



Office of the Mayor

34

CONSENT CALENDAR  
June 11, 2019

To: Members of the City Council  
From: Mayor Jesse Arreguin and Councilmember Kate Harrison  
Subject: Repealing and Reenacting BMC Chapter 13.104, Wage Theft Prevention

RECOMMENDATION

1. Adopt an Ordinance repealing and reenacting BMC Chapter 13.104, Wage Theft Prevention to improve enforcement of the ordinance by requiring a signed acknowledgement of ordinance requirements and signed attestation at completion of the project; and
2. Direct the City Manager to include standard conditions of approval for zoning permits requiring compliance with the Wage Theft Prevention Ordinance, BMC Chapter 13.104

FINANCIAL IMPLICATIONS

Staff time to enforce requirements of the ordinance through the building permit process.

BACKGROUND

The City of Berkeley is committed to protecting the public health, safety and welfare. The construction industry involves unique labor standards compliance challenges. Construction workers who do not receive all of their wages and mandatory benefits are likely to discover that despite the best efforts of State enforcement officials, many employees continue to be victims of wage theft because they are unaware of their rights or the State lacks adequate resources to advocate on their behalf. General contractors and Developer/Owners who receive City-issued permits and licenses and who benefit from the construction workers' labor may disclaim responsibility for making underpaid workers whole.

Testimony presented to the State of California's "Little Hoover" Commission stated that existing studies suggest that "the underground economy" is at least a \$10 billion problem in California. Statewide, the construction industry is the industry with the second highest level of labor standards violations (as measured by State Labor Commissioner penalty assessments), surpassed only by the restaurant industry. Deputy Labor Commissioners conducted 985 inspections in the private construction industry in 2012-13, yielding 595 citations that assessed \$5.3 million in penalties. Enforcement actions, however, are dwarfed by the number of contractors and projects in California, including projects in Berkeley. Over 300,000 state-licensed contractors performed about \$48 billion worth of private construction work in the State in 2014. The mismatch between the resources of the State and the scope of the issue of fundamental wage

projections through disclosure and transparency requires the involvement of local government police powers.

Assembly Bill 469, also known as the Wage Theft Protection Act of 2011, went into effect on January 1, 2012, adding section 2810.5 to the Labor Code. The act requires that all employers provide each employee with a written notice containing specified information at the time of hire.

This Chapter will ensure compliance with the Wage Theft Protection Act of 2011 by requiring confirmation by owners, contractors and subcontractors of the rate of pay and other legally required information regarding mandatory and voluntary fringe benefits pursuant to Labor Code section 2810.5.

In response to a growing number of complaints over lack of compliance with state construction wage and employment laws, the Berkeley City Council in 2016 adopted a Wage Theft Prevention Ordinance, BMC Chapter 13.104. Since that time staff has met with the Alameda County Building and Construction Trades Council and Carpenters Union Local 713 regarding how to enforce the requirements of the ordinance. There was no clear department or division responsible for enforcement, and projects have been approved without informing applicants of the requirements of the Wage Theft Ordinance.

Despite this ordinance, there are a number of current construction jobs in Berkeley where contractors have willingly violated state wage laws, resulting in judgements by the state Labor Commissioner. Additionally with the growing amount of residential development occurring in Berkeley, it is critical that this ordinance be revised to develop a streamlined compliance and enforcement process to ensure that workers are paid the wages they are owed. The ordinance requires a series of attestations to ensure knowledge of and compliance with the requirements.

The revised Wage Theft Prevention Ordinance will require that permit applicants provide the city with a Pay Transparency Acknowledgement. The form includes an attestation under penalty of perjury that the permit applicant has reviewed Chapter 13.104 and following project completion, if the City cannot make a finding of compliance with the provisions of the Wage Theft Prevention Ordinance, then the permit applicant will be responsible for demonstration either compliance with Labor Code Sections 226 and 2810.5 or the existence of a Labor Payment or a Lien Release Bond pursuant to BMC Section 13.104.070(B). The revised ordinance also requires the Contractor to sign a Pay Transparency Acknowledgement.

The revised ordinance requires that a Pay Transparency Attestation be executed under penalty of perjury to attest to compliance with the Wage Theft Prevention Ordinance and state wage laws.

The ordinance also requires posted noticed of the requirements of the Wage Theft Prevention Ordinance and where workers can report violations of the labor code to the Labor Commissioner and current contact information of the Labor Commissioner.

Finally the revised ordinance requires that the City make a finding of compliance with the provisions of the Chapter prior to the issuance of a Certificate of Occupancy.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects from adopting this ordinance.

CONTACT PERSON

Mayor Jesse Arreguin      510-981-7100

Attachments:

- 1: Ordinance
- 2: PERMIT APPLICANT PAY TRANSPARENCY ACKNOWLEDGMENT
- 3: CONTRACTOR PAY TRANSPARENCY ACKNOWLEDGMENT
- 4: PAY TRANSPARENCY ATTESTATION



ORDINANCE NO.

REPEALING AND REENACTING BERKELEY MUNICIPAL CODE CHAPTER 13.104,  
WAGE THEFT PREVENTION

Section 1. That Berkeley Municipal Code Chapter 13.104 is hereby repealed and reenacted as follows:

**Chapter 13.104**  
**WAGE THEFT PREVENTION**

Sections:

13.104.010 Findings.

13.104.020 Definitions.

13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.

13.104.040 Pay Transparency Attestations Following Project Completion.

13.104.050 Posting of Ordinance.

13.104.060 Determination of Construction Pay Transparency Compliance.

13.104.070 Issuance of a Certificate of Occupancy.

13.104.080 Private Right of Action.

13.104.090 City Manager Regulations.

13.104.100 Severability.

**13.104.010 Findings.**

A. The City of Berkeley is committed to protecting the public health, safety and welfare. The construction industry involves unique labor standards compliance challenges. Construction workers who do not receive all of their wages and mandatory benefits are likely to discover that despite the best efforts of State enforcement officials, many employees continue to be victims of wage theft because they are unaware of their rights or the State lacks adequate resources to advocate on their behalf. General contractors and Developer/Owners who receive City-issued permits and licenses and who benefit from the construction workers' labor may disclaim responsibility for making underpaid workers whole.

B. Testimony presented to the State of California's "Little Hoover" Commission stated that existing studies suggest that "the underground economy" is at least a \$10 billion problem in California. Statewide, the construction industry is the industry with the second highest level of labor standards violations (as measured by State Labor Commissioner penalty assessments), surpassed only by the restaurant industry. Deputy Labor Commissioners conducted 985 inspections in the private construction industry in 2012-13, yielding 595 citations that assessed \$5.3 million in penalties. Enforcement actions, however, are dwarfed by the number of contractors and projects in California, including projects in Berkeley. Over 300,000 state-licensed contractors performed about \$48 billion worth of private construction work in the State in 2014. The mismatch between the resources of the State and the scope of the issue of fundamental wage projections through disclosure and transparency requires the involvement of local

government police powers.

C. Assembly Bill 469, also known as the Wage Theft Protection Act of 2011, went into effect on January 1, 2012, adding section 2810.5 to the Labor Code. The act requires that all employers provide each employee with a written notice containing specified information at the time of hire.

D. This Chapter will ensure compliance with the Wage Theft Protection Act of 2011 by requiring confirmation by owners, contractors and subcontractors of the rate of pay and other legally required information regarding mandatory and voluntary fringe benefits pursuant to Labor Code section 2810.5.

### **13.104.020 Definitions.**

Whenever used in this chapter, the following terms shall have the meanings set forth below.

A. "City" shall mean the City of Berkeley.

B. "Completion of the project" means that construction is complete and the project is eligible for a Certificate of Occupancy or Temporary Certificate of Occupancy.

C. "Contractor" shall mean the prime contractor for the Project.

D. "Labor Commissioner" shall mean the Office of the Labor Commissioner within the State of California's Department of Industrial Regulations.

E. "Owner" shall mean the person or persons, firm, corporation or partnership exercising ownership of the Project.

F. "Permit Applicant" shall mean Owner, developer, or Contractor who applied for the building permit for the Project.

G. "Project" shall mean a new construction project of greater than 30,000 square feet that is not subject to local, state or federal prevailing wage requirements or does not have a valid Project Labor or Community Workforce Agreement.

H. "Project construction employees" shall mean employees of the Contractor or Subcontractor.

I. "Qualifying Subcontractor" shall mean a subcontractor of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project.

J. "Responsible Representative" shall mean an officer (if a corporation), general partner (if a partnership or a limited partnership), managing member (if a limited liability company) or qualifying person associated with the Owner, contractor and/or subcontractor. A qualifying person is defined in Section 7068 of the California Business and Professions Code.

### **13.104.030 Pay Transparency Acknowledgments from Permit Applicant, Contractor, and Qualifying Subcontractor.**

A. Within 30 days of issuance of a building permit, the Permit Applicant shall provide to the City a Permit Applicant Pay Transparency Acknowledgment on a form approved by the City for this purpose. The form shall include an attestation under penalty of perjury under the laws of the State of California by a Responsible Representative of the Permit Applicant that: (i) the Permit Applicant has reviewed Chapter 13.104 of the Berkeley

Municipal Code; and (ii) following Project completion, if the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060, the Permit Applicant will be responsible for demonstrating either (a) compliance with Labor Code sections 226 and 2810.5 or (b) the existence of a Labor Payment or a Lien Release Bond(s) pursuant to 13.104.070(B).

B. Within 30 days of the issuance of a building permit if the Contractor(s) and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor's first day of work on the Project, for each Contractor and Qualifying Subcontractor, the Permit Applicant shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. On each Contractor Pay Transparency Acknowledgment, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California, that: (i) the Contractor or Qualifying Subcontractor has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees will receive Labor Code Section 2810.5 compliant notices and Labor Code Section 226(a) compliant itemized wage statements, or (b) Project construction employees meet one or more of the criteria of Labor Code section 2810.5(c).

**13.104.040 Pay Transparency Attestations Following Project Completion.**

Within 10 days of the completion of the Project, for each Contractor and Qualifying Subcontractor, Permit Applicant shall provide to the City a Pay Transparency Attestation on a form approved by the City for this purpose. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor must attest under penalty of perjury under the laws of the State of California that: (i) the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code; and (ii) either (a) Project construction employees received complete and accurate information pursuant to Labor Code Sections 226 and 2810.5, or (b) Project construction employees met one or more of the criteria of Labor Code section 2810.5(c).

**13.104.050 Posting of Ordinance.**

Each day work is performed on the Project, the Permit Applicant shall post and keep posted in a conspicuous location frequented by Project construction employees, and where the notice may be easily read by Project construction employees during the hours of the workday, a notice that: (i) contains the text of Chapter 13.104 of the Berkeley Municipal Code; (ii) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (iii) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California.

**13.104.060 Determination of Construction Pay Transparency Compliance.**

Prior to approval of a Certificate of Occupancy for the Project, the City shall make a finding of compliance with the provisions of this Chapter. Such finding shall be issued if: (i) the City determines after review of the information provided pursuant to

sections 13.104.030 and 13.104.040 that the Permit Applicant, Contractor and all Qualifying Subcontractor(s) have complied with the provisions of this Chapter; and (ii) the City has not received any information that a complaint is pending before the Labor Commissioner, or that the Labor Commissioner has issued a final order of enforcement, regarding violations of Labor Code Sections 226 or 2810.5 by any Contractor or Qualifying Subcontractor at the Project.

**13.104.070 Issuance of a Certificate of Occupancy.**

A. The City shall issue a Certificate of Occupancy to the Permit Applicant if it makes a finding of Construction Pay Transparency Compliance pursuant to 13.104.060 and all requirements of the building code are met.

B. If the City cannot make a finding of compliance with the provisions of this Chapter pursuant to section 13.104.060 , the City will approve a Certificate of Occupancy only if:

- (i) the Permit Applicant demonstrates that the Permit Applicant, Contractor, and all Qualifying Subcontractors have complied with Labor Code sections 226 and 2810.5; or
- (ii) the Permit Applicant demonstrates the existence of a Labor Payment or a Lien Release Bond(s) for the Project. The bond shall be in an amount equal to 20 percent of the combined value of the contract(s) of all Contractor(s) and/or Qualifying Subcontractor(s) for which the City lacks Pay Transparency Acknowledgment or Attestations, or 125 percent of the amount of any Project-related, Labor Commissioner issued Civil Wage and Penalty Assessment(s) or mechanics lien(s), whichever is greater.

**13.104.080 Private Right of Action.**

Nothing in this chapter shall be interpreted to authorize a right of action against the City.

**13.104.090 City Manager Regulations.**

The City Manager may promulgate regulations for the administration and enforcement of this Chapter.

**13.104.100 Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.



Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

# PERMIT APPLICANT PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

1. I, \_\_\_\_\_, the \_\_\_\_\_ of  
(Name) (Title)  
\_\_\_\_\_, \_\_\_\_\_ (“Permit Applicant”), who has applied for a  
(Permit Applicant) (LIC#)  
building permit for \_\_\_\_\_, have the authority to act for and on behalf of  
(Project)  
Permit Applicant.

2. Permit Applicant has reviewed Berkeley Municipal Code Chapter 13.104 (“Wage Theft Prevention Ordinance”), which is attached to this form.

3. Permit Applicant understands that all contractors on the Project listed above (“Project”) must comply with Labor Code section 226. Semi-monthly or at the time of each payment of wages, each contractor must provide each of its employees on the Project with accurate itemized wage statements showing the following:

- Gross wages earned,
- Total hours worked by the employee, unless the employee is exempt under Labor Code section 226(j);
- Number of piece-rate units earned and any applicable piece rate, if the employee is paid on a piece-rate basis;
- All deductions, provided that deductions requested by the employee may be aggregated and shown as one item, and all deductions are properly dated, showing month, day, and year;
- Net wages earned;
- Inclusive dates of the period for which the employee is being paid;
- Name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- Contractor’s correct legal name and address; and
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

4. Permit Applicant understands that all contractors on the Project must comply with Labor Code section 2810.5 by satisfying one of the following requirements:

- The contractor will provide complete and accurate information to employees not exempt under section 2810.5(c), including the following:

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor’s first day of work on the Project.

## PERMIT APPLICANT PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

- At the time of hiring, a written notice, in the language the contractor normally uses to communicate employment-related information to the employee, containing the following information:
  - The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any overtime rates, as applicable;
  - Any benefits provided by the contractor;
  - Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
  - The regular payday designated by the contractor in accordance with the requirements of this code;
  - The name of the contractor, including any “doing business as” names;
  - The physical address of the contractor’s main office or principal place of business, and a mailing address, if different;
  - The telephone number of the contractor;
  - The name, address, and telephone number of the contractor’s workers’ compensation insurance carrier; and
  - That an employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.
  
- A notification in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies: (1) all changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226, or (2) notice of all changes is provided in another writing required by law within seven days of the changes.

**-OR-**

- All employees of the contractor are covered by a valid collective bargaining agreement that (1) expressly provides for wages, hours of work, and working conditions and (2) provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.**

**5. Permit Applicant understands that, pursuant to Berkeley Municipal Code section 13.104.030, Permit Applicant must submit all Pay Transparency Acknowledgment forms to the City within thirty (30) days of the issuance of a building permit. Permit Applicant must submit this Permit Applicant Pay Transparency Acknowledgment form and Contractor Pay Transparency Acknowledgment forms from the prime contractor of the Project (“Contractor”) and all subcontractors of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project (“Qualifying Subcontractors”). Contractor Pay Transparency Acknowledgment forms must be submitted within thirty (30) days of the issuance of a building permit if the Contractor(s) and Qualifying Subcontractor(s) have been selected by then, but in any event no later than the Contractor(s) or Qualifying Subcontractor(s) first day of work on the Project.**

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor’s first day of work on the Project.

## PERMIT APPLICANT PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

6. Permit Applicant understands that, pursuant to Berkeley Municipal Code section 13.104.040, it is Permit Applicant's responsibility to submit all Pay Transparency Attestation forms to the City within 30 days of issuance of the building permit for the Project. Pay Transparency Attestations must be completed by each Contractor and Qualifying Subcontractor of the Project.

7. Permit Applicant understands that, following Project completion, if the City cannot make a finding of compliance with Berkeley Municipal Code Ch. 13.104, Permit Applicant will be responsible for demonstrating one of the following:

- Permit Applicant, Contractor, and all Qualifying Subcontractors have complied with Labor Code sections 226 and 2810.5; OR
- Permit Applicant has obtained a Labor Payment or Lien Release Bond(s) in an amount equal to 20 percent of the combined value of the contract(s) of all Contractor(s) and/or Qualifying Subcontractor(s) for which the City lacks a Pay Transparency Acknowledgment or Attestation, or 125 percent of the amount of any Project-related, Labor Commissioner-issued Civil Wage and Penalty Assessment(s) or mechanics lien(s), whichever is greater.

6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor's first day of work on the Project.

# CONTRACTOR PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

1. I, \_\_\_\_\_, the \_\_\_\_\_ of  
 \_\_\_\_\_, \_\_\_\_\_ (“Contractor”) performing work at  
 \_\_\_\_\_, \_\_\_\_\_ (“Contractor or Qualifying Subcontractor<sup>1</sup>”), \_\_\_\_\_ (LIC#)  
 \_\_\_\_\_ for \_\_\_\_\_, \_\_\_\_\_, have the  
 \_\_\_\_\_ (Project) \_\_\_\_\_ (General Contractor) \_\_\_\_\_ (LIC#)

authority to act for and on behalf of Contractor.

2. I declare that Contractor has reviewed Berkeley Municipal Code Chapter 13.104 “Wage Theft Prevention Ordinance”), which is attached to this form.

3. I declare that Contractor will comply with Labor Code section 226 on the Project listed above (“Project”). Semi-monthly or at the time of each payment of wages, Contractor will provide each of its employees on the Project with accurate itemized wage statements showing the following:

- Gross wages earned,
- Total hours worked by the employee, unless the employee is exempt under Labor Code section 226(j);
- Number of piece-rate units earned and any applicable piece rate, if the employee is paid on a piece-rate basis;
- All deductions, provided that deductions requested by the employee may be aggregated and shown as one item, and all deductions are properly dated, showing month, day, and year;
- Net wages earned;
- Inclusive dates of the period for which the employee is being paid;
- Name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- Contractor’s correct legal name and address; and
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

4. I declare that Contractor will comply with Labor Code section 2810.5 by satisfying one of the following requirements (please check which applies):

- All employees of this Contractor not exempt under section 2810.5(c) will receive complete and accurate information including the following:

<sup>1</sup> Berkeley Municipal Code Ch. 13.104 defines “Qualifying Subcontractor” as all subcontractors of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project.

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor’s first day of work on the Project.

# CONTRACTOR PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

- At the time of hiring, a written notice, in the language Contractor normally uses to communicate employment-related information to the employee, containing the following information:
  - The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any overtime rates, as applicable;
  - Any benefits provided by Contractor;
  - Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
  - The regular payday designated by Contractor in accordance with the requirements of this code;
  - The name of Contractor, including any “doing business as” names;
  - The physical address of Contractor’s main office or principal place of business, and a mailing address, if different;
  - The telephone number of Contractor;
  - The name, address, and telephone number of Contractor’s workers’ compensation insurance carrier; and
  - That an employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.
  
- A notification in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies: (1) all changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226, or (2) notice of all changes is provided in another writing required by law within seven days of the changes.

**-OR-**

- All employees are covered by a valid collective bargaining agreement that (1) expressly provides for wages, hours of work, and working conditions and (2) provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.**

**If the box above is checked, please list the Union(s) to which Contractor is signatory:**

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**5. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor’s first day of work on the Project.

# CONTRACTOR PAY TRANSPARENCY ACKNOWLEDGMENT

Chapter 13.104, Berkeley Municipal Code

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 30 days of the issuance of a building permit if the Contractor and Qualifying Subcontractors have been selected by that date, but in any event no later than the Contractor or Qualifying Subcontractor's first day of work on the Project.

# PAY TRANSPARENCY ATTESTATION

Chapter 13.104, Berkeley Municipal Code

1. I, \_\_\_\_\_, the \_\_\_\_\_ with authority to  
 (Name) (Title)  
 act for and on behalf of \_\_\_\_\_, \_\_\_\_\_, certify under  
 (Contractor or Qualifying Subcontractor<sup>1</sup>) (LIC#)  
 penalty of perjury that the work performed by \_\_\_\_\_ at  
 (Contractor or Qualifying Subcontractor)  
 \_\_\_\_\_ for \_\_\_\_\_, \_\_\_\_\_, complied with  
 (Project) (General Contractor) (LIC#)

Labor Code sections 226 and 2810.5, and Berkeley Municipal Code Ch. 13.104 (“Wage Theft Prevention Ordinance”).

2. Contractor or Qualifying Subcontractor listed above (“Contractor”) complied with Labor Code section 226. Semi-monthly or at the time of each payment of wages, Contractor provided each of its employees on the Project listed above (“Project”) with accurate itemized wage statements showing the following:

- Gross wages earned,
- Total hours worked by the employee, unless the employee is exempt under Labor Code section 226(j);
- Number of piece-rate units earned and any applicable piece rate, if the employee is paid on a piece-rate basis;
- All deductions, provided that deductions requested by the employee may be aggregated and shown as one item, and all deductions are properly dated, showing month, day, and year;
- Net wages earned;
- Inclusive dates of the period for which the employee is being paid;
- Name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- Contractor’s correct legal name and address; and
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

3. Contractor also complied with Labor Code section 2810.5 by satisfying one of the following requirements (*please check which applies*):

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<sup>1</sup> Berkeley Municipal Code Ch. 13.104 defines “Qualifying Subcontractor” as all subcontractors of any tier whose portion of the work exceeds \$100,000 or one percent (1%) of the value of the construction cost of the Project.

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 10 days of the completion of the Project.



## PAY TRANSPARENCY ATTESTATION

Chapter 13.104, Berkeley Municipal Code

- All employees of this Contractor not exempt under section 2810.5(c) received complete and accurate information including the following:**
  - At the time of hiring, a written notice, in the language Contractor normally uses to communicate employment-related information to the employee, containing the following information:
    - The rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any overtime rates, as applicable;
    - Any benefits provided by Contractor;
    - Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances;
    - The regular payday designated by Contractor in accordance with the requirements of this code;
    - The name of Contractor, including any “doing business as” names;
    - The physical address of Contractor’s main office or principal place of business, and a mailing address, if different;
    - The telephone number of Contractor;
    - The name, address, and telephone number of Contractor’s workers’ compensation insurance carrier; and
    - That an employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.
  - A notification in writing of any changes to the information set forth in the notice within seven calendar days after the time of the changes, unless one of the following applies: (1) all changes are reflected on a timely wage statement furnished in accordance with Labor Code section 226, or (2) notice of all changes is provided in another writing required by law within seven days of the changes.

**-OR-**

- All employees are covered by a valid collective bargaining agreement that (1) expressly provides for wages, hours of work, and working conditions and (2) provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.**

**If the box above is checked, please list the Union(s) to which Contractor is signatory:**

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Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 10 days of the completion of the Project.

**PAY TRANSPARENCY ATTESTATION**

Chapter 13.104, Berkeley Municipal Code

**4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Pursuant to Berkeley Municipal Code section 13.104.040, each Contractor and Qualifying Subcontractor shall complete this form, and Permit Applicant must submit all forms to the City within 10 days of the completion of the Project.