



IMPERIAL COUNTY

LITHIUM VALLEY CONSTRUCTION WORKFORCE ORDINANCE

IMPERIAL COUNTY
1907

DRAFT
DECEMBER 30, 2025

ORDINANCE No. _____

ADDING CHAPTER XX TO TITLE XX OF THE COUNTY OF IMPERIAL CODIFIED ORDINANCES ESTABLISHING THE LITHIUM VALLEY CONSTRUCTION WORKFORCE ORDINANCE

Section 1. That Chapter _____ is hereby added to the County of Imperial Code of Ordinances as follows:

1.0 Title.

This Ordinance shall be known as the Lithium Valley Construction Workforce Ordinance for Recruiting, Retention, Knowledge and Safety (“Construction WORRKS”) Standards.

2.0 Purpose & Authority.

The purpose of this Chapter is to create opportunities for high-road, career pathway, construction jobs, to address the shortage of qualified construction workers, to promote public health and safety, and to raise labor standards in the construction industry in the Lithium Valley Specific Plan Area in Imperial County as permitted by Labor Code Section 1205(c). These measures are intended to:

- A. Support investment in local hiring and workforce training and create career pathway jobs in the construction industry that build economic opportunities for low-income and historically disadvantaged populations in the County;
- B. Promote public health and safety by requiring the use of a skilled and trained workforce for construction projects in the Lithium Valley Specific Plan Area;
- C. Encourage the award of construction contracts for projects within the Lithium Valley Specific Plan Area in the County to contractors that request apprentices in the applicable craft from high quality, industry-proven state-approved apprenticeship programs that provide proper craft-specific training and supervision;
- D. Establish labor standards for construction workers performing covered work in the Lithium Valley Specific Plan Area in the County, thereby benefitting workers and increasing the pool of labor available to construct current and future projects; and
- E. Improve the recruitment, training, and retention of skilled construction workers.
- F. Encourage the contracting of work to local small businesses as subcontractors.

3.0 Definitions.

The following definitions shall apply to this Chapter:

- A. “Applicant” means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who

undertakes, proposes and/or applies to the County for a Covered Project in the Lithium Valley Specific Plan Area.

- B. “Construction” includes any new construction work and subsequent construction work that is contracted out to a contractor in the construction industry.
- C. “Contractor” means contractors or subcontractors of any tier that have contracted to perform construction work on the Covered Project.
- D. “Covered Project” means a private development project within the Lithium Valley Specific Plan Area consisting of construction, alteration, or demolition of any use which requires, but has not yet received a Conditional Use Permit, Special Use Permit, or Ministerial Site Plan Review from the County by the effective date of this Ordinance. However, the following are excluded from the definition of Covered Project: (1) a project already subject to a prevailing wage and skilled and trained workforce requirement under the Labor Code or Health and Safety Code, (2) a project for agricultural uses as defined by (A) Imperial County Code Section 90507.01(a) through (p), and (z) through (ff)), (B) Imperial County Code Section 90507.02(a), (b), (i), (l), and (n), (C) Imperial County Code Section 90509.01(a) through (p), and (s) through (v), and (D) Imperial County Code Section 90509.02(a), (c) through (h), (i) (only Battery Storage Facility for on-site use), (j) (only for on-site use), (l) (agricultural processing facilities), (n), (p) through (y), (aa), (cc) through (ii), (kk), (ll), (mm), (ww), (bbb), (ccc), (ggg), (hhh) (only for on-site energy use). (jjj), and (kkk), (3) a building for a community-oriented use (as defined by Lithium Valley Specific Plan Table 3-2) that is 20,000 square feet or less of floor area, (4) a project wholly for cultural resource preservation, dust suppression, habitat restoration, or native riparian restoration, or environmental mitigation projects, , (5) affordable housing (that is under five (5) stories in height), (6) a pilot facility that will take less than 20 weeks to construct and will operate for no more than 24 months prior to being decommissioned, and (9) any extension of an existing permitted use or permit that involves no construction, alternation or demolition.
- E. “County” means the County of Imperial and any implementing department official.
- F. “Imperial County” means the geographic and political subdivision of the State of California established under California law, including all territory lying within its boundaries, whether incorporated or unincorporated.
- G. “Lithium Valley Specific Plan Area” means the area covered by the Lithium Valley Specific Plan adopted by the County of Imperial.
- H. “Local Workers” means forty percent (40%) of all construction labor hours worked on a Covered Project, as compared to the total construction labor hours worked by California residents, shall be residents residing in Imperial County.
- I. “Project Labor Agreement” means a pre-hire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects.

- J. “Skilled and trained workforce” has the same meaning as defined in Section 2601 of the Public Contract Code.
- K. “Workforce Plan” shall be the plan consisting of project workforce information described in Section 4.0 below.

4.0 Workforce Plan Required

- A. An Applicant for a Covered Project shall submit to the County for review and approval a Workforce Plan that complies with this Chapter.
- B. The Workforce Plan must be submitted concurrently with the first application to the County Executive Office for a permit, variance, approval or other entitlement.
- C. The County shall include conditions of approval requiring compliance with this Chapter for permits issued for Covered Projects.
- D. An Applicant shall not commence construction on a Covered Project until a Workforce Plan has been submitted to and approved by the County.
- E. The County may revoke or modify applicable permits for the Covered Project where an Applicant or any Contractor is out of compliance with this Ordinance.

5.0 Local Hire

An Applicant for a Covered Project shall include in its Workforce Plan the Applicant’s good faith goal of hiring 40% Local Workers for construction work for the Covered Project. Applicant’s Workforce Plan shall identify their proposed efforts to locate and hire local workers.

6.0 Wages.

An Applicant for a Covered Project shall include in its Workforce Plan an enforceable commitment from the Applicant to the County that:

- A. All contractors and subcontractors performing construction work on the Covered Project shall pay to all construction workers employed in the construction of the Covered Project at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. Prevailing wage does not include shift differentials, travel and subsistence, or holiday pay. Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker.
- B. The prevailing wage requirement is included in all contracts for the performance of all construction of the Covered Project.

- C. All contractors and subcontractors performing construction work shall maintain and verify payroll records in accordance with the requirements of Section 1776 of the Labor Code, and the Applicant shall immediately submit such payroll records to the County upon request.
- D. All contractors and subcontractors performing construction work on the Covered Project shall request dispatch of apprentices from state-approved programs consistent with the requirements in Section 1777.5 of the Labor Code.

7.0 Safety and Training

An Applicant for a Covered Project shall include in its Workforce Plan an enforceable commitment from the Applicant to the County that:

- A. All contractors and subcontractors performing construction work on the Covered Project shall ensure that all construction work that falls within an apprenticeable occupation in the building and construction trades shall be performed by a skilled and trained workforce in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
- B. All contracts for the performance of construction work shall require that each contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the Covered Project.
- C. The Applicant shall retain records, including copies of monthly reports, that demonstrate compliance with the skilled and trained workforce requirements while the Covered Project or contract is being performed and for three years after completion of the Covered Project or contract. The Applicant shall submit these records to the County within ten (10) business days of the County's request. When submitted to the County, these records shall be a public record and shall be open to public inspection.

8.0 Workforce Implementation Plan.

At least thirty (30) days prior to the commencement of any construction work on a Covered Project, each Applicant for a Covered Project shall submit to the County, using a form approved by the County, a Workforce Implementation Plan setting forth:

- A. Projected workforce, apprenticeship graduate and apprentice needs, crafts, and timeline;
- B. To the extent currently known, a list of employees who are anticipated to perform at least forty (40) hours of construction work on the Covered Project. Such list should include the employees' zip codes of residence, whether they meet the definition of a Local Worker, and whether the employees graduated from a state-approved labor-management apprenticeship program and the name of the apprenticeship program;
- C. Planned steps to implement local hire goals, as outlined in Section 5.0, Local Hire;
- D. Planned steps to encourage the hiring of local small businesses as subcontractors;

- E. Planned steps to ensure that skilled and trained workforce and state-registered apprenticeship utilization requirements are met; and
- F. The Applicant's designated contact person, name, telephone number, address and email address.

9.0 Mandatory Data Collection Requirements.

- A. As a condition of approval for a Covered Project, the Applicant shall provide the County with monthly reports containing the following information:
 - 1. The total number of construction workers employed, and total hours worked.
 - 2. The total number of construction workers employed on the Covered Project that are California residents and the total hours worked by those residents.
 - 3. The total number of construction workers that are Local Workers employed on the Covered Project, a list of Local Workers who are anticipated to perform at least 40 hours of construction work on the Covered Project with the zip codes of residence, and the total hours worked by those Local Workers.
 - 4. The number of apprentices from state-approved programs utilized in construction of the project, the names of the apprenticeship programs in which the apprentices were enrolled, and the total hours worked by each apprentice.
 - 5. The pay rate for each construction worker and the prevailing wage rate for the work performed, if any.
 - 6. Proof that workers' compensation coverage was provided for all on-site workers.
- B. The Applicant shall submit payroll records to the County upon request, consistent with Section 6.0.

10.0 Multi-Craft Project Labor Agreement Compliance Option.

- A. Sections 4, 8 and 9 shall not apply if the Covered Project is covered by a multi-craft Project Labor Agreement with the local Building and Construction Trades Council, provided the Project Labor Agreement meets the standards of this section.
- B. To qualify under this section, the multi-craft Project Labor Agreement shall also include, but not be limited to, all of the following requirements:
 - 1. Provisions requiring compliance with the local workforce provisions of Section 5.0
 - 2. Provisions requiring compliance with the wage provisions of Section 6.0.
 - 3. Provisions requiring compliance with the safety and training provisions of Section 7.0.

4. Provisions requiring a Coordinator to be a liaison to update the County on local workforce data.
5. Provisions requiring worker's compensation coverage must be provided for all on-site workers.
6. Provisions regarding the resolution of any disputes about compliance through a grievance and arbitration procedure.

11.0 Implementation and Enforcement.

- A. The County shall include conditions of approval requiring compliance with this Chapter for permits issued for Covered Projects. The County may revoke or modify the applicable permits for the Covered Project pursuant to Chapter 3 of Division 13 of Title 9 of the County of Imperial Codified Ordinances (beginning at Section 91303.00, et seq.) where an Applicant or any Contractor is out of compliance with this Ordinance.
- B. If a Covered Project is covered by a multi-craft Project Labor Agreement with the local Building and Construction Trades Council that meets the requirements of Section 10.0, Contractors shall be deemed in compliance with this Chapter.
- C. The County may take appropriate enforcement action to ensure compliance with this Chapter, including issuing an administrative citation pursuant to Chapter 1.41 of Title 9 of the County of Imperial Codified Ordinances. The County may issue a citation to any Applicant, Contractor or entity that has not complied with the requirements of this Chapter, including, but not limited to the following violations:
 - a. Failing to comply with the local workforce provisions of Section 5.0.
 - b. Failing to comply with any of the wage provisions of Section 6.0.
 - c. Failing to comply with any of the safety and training provisions of Section 7.0.
 - d. Failing to comply with the workforce implementation plan requirement of Section 8.0 or violating the workforce implementation plan prohibition of Section 10.0.
 - e. Failing to comply with any of the mandatory data collection requirements of Section 9.0.
- D. The fine shall be \$250 per day per construction worker for each provision of this Chapter violated, up to a maximum of \$5,000 per month per construction worker during the period of the violation, or as set forth in Section 2603 of the Public Contract Code, whichever is higher.
- E. In the event that any person identifies an Applicant or Contractor on a Covered Project not complying with this Ordinance as required, the person may file a complaint with the County with supporting evidence. Upon receipt of such complaint, the County may

investigate the complaint and, if a violation is found, may issue a citation, which shall provide the recipient ten (10) days to correct the violation.

- F. If an Applicant or Contractor subject to a citation under this Ordinance does not correct the violation within ten (10) days, the County may issue a penalty of \$1,000 per calendar day for the first calendar week, which shall be retroactive to the first day that the violation occurred, increasing to \$2,500 per calendar day for successive calendar weeks.
- G. If the Applicant or Contractor has received a citation or has otherwise been penalized under this Ordinance within the prior twelve (12) months, the penalty shall be \$2,000 per calendar day for the first calendar week, increasing to \$3,500 per calendar day for successive calendar weeks, which shall be retroactive to the first day that the violation occurred. If a subcontractor receives a citation under this Ordinance, the Prime Contractor shall be jointly and severally liable for the penalty.
- H. A construction employee, or a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. sec. 175a) on a construction worker's behalf, may bring a civil action in a court of competent jurisdiction against an Applicant or Contractor for violating this Chapter. Employees shall be entitled to such legal or equitable relief which may be appropriate to the remedy in violation. The prevailing party shall be awarded reasonable attorneys' fees and costs.
- I. Contractors and subcontractors that fail to use a skilled and trained workforce shall be subject to the penalties provided in Section 2603 of the Public Contract Code.

12.0 No Cause of Action Nor Civil Penalty Against the County

In undertaking the adoption and enforcement of this Chapter, the County is undertaking only to promote general welfare. The County is not assuming, nor imposing on its Board of Supervisors, Commissioners, officers, workers, employees, staff, or anyone else employed by the County, an obligation under this Ordinance, nor civil penalty against the County, nor cause of action against the County. This Chapter does not create a legally enforceable right by any member of the public against the County, and this Section may be cited as grounds for dismissal if the County is named as a party in litigation involving implementation or enforcement of this Ordinance.

13.0 No Preemption of State or Federal Standards

This Ordinance does not preempt or prevent the establishment of employment standards or the expansion of coverage by ordinance, resolution, contract, or any other action of the State or Federal Government.

14.0 Severability

If any part or provision of this Chapter, or the application of this Chapter to any person or circumstance, is held invalid, the remainder of this Chapter, including the application of such part or provision to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

15.0 Effective Date

This Ordinance shall be effective after the occurrence of both (1) 30 days from the date of final passage of this Ordinance, and (2) the Lithium Valley Specific Plan is approved and effective.

16.0 Notice

Within 15 days after the passage of an ordinance it shall be published once, with the names of the members voting for and against the ordinance, consistent with Government Code Section 25124.