payment of Prevailing Wages Required.

§2.01 Payment not less than Prevailing Wages as established under Sect. 3.00 of this Ordinance shall be paid to all architects, technical engineers, draftsman, technicians, laborers and mechanics employed in the development of housing and community facility renovation projects under the Act, and each maintenance laborer or mechanic employed in the operation of such projects funded under the Act. ,

§2.02 Payment of the above established wages shall be on a regular schedule and not less frequent than bi-monthly. (CDD Force Account will maintain a weekly payroll system)

§2.03 Payment will be made in the amount of the full wages earned without rebate, either directly or indirectly and that no deductions have been made either directly or indirectly from the ,full wages earned other than permissible as set forth in regulations 27CFR Part 3.

§2.04 Any employee covered under this law shall be compensated at the rate of 1.5 time their normal wage rate for hours worked in excess of 40 hours per week. The type of compensation will be governed by the employment policies of the employer. I.e. CDD Force Account will maintain a paid overtime policy, CDD maintenance will utilize a compensatory time policy.

§2.05 Apprentices and Trainees covered under a program approved by the Tribe may be utilized by employers covered by this Ordinance.

SECTION THREE.

§3.00 Establishment of prevailing Wages/Classifications.

§3.01 The Tribe shall establish work classifications for all positions as necessary and to be covered by this law. The Classifications shall include provisions for apprentice trainees and the wages for these classifications will be determined as outlined in 3.02.

§3.02 Tribe to Conduct Wage Survey. Not less frequently than biennially the Tribe shall arrange for a wage survey to be conducted in order to determine the Prevailing Wage under this Law.

a. The Tribe shall obtain wage rates from all available sources in the Reservation Area of each class of profession or trade included in the survey and shall establish the Prevailing Wage at not less than the average wage paid to each class of profession or trade included in the survey. The survey shall also include the classification for trainee in all trades.

b. The Tribe shall retain for not less than three years the names and addresses of all sources contacted and the wage rates reported by each source.

c. Wage rates shall include salary but not the value of benefits paid to or on behalf of the employees.

d. The results of the survey and the prevailing wage shall be contained in a Schedule of Prevailing Wages which shall list each covered class of profession, trade and trainees and the hourly rate for each, and the effective dates of the schedule.

e. In the years the Tribe does not conduct a survey, the wage rates shall be adjusted pursuant to the published rise in the Cost of Living Index for the area.

SECTION FOUR.

§4.00 Employer Requirements.

§4.01. Payment of Prevailing Wages and Access to Records. Each covered employer, including the Tribe and C.O.D., when performing work covered under this Ordinance, shall pay prevailing wages, and shall maintain payroll records reporting the hourly rates paid each employee. The payroll records shall be available for inspection and copying during regular office hours by the Tribe, C.,D.D. or other employer. Any employee shall be entitled to inspect and copy his or her payroll record.

§4.02 Schedule to be Provided. The Tribe shall provide every non-Tribal employer at the time bids or proposals are solicited with a copy of the currently effective Schedule of Prevailing Wages and a copy of this Ordinance.

§4.03 Posting of Wage Schedules. At all times while performing under an Agreement, each covered employer shall post at the job site and in its principal office a copy of the Schedule of Prevailing Wages furnished by the Tribe.

§4.04 Employee Reporting Requirements. Each Covered Employer (other than the Tribe/CDD) will submit a payroll summary with their final pay request. This summary will state all employees utilized on the project with hourly rate paid and total hours worked. Labor lien releases for all employees will also be included. Final payment will not be approved until this information has been reviewed and approved.

SECTION FIVE.

§5.00 Contracts/Agreements.

§5.01 Any Agreement covered by this Ordinance including agreements with the Tribe or C.D.D. shall contain a provision requiring that not less than Prevailing Wages as established by this Ordinance, shall be paid to all architects, technical engineers, draftsman, technicians, laborers and mechanics employed in the development of housing and community facility renovation projects under the Act and each maintenance laborer or mechanic employed in the operation of such projects funded under the Act.

§5.02 Each Agreement where the Tribal entity is not the employer shall contain a provision, which imposes as a penalty an amount equal to the amount of wages required under this Section ("the penalty"). There shall be a further penalty of \$500 per day for each day an employer fails to maintain or allow the Tribe, C.O.D. or an employee to inspect payroll records as required by this Law or fails to provide a copy of such record upon request.

b.

§5.03 Each Agreement where the Tribal entity is not the employer shall contain a provision which imposes an additional penalty of \$500 for each day that any employer conveyed by this law fails to pay the prevailing wage:

§5.04 Each non-Tribal employer Agreement shall contain a provision that the Tribe/CDD may withhold portions of final payments and/or impose liquidation damages for the settlement of any pending labor clauses and penalties.

§5.05 A non-Tribal employer Agreement shall provide that the Tribe, C.D.D. and any adversely affected employee may bring an action, in any court of competent jurisdiction against the employer to recover the amount of wages required under this Law plus the penalty and interest at the maximum rate allowed by law and/or the further penalty for failure to allow inspection or to provide copies of payroll records. In addition, in any such action the Tribe, C.D.D. or the employee shall be entitled to recover from the employer a reasonable attorneys fee in addition to his or her other costs of suit.

SECTION SIX.

§6.01 The Tribe may delegate its authority under this Ordinance to an agent or agency of the Tribe, including, but not limited to, the C.D.D.

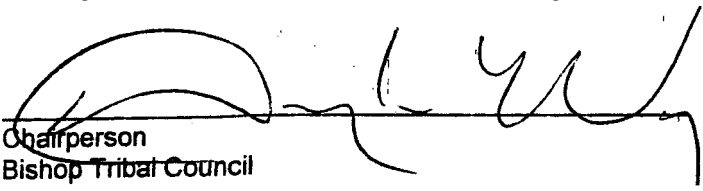
§6.112 The provisions of this Ordinance shall become effective immediately upon adoption by the Council.

SECTION SEVEN.,

§7.00 Nothing in this Ordinance is to be constructed as a waiver of sovereign immunity of the Bishop Paiute Tribe, Bishop Tribal Council, or any officer, employee or agent thereof.

This amendment to Ordinance No. T-2001-02 was introduced and adopted at a duly called meeting of the Bishop Tribal Council of the Bishop Paiute Tribe on June 24, 2003, by a vote of 4 for, against, 0 absent, and 0 abstaining.

Chairperson
Bishop Tribal Council



7/9/03

CERTIFICATION

I hereby certify that I am the Secretary for the Bishop Tribal Council of the Bishop Paiute Tribe and that the above Ordinance was adopted as indicated in said Ordinance and that the above Ordinance is a true and correct copy of the Ordinance as so enacted.

/s/ Gaylene Me. Moose
Secretary for the
Bishop Tribal Council

7/9/03
Date

BISHOP PAIUTE TRIBE,
COMMUNITY DEVELOPMENT DEPARTMENT

NAHASDA RESIDENTIAL TRIBAL MINIMUM PREVAILING

WAGE RATES

Adopted by Tribal Council on August 21,2001

Pursuant to Tribal Ordinance No. 2000-02.

Classification

<u>Classification</u>	<u>Wage</u>
Brick Layer	15.31
Brick Tender	10.00
Carpenter	18.63
Carpenter Trainee	11.18
Cement Finisher	17.20
Cement Trainee	10.32
Drywall Finisher	16.32
Drywall Finisher Trainee	10.00
Drywall Installer	16.32
Drywall Installer Trainee	10.00
Electrician	18.06
Electrician Trainee	10.84
Equipment Operator	18.96
Equipment Operator Trainee	11.21
Foreman	20.69
Glazier	12.14
Glazier Trainee	10.00
HVAC Installer	17.35
HVAC Installer Trainee	10.41
Insulation Installer	14.82
Insulation Trainee	10.00
Ironworker	17.20
Ironworker Trainee	10.32
Laborer	10.64
Painter	18.32
Painter Trainee	10.00
Plasterer	15.37
Plaster Tender	10.00
Plumber	18.28
Plumber Trainee	10.98
Roofer	16.01
Roofer Trainee	10.00
Soft Floor Installer	14.84
Soft Floor Trainee	10.00
Tile Setter	15.31
Tile Setter Trainee	10.00
Welder	18.21
Truck Driver	15.63