

From: [Nicole Goehring](#)
To: [Marilyn Ezy Ashcraft](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#); [John Knox White](#); [Attorney](#); [City Clerk](#); [Manager Manager](#)
Cc: [Lara Weisiger](#); andreas@btcalameda.org
Subject: [EXTERNAL] RE: 2/2 Agenda Item 6-C. – Requested Amendment to Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects
Date: Monday, February 1, 2021 1:01:47 PM
Attachments: [We sent you safe versions of your files.msg](#)
[City of Alameda - PSA Resolution Amendment.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Mayor Ashcraft and Alameda City Council,
Please find attached our requested amendment from [Section 3.5 Local Business Enterprises of the San Francisco Citywide Project Labor Agreement](#) for inclusion in your resolution requiring a Project Stabilization Agreement for certain construction projects. Please let me know if you have any questions.

Nicole Goehring

V.P. Government and Community Affairs
ABC NorCal
4577 Las Positas Road, Unit C, Livermore, CA 94551
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Founded on the merit shop philosophy, ABC helps members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work

#Lovewhatyoudo #Lovewhatyoubuild

INSTRUCTORS NEEDED

- ▶ Competitive Salary
- ▶ Make an impact in the future of construction
- ▶ FULL-TIME and PART-TIME instructors needed

In the following TRADES:

- Electrical
- Commercial & Industrial Painting
- Carpentry/Laborer

Contact Daniel for more information: daniel@abcnorcal.org



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skilled workforce today.
abcnorcal.org

February 1, 2021

Marilyn Ezzy Ashcraft, Mayor
City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501

Re: Agenda Item 6-C. – Requested Amendment to Adoption of Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects

Dear Mayor Ashcraft:

On behalf of the Associated Builders and Contractors Northern California Chapter (ABC NorCal) and its nearly 500 construction and construction related firms representing 21,000 essential merit shop construction workers and over 800 essential apprentices who have been building your and communities throughout Northern California for nearly 45 years, we respectfully request you consider including the following language from [Section 3.5 Local Business Enterprises of the San Francisco Citywide Project Labor Agreement](#) in your resolution requiring a Project Stabilization Agreement for certain construction projects before you at your February 2 meeting so all subcontractors and small emerging businesses are not denied opportunities to build the best quality projects built to last in the City of Alameda.

3.5 Local Business Enterprises. Contractors certified as LBEs under Administrative Code Chapter 14B that are unwilling to execute the Letter of Assent before commencement of work shall be exempt from the terms of this Agreement, except as set forth herein.

3.5.1 The exemption in Section 3.5 shall apply until such time that the certified LBE Contractor has received an amount exceeding five million dollars (\$5,000,000) for work on a Covered Project(s) cumulatively over the entire duration of this Agreement (“LBE Threshold”). The City Administrator shall establish a process to track the value LBE Contractors have received for work on Covered Projects. Notwithstanding the foregoing, a certified LBE Contractor exempt from the terms of this Agreement may nonetheless choose to sign a Letter of Assent and comply with this Agreement.

3.5.2 When the amount an LBE Contractor has received exceeds the LBE Threshold, the LBE Contractor shall sign a Letter of Assent and comply with this Agreement for all current, ongoing, and subsequent Construction Contracts. For current and ongoing Construction Contracts, an LBE, after exceeding the LBE Threshold, shall have a reasonable amount of time, not to exceed thirty (30) calendar days, to comply with this Agreement.

3.5.3 The City Administrator, or designee, shall track the LBE Threshold and shall provide documentation regarding the value LBE Contractors have received on Covered Projects to the Council and shall provide a report at each regularly scheduled JAC meeting.

Thank you for your consideration of this request that will result in removal of barriers and maximized opportunities for all hardworking Alameda taxpayers and residents. Please include this correspondence

in your February 2, 2021 meeting minutes. Please contact me at nicole@abcnorcal.org with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicole Goehring". The signature is fluid and cursive, with a large loop at the end.

Nicole Goehring
Vice President Govt. and Community Relations

Cc: Malia Vella, Vice Mayor
Tony Daysog, Councilmember
Trish Herrera Spencer, Councilmember
John Knox White, Councilmember
Eric Levitt, City Manager
Andreas Cluver, Secretary – Treasurer, Alameda County Building and Construction Trades Council

From: ps4man@comcast.net
To: [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [John Knox White](#); [Tony Daysog](#); [Trish Spencer](#)
Cc: [Eric Levitt](#); [Yibin Shen](#); [Andrew Thomas](#); [Lara Weisiger](#)
Subject: [EXTERNAL] ITEM 6-C (PSA) Feb. 2 CITY COUNCIL AGENDA FOR CONTINUED JANUARY 19, 2021 CITY COUNCIL MEETING
Date: Monday, February 1, 2021 10:39:36 AM
Attachments: [We sent you safe versions of your files.msg](#)
[Affordable Housing 101 CDA 9 18 17.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Dear Mayor Ashcraft, Vice Mayor Vella and Councilmembers Daysog, Knox White, and Spencer:

I am writing to express my concerns about the above-captioned item, which would, in the midst of an affordable housing crisis, significantly increase the cost of building housing at all income levels. I attach a presentation by the Alameda County Housing and Community Development Agency, which at page 13 discusses the additional cost of a PLA (basically the same thing as a PSA). It reports on one Oakland project where a PLA increased costs by 71%! Adoption of this resolution is totally inconsistent with your expressed concerns about the need for affordable housing and should be rejected out of hand. I have the same objection to applying it to non-profit projects of any kind. This is what killed the Carnegie project, which deprived the City of what would have been an incredible asset.

The last sentence of the Resolution, which allows Council to waive this condition upon a majority vote, does not mitigate the problem. In fact, it makes it worse. The Resolution sets a standard requiring a PLA, then allows its waiver, based on no standards whatsoever other than garnering three votes!

I am aware that Alameda County has a Measure A1 Housing Bond Implementation Policy that conditions eligibility for funding on a PLA. I think it is bad policy for the County, and we should not make the situation worse by extending it to projects that do not seek those funds.

Not only is this a bad policy decision, but it may also be in violation of the California Housing Accountability Act. (HAA) Section 65589.5(f)(1) of the act states:

Nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. See **Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5), page 7.**

<https://www.hcd.ca.gov/community-development/housing-element/housing-element->

[memos/docs/hcd-memo-on-haa-final-sept2020.pdf](#) Thus, the waiver provision of the Resolution is a classic example of a “subjective standard”.

I contend that requiring a developer to use only union labor on a project constitutes a “development standard” imposed by a “local agency,” i.e., the City. Because those agreements are certain to increase building costs dramatically, they do not “facilitate and accommodate development,” and are therefore arguably barred by the Act. This interpretation is consistent with section 65589.5 (a) (4) of the Act, setting forth its purpose:

Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects

Even if Alameda could successfully argue that a PSA/PLA is not within the definition of a “development standard,” it most certainly constitutes a “constraint” on the building of housing that the Housing Element Law (HEL) requires to be disclosed in our housing element and mitigated. Government Code Section 65583(a)(5) clearly defines “constraints” that must be disclosed as, “*locally adopted ordinances that directly impact the cost and supply of residential development.*” Thus, approval of this resolution could adversely impact our ability to have our housing element certified by HCD.

I implore Council to reject this resolution or, at the very least, consult with your Planning Director and the development officers at the Alameda Housing Authority as to the impact it would have on the construction of affordable housing and our ability to comply with both the HAA and HEL.

Sincerely,

Paul S Foreman



ALAMEDA COUNTY
Community Development Agency

'AFFORDABLE HOUSING 101' SUBSIDIZED HOUSING DEVELOPMENT AND FINANCING OVERVIEW

September 18, 2017 – Housing Subcommittee

Developing Subsidized Housing

2

- The process and requirements of developing subsidized affordable housing are similar in many ways to that of developing market-rate housing:
 - Land
 - Entitlements
 - Environmental review
 - e.g., CEQA
 - Conformity to local requirements
 - e.g., Planning and Zoning
 - Public approval/support process

Developing Subsidized Housing

3

- Affordable housing also differs from market-rate housing.
- Restrictions
 - Income maximums for restricted units
 - Set-asides for target populations
 - Regular income certification of subsidized residents
 - Occupancy standards
 - e.g., a one-person household does not qualify for a two-bedroom unit.
- Public perception
 - Can result in extended public process.
- Financing structure and financing sources (subsidies)

HUD Income Limits in Alameda County

4

Persons in Household	Extremely Low (30%)	Very Low (50%)	Low (80%)	Median (100%)	Moderate (120%)
1	\$21,950	\$36,550	\$56,300	\$68,200	\$81,850
2	\$25,050	\$41,750	\$64,350	\$77,900	\$93,500
3	\$28,200	\$46,950	\$72,400	\$87,650	\$105,200
4	\$31,300	\$52,150	\$80,400	\$97,400	\$116,900

Effective June 9, 2017

Alameda County Incomes

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Occupation	Annual Salary	AMI for 1-person HH	AMI for 4-person HH
Fast Food Cooks	\$23,290	<50%	<30%
Childcare Workers	\$29,050	<50%	<30%
Retail Salespersons	\$30,800	<50%	<30%
Alameda County Clerk 1 (step 1)	\$39,039	<50%	<30%
Paramedics	\$40,720	<80%	<50%
Clergy	\$41,580	<80%	<50%
Teachers/Instructors	\$42,030	<80%	<50%
Secretaries/Admin. Assistants	\$44,660	<80%	<50%
Alameda County Sect 1 (step 1)	\$45,981	<80%	<50%

Affordable Housing – Reality vs. Perception

6



Ashland Family Apts. - RCD



Downtown Hayward Senior
- Eden



Laguna
Commons -
MidPen



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Community Development Agency

RENTAL HOUSING COSTS



Components of Rental Housing Costs

8

- Development
 - ▣ Acquisition Costs
 - ▣ Soft/Predevelopment Costs
 - ▣ Hard/Construction Costs
 - ▣ Impact of Public Policy on Costs
 - ▣ Financing Housing Development
 - Market-Rate vs. Affordable
- Operations
 - ▣ Financing Operations
 - Market-Rate vs. Affordable

Development Costs

9

□ Acquisition Costs

- Land or Buildings

□ Soft/Predevelopment Costs

■ Predevelopment

- Feasibility studies, architecture/engineering, permits/fees, legal, taxes/insurance, marketing, developer fee, contingencies

■ Financing

- Loan fees, construction period interest, tax credit syndication fees, funding reserves

□ Hard/Construction Costs

- Labor and Materials

Financing Stages – Levels of Risk

10

- Predevelopment
 - Very risky, a project may not go through, developers and lenders try to limit their exposure during this time period.
- Acquisition
 - Less risky, the land can be security for a loan, but without entitlements, the land is not necessarily worth the amount needed to get through to construction.
- Construction
 - Fully entitled project, with rights for development, conveys more security for lenders. As the project enters construction, insurance and progress make this phase more secure.
- Permanent
 - Secure, the fully developed property is no longer a risk, and lenders more easily make loans, knowing the building and its rents are secure.

Impact of Public Policy on Costs

- 59-Year Affordability Term
 - Property must perform for the life of the regulatory agreement.
 - Durable building materials for a 59-year+ life.
 - Operations in the building must be sustainable. (e.g. solar energy and sustainable features)
 - Income must cover costs for 59 years.
 - County requirements must work with and be in alignment with other lenders.
 - County monitors the property for compliance.

Impact of Public Policy on Costs

12

- Workforce Policies
 - Prevailing Wage Rates/Davis Bacon Wages
 - Section 3/Disadvantaged Worker/Low Income Business requirements
 - Minority & Women Owned Businesses
 - Small, Local Emerging Business (SLEB)
 - Administrative costs to monitor compliance with these programs.

Impact of Public Policy on Costs

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- ❑ Prevailing wage requirements alone adds 5%-30% to total project.
- ❑ Complying with local hire and local/small local contracting requirements costs at least an additional 10%+ including unknown factors.
- ❑ On a recent County affordable housing project, a 100% union PLA, added 71% to the project cost.
 - ❑ from \$28m (non-union) to \$48m (union)

Impact of Public Policy on Costs

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- Property amenities
 - Community rooms, playgrounds, afterschool programs, computer facilities and resident programs.
- Resident services
 - Coordination – link residents to programs in the community like job training or life skills.
 - Supportive housing – more intensive services, including case management, drug and alcohol programs, mental health services.

Financing Housing Development

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Market-Rate Rental

- Market rate rental housing developments are paid for through:
 - Owner investment (equity)
 - Commercial debt (mortgage)
- The mortgage amount can be higher because it is paid for by the market rate rents.

Affordable Rental

- Subsidized affordable rental housing developments are paid for through:
 - Equity (Tax Credits)
 - Public Subsidy (loans and grants)
 - Commercial debt (mortgage)
- The mortgage amount will be lower since it is paid for by the lower affordable rents.

Operating Costs

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- Insurance
- Utilities
- Repairs and Maintenance
 - Staff (janitorial- and handyman-type services)
 - Supplies and Equipment
- Property Management:
 - Staff
 - Legal, office expenses, advertising, office supplies
- Security

Financing Operations

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Market-Rate Rental

- Standard Costs:
 - Property management
 - Maintenance
 - Utilities
 - Amenities
 - Debt service

Affordable Rental

- Standard Costs
 - Property management
 - Maintenance
 - Utilities
 - Amenities
 - Debt service
 - Service coordination
 - Community facilities
 - Reserves



ALAMEDA COUNTY
Community Development Agency

HOUSING DEVELOPMENT AND OPERATING SUBSIDIES

Affordable Housing Subsidies

19

- Subsidies required to keep rents affordable.
- Two types of subsidies:
 - (1) Operating subsidies
 - e.g., project-based rental assistance or capitalized operating reserves
 - Pays the difference between tenant rents and costs of operations (especially for lowest income level units).
 - (2) Development subsidies
 - e.g., tax credits, HOME, CDBG
 - Helps pay the costs of construction, development, or major rehabilitation – debt and debt payments to allow for affordability/lower rents.

Affordable Housing Subsidies

20

- Need no or low debt to keep rents affordable to lower income households.
 - Rent that extremely low-income households can afford is too low to cover the costs of operating an apartment building, even if developers could build that building for free.
- Gap financing from government sources is critical.
 - Gap development financing bridges the gap between total development costs and the funds the developer can get from the commercial bank loan (mortgage).

Operations Example

21

	Market Rate Rental	Affordable Rental
Rent	\$1,800	\$850
Operations	\$800	\$800
Cash Flow	\$1,000	\$50

The cash flow from these projects is available to support commercial debt and, in a market rate project, is the profit (return on investment) required for the developer to take the risk of development.

Primary Gap Development Financing Subsidy Sources

22

- Low Income Housing Tax Credits
- Federal Government HUD Grants
- State Government Programs
- Local Government Programs
- Quasi-Governmental Agencies

Federal Government Funding Sources

23

Primary Current Programs

- Community Development Block Grant
- Home Investment Partnerships Program
- Housing Opportunities for Persons with AIDS
- Section 8
 - project- and tenant-based
- Veterans Affairs Supportive Housing
- HUD 811 – Disabled Housing

State - Cap-and-Trade AHSC

24

- Goal: to fund projects that:
 - Result in the reduction of greenhouse gas emissions and vehicle miles travelled (VMT)
 - Increase accessibility of housing, employment centers and key destinations through low-carbon transportation options such as walking, biking and transit.
- Targets households that earn $\leq 50\%$ AMI or a “Disadvantaged Community”.

AHSC – Three “Project Area” Types

25

- Transit Oriented Development (TOD) Project Areas
 - Must be served by “high quality transit”.
 - Must include affordable housing.
- Integrated Connectivity Project (ICP) Project Areas
 - Not served by “high quality transit”.
- Rural Innovation Project Areas (RIPA)
 - Must be located in a rural area.

State - Cap-and-Trade AHSC

26

- Funds are decreasing.
 - From \$70m in our region in the first year to \$70m statewide now.
- Competitive process.
 - There is no regional set aside.
 - Alameda County competes against markets with more local subsidy like San Francisco, Santa Clara and Los Angeles Counties.

State - Bond Funds

- California Voters approved two major bond programs in 2003 and 2006.
 - All of these funds are now completely expended.
- SB 3, if passed, will be a new source at the state level.
 - Will be a competitive process.
 - With Measure A1, Alameda County is well positioned to access these funds, if passed.

Local Government Funding

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- Incentives
- In-lieu fees
- Linkage fees
- Taxes (e.g., San Mateo or Berkeley)
- General Obligation Bonds
 - e.g., Measure A1
- Boomerang/General Fund
- MHSA

Quasi-Government Agency Funding

- Federal Home Loan Bank Affordable Housing Program (AHP)
 - Competitive grant program created by Congress.
 - Facilitates the development of affordable rental housing and homeownership opportunities for very low-, low-, and moderate-income households.
 - A rental project must have at least 20% of the units occupied by, and affordable for, very low-income households.
- Fannie Mae/Freddie Mac (National Housing Trust Fund)
 - Sets own standards for buying mortgages.

Past Available Public Funding Sources

30

- ❑ Redevelopment Housing Set-asides
- ❑ HUD 202 – Senior Housing Development
- ❑ Mental Health Services Act Housing Program
 - Sunset on May 30, 2016.
- ❑ State Multifamily Housing Program
 - Not currently funded.
- ❑ State Infill & Infrastructure Grant Program
- ❑ State Homeless Youth Multifamily Housing Program
- ❑ State Affordable Housing Innovation Program Local Housing Trust Fund Program (LHTF)



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Community Development Agency

LOW INCOME HOUSING TAX CREDITS



Low Income Housing Tax Credits

32

- What are tax credits?
 - A dollar-for-dollar reduction of the income tax owed to the federal and state governments.
- How do tax credits work?
 - Developer “sells” right to receive tax credits/benefits to investor with income tax liability.
 - Investor (limited partner) invests in cost of project by “paying” developer for tax benefits.
 - Developer uses funds to construct project (equity).
 - Investment “repaid” not from cash flow but value of income tax credit over 10 years.

Low Income Housing Tax Credits

33

- Largest national affordable housing production program.
 - Each state authorized to distribute a certain amount.
- Alameda County is in North/East Bay Region.
 - With Contra Costa, Marin, Napa, Solano and Sonoma Counties.
 - Region receives 10.8% of total California credits.
- 55-year affordability required.
- Minimum of either:
 - 40% of units at $\leq 60\%$ AMI; or
 - 20% of units at $\leq 50\%$ AMI.

Low Income Housing Tax Credits

34

- Developers receive more points on 9% TCAC applications based on:
 - Amenities
 - Experience (including number of projects in service)
 - Lowest income targeting
 - Leveraging
 - Readiness to proceed
 - Sustainable building methods

9% vs. 4% Tax Credits

35

- 9% is highly competitive and limited.
- 4% is not competitive but requires higher local subsidy level.

	9% Tax Credits	4% Tax Credits
Competition	Very high	Low
Local Leverage Amount Required	Low	High
Amenity Costs	Higher (due to competitive req.)	Lower
Rents	Lower due to competitive req. (< 50% AMI)	Generally higher (60% AMI)

Alameda County 9% Tax Credit History

36

- \$137M in 9% tax credits allocated to 12 projects in Alameda County since 2015.
- Projects located in Alameda, Berkeley, Fremont, Livermore, Oakland, Pleasanton, San Leandro.
- Each project averaged **\$148K/unit in public funding.**
 - City = \$102K/unit
 - Land donations/waiver = \$51K/unit
 - State = \$26K/unit (IIG, TOD, VHHP, AHSC)
 - County = \$10K/unit (HOME, HOPWA, Boomerang)
 - AHP = \$5K/unit

Alameda County 4% Tax Credit History

37

- \$89M in 4% tax credits allocated to 9 projects in Alameda County since 2015.
- Projects in Berkeley, Dublin, Emeryville, Hayward, Newark, Oakland and Pleasanton.
- Each project averaged **\$209K/unit in public funding.**
 - State = \$96K/unit (IIG, TOD, VHHP, MHP, RHCP, AHSC)
 - City = \$94K/unit
 - Land donations/waivers = \$12K/unit
 - County = \$11K/unit (HOME, HOPWA, Boomerang)
 - AHP = \$9K/unit

Example Tax Credit Project

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- Two scenarios: 9% tax credits and 4% tax credits.
- 80-unit development

	30% AMI	40% AMI	50% AMI	60% AMI
1-bedroom	8	8	9	5
2-bedroom	4	6	7	8
3-bedroom	3	6	8	7

- Development costs = \$48,793,362
 - Acquisition costs = \$4,340,000
 - Soft costs = \$12,380,328
 - Hard costs = \$31,684,987

Example Tax Credit Project

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Permanent Funding Sources	4% Project Amount	9% Project Amount
Tax Credit Investor Proceeds	\$20,090,321	\$25,375,000
City Financing	\$11,801,500	\$11,801,500
Amortizing Permanent Loan	\$9,656,000	\$9,656,000
Other Public Funding needed for gap	\$5,006,689	\$0
Alameda County Boomerang	\$1,837,390	\$1,837,390
Income from Operations Prior to Conversion	\$279,372	\$279,372
General Partner Equity	\$100	\$100
Total	\$48,112,628	\$48,949,362

Complexity of Affordable Housing Financing

40

- Requires development subsidies (tax credits, State and local subsidies)
- Local development subsidies are essential for obtaining tax credits
- Operating subsidies critical for Very-Low-Income units and Extremely-Low-Income units.

Upcoming Deadline of Funding Sources

41

- ❑ Critical AHSC and tax credit deadlines occur in the first half of 2018.
- ❑ For Alameda County projects to be competitive, any Measure A1 Bond funds must be committed ahead of the deadlines:

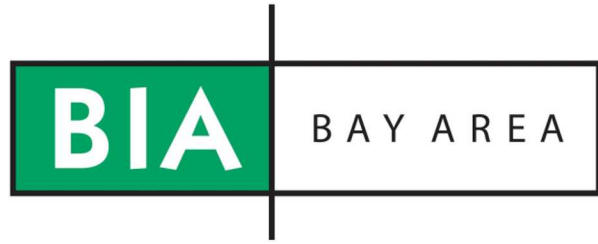
Funding Source	Deadline	BOS Meeting Deadline
AHSC	January, 2018	December, 2017
9% TCAC - 1st Round	March, 2018	February, 2018
9% TCAC - 2nd Round	June, 2018	May, 2018



ALAMEDA COUNTY
Community Development Agency

DISCUSSION

September 18, 2017 – Housing Subcommittee



BUILDING INDUSTRY ASSOCIATION

DATE: Jan. 29, 2021

TO: Alameda Mayor Marilyn Ezzy Ashcraft and Councilmembers

FROM: Lisa Vorderbrueggen, BIA|Bay Area East Bay Executive Director for Governmental Affairs

RE: Agenda Item 6-C - Adoption of Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects

Dear Mayor and Councilmembers:

BIA|Bay Area represents more than 400 companies working to entitle, develop, design and construct much-needed housing in communities throughout the region including Alameda.

We respectfully request that the City Council postpone a vote on the proposed resolution until staff has had an opportunity to meet with stakeholders and thoroughly explore and mitigate the potential unintended consequences. The resolution appears to have been written by a union attorney and the city has conducted little or no outreach with the development community prior to its inclusion on the council's public agenda.

Our members are not opposed to project labor agreements. PLAs provide critical workforce certainty at a time when the industry is experiencing severe labor shortages.

Independently negotiated PLAs allow the developer and prime contractor to address craft labor shortages by way of requiring multiple competitive bidders and allowing the developer to supplement with its own workforce without having to commit an entire project to be union. The process also allows the developer to address the community's desires for local hire conditions including provisions for the hiring of local, minority- and women-owned businesses. The need for flexibility in selecting a workforce is particularly important when building lower density, single-family homes. Alameda residents and the city's own policies expressly call for equity and diversity in the hiring practices of the businesses that live and work in the city. This resolution will hurt those efforts.

Adoption of the resolution in its current form precludes productive direct negotiations between the developer and the unions to craft an agreement tailored to the specific needs of the project and community. The resolution language should be amended to preserve the ability for the developer and the labor groups to independently negotiate an agreement that benefits the both parties and the community and promotes equity and diversity. Requiring such deals to obtain a City Council waiver further drives up the cost of housing through procedural and political delays and serves as yet another barrier to much-needed housing.

In addition, Section 4 in the resolution is overly broad and may trigger a PSA on private projects that include a Community Facilities District or other type of assessment district where bond funds flow through the city. It could also capture projects where the city is providing fee credits when the developer is performing the work. The proposed resolution also appears to require prevailing wages even under circumstances when prevailing wages are not required by law. The language should be amended to specify which funds, credits and subsidies trigger the PSA and prevailing wage requirements.

Another path where projects may be unintentionally captured under the PSA mandate is through the Development Agreement (DA) and Disposition and Development Agreement (DDA) process. Will the City be expanding the criterion under which a project will be required to enter into a DA or DDA and, as a result, trigger the PSA provision?

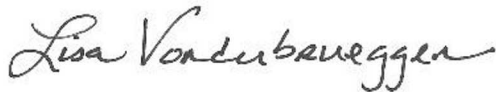
At minimum, the resolution should expressly grandfather all projects for which the city has already approved moving forward with an ENA and other pending or approved developments in the pipeline. Mandating a PSA negotiation process late in the entitlement timeline will likely render these projects financially unfeasible and deprive the community of critical jobs, investment and housing.

The Bay Area's unprecedented housing supply and affordability crisis remains one of the region's most serious challenges, especially at a time when the fall-out from the COVID-19 pandemic is hurting so many families, businesses and communities. Alameda has already taken a number of important steps to help advance the construction of housing at all income levels and will be reassessing its strategies in the coming months through the update of its Housing Element. This resolution will take Alameda in the opposite direction.

We strongly urge you to continue your consideration of the proposed PSA mandate so that all stakeholders will have the opportunity to assess its impacts on the cost and supply of housing along with the city's desire to promote hiring equality and diversity. Making private residential projects more difficult and expensive to build in the City of Alameda will make housing more costly, less affordable to working families and disproportionately hurt our most vulnerable communities.

Please don't hesitate to contact me if you have any questions. I look forward to working with the city on this critical issue.

Sincerely yours,



Lisa A. Vorderbrueggen

East Bay Executive Director for Governmental Affairs

Building Industry Association of the Bay Area

lvorderbrueggen@biabayarea.org

Cell 925-348-1956

Twitter @BIABayArea

Contra Costa Centre Transit Village

1350 Treat Blvd., Suite 140

Walnut Creek, CA 94597

www.biabayarea.org

CC:

Vice Mayor Malia Vella

Councilman Tony Daysog

Councilwoman Trish Herrera Spencer

Councilman John Knox White

Yibin Shen, City Attorney

Lara Weisiger, City Clerk

Eric Levitt, City Manager

Paul McDougall, California Housing & Community Development

From: [Marilyn Ezzy Ashcraft](#)
To: [Eric Levitt](#); [Gerry Beaudin](#); [Yibin Shen](#); [Lara Weisiger](#)
Subject: FW: [EXTERNAL] City of Alameda Private Work
Date: Tuesday, January 19, 2021 1:18:44 PM

fyi

Marilyn Ezzy Ashcraft
Mayor, City of Alameda
510-747-4745

From: Heidi Galla [mailto:hrg1104@gmail.com]
Sent: Tuesday, January 19, 2021 9:06 AM
To: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Tony Daysog <TDaysog@alamedaca.gov>; Trish Spencer <tspencer@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>
Subject: [EXTERNAL] City of Alameda Private Work

Dear Mayor Ezzy Ashcraft, Vice Mayor Vella, Councilmember Daysog, Councilmember Spencer and Councilmember Knox White,

As a longtime Alameda resident, I am extremely disappointed to see the city council take up the issue of expanding the PSA. This PSA does not benefit Alameda or Alamedans, instead it benefits the Unions. As mentioned in the language of the PSA itself, construction is a path to middle-class careers and income, without the need for advanced degrees providing crucial economic opportunities for local residents.

If the concerns are truly for fair wages and timely completion of construction projects, tie this to each contract with prevailing wage requirements and liquidated damage assessments, not an overreaching PSA. This PSA would force non-union contractors to use employees that are from the union halls, instead of their own local employees, giving out of town employees priority over nonunion workers living closer to home. Merit shop based contractors bid work based on what they know their crews can perform. Their bids are based on their crew's talent, training, experience, commitment to quality, and track record of performing work safely and ethically. Don't punish Alamedans by making it impossible for their merit shop employers to win work with the city of Alameda.

Sincerely,

Heidi Galla

From: [Marilyn Ezzy Ashcraft](#)
To: [Eric Levitt](#); [Gerry Beaudin](#); [Yibin Shen](#); [Lara Weisiger](#)
Subject: FW: City of Alameda - Objection to Expansion of PSA
Date: Tuesday, January 19, 2021 1:17:37 PM

fyi

Marilyn Ezzy Ashcraft
Mayor, City of Alameda
510-747-4745

From: jacob alter [mailto:jacob.alter@gmail.com]
Sent: Tuesday, January 19, 2021 9:21 AM
To: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; Tony Daysog <TDaysog@alamedaca.gov>; Trish Spencer <tspencer@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>
Subject: [EXTERNAL] City of Alameda - Objection to Expansion of PSA

Mayor Marilyn Ezzy Ashcraft
Vice Mayor Malia Vella
Councilmember Tony Daysog
Councilmember Trish Herrera Spencer
Councilmember John Knox White

As an Alameda resident, I am extremely disappointed to see the city council take up the issue of expanding the PSA. This PSA does not benefit Alameda or Alamedans, rather it benefits the Unions. As mentioned in the language of the PSA itself, construction is a path to middle-class careers and income, without the need for advanced degrees providing crucial economic opportunities for local residents.

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Please do not punish Alamedans by making it impossible for their merit shop employers to win work with the city of Alameda.

Sincerely,
Jacob Alter

From: [Marilyn Ezzy Ashcraft](#)
To: [Eric Levitt](#); [Gerry Beaudin](#); [Yibin Shen](#); [Lara Weisiger](#)
Subject: FW: City of Alameda Private Work - 6-C
Date: Tuesday, January 19, 2021 1:16:41 PM

Public comment fyi

Marilyn Ezzy Ashcraft
Mayor, City of Alameda
510-747-4745

From: Nicholas Falzone [mailto:falzone_nick@gmail.com]
Sent: Tuesday, January 19, 2021 9:30 AM
To: Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>
Subject: [EXTERNAL] City of Alameda Private Work

Dear Mayor Ashcraft,

As a lifelong Alamedan, I am extremely disappointed to see the city council take up the issue of expanding the PSA. This PSA does not benefit Alameda or Alamedans, instead it benefits the Unions. As mentioned in the language of the PSA itself, construction is a path to middle-class careers and income, without the need for advanced degrees providing crucial economic opportunities for local residents.

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Respectfully,

Nicholas Falzone

From: [Eric Levitt](#)
To: [Lara Weisiger](#); [Gerry Beaudin](#)
Cc: [Yibin Shen](#)
Subject: FW: [EXTERNAL] A reminder of how your union Project Labor Agreement (PLA) is discriminatory & wasteful.
Date: Tuesday, January 19, 2021 12:07:59 PM
Importance: High

From: Manager Manager
Sent: Tuesday, January 19, 2021 12:06 PM
To: Eric Levitt <elevitt@alamedaca.gov>
Subject: FW: [EXTERNAL] A reminder of how your union Project Labor Agreement (PLA) is discriminatory & wasteful.
Importance: High

From: ericdchristen@gmail.com [<mailto:ericdchristen@gmail.com>]
Sent: Tuesday, January 19, 2021 9:17 AM
To: Tony Daysog <TDaysog@alamedaca.gov>; Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>; Malia Vella <MVella@alamedaca.gov>; John Knox White <JknoxWhite@alamedaca.gov>; Trish Spencer <tspencer@alamedaca.gov>
Cc: City Attorney <cityattorney@alamedacityattorney.org>; Manager Manager <MANAGER@alamedaca.gov>; Andrew Thomas <athomas@alamedaca.gov>
Subject: [EXTERNAL] A reminder of how your union Project Labor Agreement (PLA) is discriminatory & wasteful.
Importance: High



Councilmembers,

Before you advance any PLA today consider the following:

In 2016 the then City Council of Alameda decided, in its infinite wisdom, to openly

discriminate against the 85% of the local construction workforce that chooses to be union-free. How? They approved a Project Labor Agreement (PLA) (or “Project Stabilization Agreement” as you refer to it) that does the following on any project it covers:

See attached PLA to verify everything I am about to point out.

1. Article 12.2: All workers are forced to pay union dues even if those workers are union-free, [which is 86% of the California construction workforce according the Labor Department](#). So a union-free employee must pay monies to a private organization they do not wish to belong to.
2. Article 13: Union-free contractors are not allowed to use any of their workforce unless unions are unable to fill the workforce needs of union-free contractors.
3. Article 16: Young men and women in union-free apprentice programs are explicitly excluded from working on your projects. Did you know your PLA openly discriminates against young men and women in union-free apprentices? Do you support this?
4. Article 17: Any union-free employee who happens to work on your projects are forced to pay into union health, welfare and pension plans they will not vest in and therefore those monies are lost to workers (\$20+ per hour). This is wage theft? Did you know that this provision was in your PLA? Do you support it? [Here is how this works](#).

For these reasons you have handicapped yourselves with regards to getting the same number of bidders you would have otherwise gotten had you operated the way you were operating up until 2016.

Lastly, your PLA has this requirement in Article 14.3:

14.3 To evaluate the performance of the Contractor/Employer(s) and Union(s) in achieving the employment of Local Residents goal on this Project, the Contractor/Employer(s) shall submit copies of their monthly certified payroll reporting forms to the Coordinator. The Contractor shall also submit a monthly report tabulating the ratio of Local Residents to total employees for each craft Union to the coordinator. The performance of the Contractor/Employer(s) and Union(s) will be revised at the periodic Joint Administrative Committee meetings called for in Section 20 of this Agreement.

Question: Where is the data from these JAC meetings? Has the city council been kept up to date on these statistics? CFEC would like to request this data.

I hope you take a few moments to actually review your PLA and consider making changes to it today before you expand it to even more projects that will only reduce bidders and increase costs all while discriminating against workers.

Sincerely,

Eric Christen

Executive Director

Coalition for Fair Employment in Construction

www.opencompca.com

From: [Nicole Goehring](#)
To: [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [Tony Daysog](#); [Trish Spencer](#); [John Knox White](#); [Attorney](#); [City Clerk](#); [Manager](#)
Subject: [EXTERNAL] 1/19 Agenda Item 6-C - Request for Adoption of Alternative Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects
Date: Friday, January 15, 2021 9:05:47 AM
Attachments: [We sent you safe versions of your files.msg](#)
[City of Alameda - PSA Alternative Resolution Letter.pdf](#)
[City of Alameda PSA Alternative Resolution.pdf](#)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

Mayor Ashcraft and Alameda City Council,
Please find attached our request for an alternative Project Stabilization Agreement that includes local workers and companies who build quality projects built to last. Please let me know if you have any questions.

Nicole Goehring

V.P. Government and Community Affairs
ABC NorCal
4577 Las Positas Road, Unit C, Livermore, CA 94551
nicole@abcnorcal.org | (c) 209.482.1697 | (p) 925.960.8513 | (f) 925.474.1310
abcnorcal.org

Founded on the merit shop philosophy, ABC helps members develop people, win work and deliver that work safely, ethically, profitably and for the betterment of the communities in which ABC and its members work

#Lovewhatyoudo #Lovewhatyoubuild

INSTRUCTORS NEEDED

- ▶ Competitive Salary
- ▶ Make an impact in the future of construction
- ▶ FULL-TIME and PART-TIME instructors needed

In the following TRADES:

- Electrical
- Commercial & Industrial Painting
- Carpentry/Laborer

Contact Daniel for more information: daniel@abcnorcal.org



We're training tomorrow's
skilled workforce today.
abcnorcal.org

January 19, 2021

Marilyn Ezzy Ashcraft, Mayor
City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501

Re: Agenda Item 6-C. – Adoption of Resolution Requiring a Project Stabilization Agreement for Certain Construction Projects
(City Manager)

Dear Mayor Ashcraft:

On behalf of the Associated Builders and Contractors Northern California Chapter (ABC NorCal) and its nearly 500 construction and construction related firms representing 21,000 essential merit shop construction workers and over 800 essential apprentices who have been building your and communities throughout Northern California for nearly 45 years, we respectfully request you consider adopting the alternative Project Stabilization Agreement resolution presented before you tonight so that local Alameda workers and companies can continue to build the best quality projects built to last.

For forty-five years ABC NorCal has been committed to training a skilled workforce in the construction trades. We train over 1,800 state and federally approved apprentices, journey workers, and craft trainees each year in Alameda County, a vital component to the sustainability of the industry. Our apprentices, journey workers and craft trainees come from all walks of life and emerge from our training programs with a good-paying career and the skills needed for employment security and their future success.

Traditional Project Stabilization Agreements (PSAs) create barriers for local, minority and women-owned construction employers and their employees from participating in building their community because they contain provisions that do not allow for the complete utilization of their workforces excluding the men, women, and veterans who have graduated from state approved, unilateral apprenticeship training programs in pursuit of a construction career that provides stability for them, their family and their community.

Thank you for your consideration of adoption of this alternative resolution that will result in removal of barriers and maximized opportunities for all hardworking Alameda taxpayers and residents. Please include this correspondence in your January 19, 2021 meeting minutes. Please contact me at nicole@abcnorcal.org with any questions.

Sincerely,

Nicole Goehring
Vice President Govt. and Community Relations

Cc: Vice Mayor Malia Vella
Councilmember Tony Daysog
Councilmember Trish Herrera Spencer
Councilmember John Knox White
Yibin Shen, City Attorney
Lara Weisiger, City Clerk
Eric Levitt, City Manager

Attachment: Project Stabilization Agreement Resolution

CITY OF ALAMEDA RESOLUTION NO. _____

REQUIRING A PROJECT STABILIZATION AGREEMENT FOR CERTAIN
CONSTRUCTION PROJECTS

WHEREAS, it furthers the interests of the City of Alameda (“City”) and the public it serves to ensure that construction projects in the City are built safely with a properly trained workforce; and

WHEREAS, the City has a responsibility to the public to promote efficient project construction on proprietary construction projects, invest City funds prudently in the construction of local projects and facilitate the timely and successful completion of local projects; and

WHEREAS, it is in the interest of the City and the public it serves for proprietary construction projects to proceed without labor disruptions that can cause delay, and to create an effective mechanism to minimize such disruptions in order to minimize project costs and timely complete projects; and

WHEREAS, the proprietary interests of the City will be advanced by avoiding labor disputes, misunderstandings or grievances on construction projects in the City through access to and use of dispute resolution procedures agreed upon in project stabilization agreements (each a “PSA”) thus promoting cost efficient and timely project construction and completion; and

WHEREAS, the City objectives on construction projects will be advanced, and the proprietary interests of the City will be protected, by providing a consistent source of skilled construction workers, requiring contractors to bid on a level playing field and avoiding labor conflicts; and

WHEREAS, the construction industry provides a path to middle-class careers for individuals without advanced degrees or facing barriers to quality employment, and is therefore a crucial component in the effort to build economic opportunities for local residents, local high school graduates, veterans and re-entry populations; and

WHEREAS, the use of Inclusive PSAs will effectuate the City’s objective of completing proprietary construction projects more effective, efficient and built to last consistent with the goals and purposes described above.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Alameda, the City shall require as a condition of approval of each construction project that fits into one of the categories described below, that the applicant, owner or developer, together with its contractors, have negotiated in good faith, including by proposing to the other party reasonable and customary PSA terms and conditions, and have entered into a PSA with the Building and Construction Trades Council of Alameda County (“BTC”), consistent with the criteria set forth herein below.

The construction projects for which a PSA is to be negotiated include any of the following:

1. A construction project on a parcel owned by the City and leased to a tenant where either:
 - a. the City’s Qualified Shell Improvement Credit (“QSI”), as defined below, exceeds five million dollars (\$5,000,000); the initial term of the lease is at least seven (7) years; and the tenant is a for-profit entity; or

b. the City's Qualified Shell Improvement Credit ("QSI"), as defined below, exceeds seven and a half million dollars (\$7,500,000); the initial term of the lease is at least seven (7) years; and the tenant is a not-for-profit entity.

For purposes of this construction project category, QSI means the total value of the improvements or alterations that a tenant of a City owned building is contractually required to perform on the building, for which the tenant is generally given a rent credit approximately equal to the total value of such improvements or alterations.

2. An affordable housing construction project on a parcel owned by the City or conveyed to a non-profit affordable housing developer by the City, of any cost and regardless of funding source, where the project satisfies the criteria set forth in the Alameda County Measure A1 Housing Bond Implementation Policies (as they may be amended from time-to-time), including the threshold number of units requiring the use of a project labor agreement.

3. A construction project that includes a parcel sold or conveyed by the City where the City and the applicant, owner or developer are entering into a development agreement ("DA"), disposition and development agreement ("DDA") or other agreement required by the DA or DDA ("Ancillary Agreement") and the estimated total project cost as contemplated in the DA, DDA or Ancillary Agreement exceeds five million dollars (\$5,000,000).

4. A construction project that does not fit into categories 1-3 above and that is receiving either a direct contribution of funds from the City or a credit or other non-monetary subsidy from the City, which funds, credit or subsidy will be applied by the applicant, owner or developer to particular project costs as described in the DA, DDA or Ancillary Agreement, where the total funds, credit, or subsidy provided by the City is in excess of five million dollars (\$5,000,000).

BE IT FURTHER RESOLVED, that each PSA shall provide that:

Employment of Local Residents: To the extent allowed by law, and as long as they possess the requisite skills and qualifications, the contractor awarded the Project shall endeavor to achieve the following goals for the Project:

A minimum of 40% of the total work hours shall be performed by workers who reside within the City of Alameda. If the contractor cannot provide a sufficient number of persons from within the City of Alameda, the contractor shall recruit for referral, persons residing in Alameda County or neighboring counties.

Apprenticeship: The contractor awarded the Project shall, unless otherwise exempted, comply with the provisions of California Labor Code Section 1777.5, and shall be responsible for assuring that all subcontractors comply with the requirements of that Section.

Project Bid Documents: This Agreement shall be included in the bid documents for the Project and any other Project solicitations. The City shall announce the requirements of this Agreement at any pre-bid meeting(s) for the Project.

Governing Law: The parties understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this

Agreement shall take place in the municipal, superior, or federal district court in Alameda County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

BE IT FURTHER RESOLVED, that each PSA shall apply for the duration of the construction work on the project, but shall not apply to operations and maintenance work performed by other workers, contractors or a tenant's employees at the facility, as further defined as part of the PSA negotiation process; and

BE IT FURTHER RESOLVED, that any modifications regarding the terms or applicability of this resolution must be approved by a vote of City Council; and

BE IT FURTHER RESOLVED, that if any provision of this resolution or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the invalidity will not affect other provisions or applications of this resolution that remain effective without the invalid provision or application, and to that end the provisions of this resolution are severable; and

BE IT FURTHER RESOLVED, that the City Council may, upon majority vote, suspend application of this Resolution to a construction project or part of a construction project involving specific portions and types of work.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 19th day of January 2021, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 20th day of January 2021.

Lara Weisiger, City Clerk

City of Alameda

Approved as to Form:

Yibin Shen, City Attorney
City of Alameda