

CITY OF ALAMEDA RESOLUTION NO. _____

REQUIRING A PROJECT STABILIZATION AGREEMENT FOR CERTAIN CONSTRUCTION PROJECTS, INCLUDING CONSTRUCTION ASSOCIATED WITH CERTAIN LEASES, WHICH INCLUDE: CITY-OWNED PROPERTY, CITY FUNDING AT A SET THRESHOLD, APPROVAL OF CERTAIN AGREEMENTS, OR OTHER CITY SUBSIDIES OR CREDITS AT SET THRESHOLDS

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, PSAs advance the above described objectives; and

WHEREAS, PSAs have been used successfully on a variety of large and small development projects in the region, including the retrofitting and remodeling of existing buildings and facilities; 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 PSAs will effectuate the City's objective of completing proprietary construction projects 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 apply to all work covered under the Master Labor Agreements of the craft unions affiliated with BTC (collectively, "Unions");

BE IT FURTHER RESOLVED, that each PSA shall provide that: (a) the prime contractor and all contractors and subcontractors recognize the Unions as the exclusive bargaining representatives of the respective craft workers employed on the project; (b) the prime contractor and all contractors and subcontractors are signatories to the Master Labor Agreement of the applicable Union and use the Union hiring halls as the primary source to satisfy all project craft needs consistent with standard referral procedures, including provisions for the prime contractor and all contractors and subcontractors to secure workers from other sources in the event the Union hiring hall cannot provide workers within forty-eight (48) hours of a written request; (c) the wages, benefits and working conditions of the craft employees performing work on the project are governed by the Master Labor Agreements of the Union(s); (d) the prime contractor and all contractors and subcontractors employ apprentices indentured in a State-approved joint apprenticeship training program(s) for the applicable craft(s) or trades(s), in accordance with the ratios contained in California Labor Code Section 1777.5; (e) there are no strikes, lockouts or other work stoppages on the project and there is an expedited dispute resolution mechanism to govern any conflicts; (f) discrimination based on race, national origin, religion, sex, sexual orientation or political affiliation is prohibited; (g) a drug testing procedure and protocol is followed; (h) a dispute resolution procedure is followed where disputes arising in connection with the project are resolved by a neutral arbitrator; (i) use of the "Helmets to Hardhats" program in order to assist returning Veterans in obtaining employment and training opportunities on the project; and (j) the prime contractor and all contractors and subcontractors may be subject to an agreed upon percentage goal for employment of local residents obtained through the Alameda Point Collaborative Workforce Development Program, including advance notification by the prime contractor and all contractors and subcontractors of employment opportunities.

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;

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

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 20th day of October 2020, 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 21st day of October 2020.

Lara Weisiger, City Clerk
City of Alameda

Approved as to Form:

Yibin Shen, City Attorney
City of Alameda