

ORDINANCE NO. _____

An ordinance amending Los Angeles Administrative Code to add a new Article 19 to Chapter 1, Division 10, to require the Board of Public Works to approve a department-wide project labor agreement applicable to construction of public works of improvement and to include in the agreement provisions to promote the hiring of unemployed and under-employed workers.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 19 is added to Chapter 1 of Division 10 of the Los Angeles Administrative Code to read as follows:

**CHAPTER 1, ARTICLE 19
PUBLIC INFRASTRUCTURE STABILIZATION ORDINANCE**

Sec. 10.45. Purpose.

The City awards many contracts to private firms to construct public works improvements. This Article, also referred to as the Public Infrastructure Stabilization Ordinance advances the interests of the City by promoting the use of project labor agreements for those public works improvements that meet certain criteria.

Project labor agreements are the preferred tool to ensure that important proprietary goals of the City are achieved, including completion of construction projects on-time and within budget by minimizing labor misunderstandings, grievances and conflict along with emphasizing worker safety.

Project labor agreements also advance the City's interests by ensuring that unemployed and underemployed residents will receive employment opportunities at City public works construction projects. Over the years, project labor agreements have proven to be an excellent mechanism to promote the hiring of unemployed and under-employed City residents. These agreements have proven their effectiveness in targeting construction employment and training opportunities to mitigate the harms caused by geographically-concentrated poverty.

City public works of improvement construction contracts are subject to the State's Prevailing Wages Law or in some instances the Federal Davis Bacon Wage statute, each of which provides covered workers with substantially greater wages and benefits than otherwise required by law. Increasing access to employment opportunities with prevailing wage is one way for the City directly to combat poverty and stimulate economic reinvestment.

In addition, having the opportunity to work on a City contract affords workers valuable experience that can be used to garner future employment. The City has an

interest in expanding the field of competent construction workers to address the problems associated with a significant local unemployed, under-employed and unskilled workforce. The City serves this interest by expanding the opportunities that workers have to be referred for employment by City contractors.

Further, there are many unemployed and under-employed City residents who are interested in getting good work and learning a construction trade. Young people constitute a significant portion of this City's unemployed and under-employed residents. Experience indicates that unemployment and under-employment contribute to devastating social burdens including a sustained, large population of unskilled workers, increased crime and increased need for costly social services. The City, as a principal provider of social support services, has an interest in promoting an employment environment that protects such limited resources. In creating a program that helps link Contractors with potential construction workers, the City serves this interest and provides greater opportunities for employment on public improvement construction contracts.

In February 2008, the Economic Roundtable released a study commissioned by the Community Development Department on *Concentrated Poverty in Los Angeles*. For purposes of the study, concentrated poverty was defined as a census tract with 40 percent or more of households below the poverty level in 2000. The study found that the City of Los Angeles has higher rates of concentrated poverty than the nation and the larger Los Angeles region. In fact, "Nineteen percent or over 238,000 of the 1.3 million households in the City of Los Angeles were living below the federal poverty threshold in 2000. A quarter of the census tracts in the City (216 tracts) have poverty rates of at least 30 percent."

The City's areas of concentrated poverty are growing in size and increasing in number. The City desires to address this problem by creating programs that train and employ people living in these areas of concern.

The Public Infrastructure Stabilization Ordinance targets construction employment and training opportunities in ways calculated to mitigate harms caused by geographically concentrated poverty, to address unemployment and underemployment in concentrated poverty neighborhoods and to advance the skills of the local labor pool, especially the youth by maximizing opportunities to earn prevailing wage.

To further serve these interests, the Port of Los Angeles, the Los Angeles World Airports, the Department of Water and Power and the Housing Authority of the City of Los Angeles are encouraged to adopt policies consistent with this article.

Sec. 10.45.1. Definitions.

The following definitions shall apply throughout this article:

“Apprentice” means any worker who is indentured in a bona fide construction apprenticeship program registered and approved by the State of California, Division of Apprenticeship Standards (DAS) or in the case of Projects with federal funding, in a bona fide apprenticeship program approved by the US Department of Labor (DOL) and California DAS.

“Area Median Income” (“AMI”) means the area median income for the Los Angeles-Long Beach Metropolitan Statistical Area, as determined annually by the U.S. Department of Housing and Urban Development.

“City” means the City of Los Angeles, a municipal corporation.

“Concentrated Poverty Neighborhood” means a census tract in which 40% or more of the households have incomes below the federal poverty guidelines.

“Contract” means a construction contract for a public work of improvement.

“Contractor/Subcontractor/Employer” means any individual firm, partnership, owner-operator, or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a contract with Public Works or any of its contractors or subcontractors/owner-operators of any tier, with respect to the construction of any part of a Project Work.

“Designated Administrative Agency” or “DAA” means the Department of Public Works, Bureau of Contract Administration, who shall bear administrative responsibilities under this Article, including rule making.

“Disadvantaged Worker” means an individual whose primary place of residence is within the City and who, prior to commencing Project Work, either: (a) has a household income of less than 50% of the AMI; or (b) faces at least one of the following barriers to employment: being homeless, receiving public assistance; lacking a GED or high school diploma, having a history of involvement with the justice system; being a single parent; or (c) suffers from chronic unemployment or underemployment.

“Local Resident”: (i) means an individual whose primary place of residence is within the City and is within a zip code containing at least part of one census tract with a rate of unemployment in excess of 200% of the Los Angeles County unemployment rate at the time of application or containing all or part of a Concentrated Poverty Neighborhood; or (ii) means an individual whose primary place of residence is within the City and is within the zip code containing at least part of one census tract with a rate of unemployment in excess of 100% of the Los Angeles County unemployment rate at the time of application.

“Project Work” means work performed in construction of a public works improvement project subject to the Public Works project labor agreement.

“Public Works” means the Department of Public Works of the City.

Sec. 10.45.2. Department-Wide Project Labor Agreement.

The Board of Public Works shall approve a department-wide project labor agreement and apply it to qualifying future public works improvement projects in accordance with criteria established by the Board.

Sec. 10.45.3. Targeted Hiring.

The Public Works project labor agreement shall include provisions that obligate a Contractor to follow targeted hiring procedures to make reasonable efforts to achieve specific hiring opportunities for Local Residents, Apprentices and Disadvantaged Workers:

- (a) The Contractor and Subcontractor retain the authority in making individual hiring decisions.
- (b) Hours worked by residents of states other than California shall not be included in the calculations of total hours of Project Work for purposes of determining whether the Contractor and Subcontractor achieved the percentage requirements set forth in this Article.

Sec. 10.45.4. Transfer and Promotion.

This Article does not prevent a Contractor from filling job vacancies or newly created positions by transfer or promotion of its existing staff.

Sec. 10.45.5. Administration.

- (a) The DAA shall promulgate rules and regulations to assure efficient implementation and enforcement of this Article.
- (b) The DAA may delegate duties to other City departments and provide for the manner in which exemptions from this Article are approved and documented.
- (c) The DAA shall develop the forms to be used toward implementing this Article.
- (d) The DAA shall investigate alleged violations of this Article and monitor compliance with this Article.

- (e) The DAA shall annually report to the Board of Public Works after the ordinance is adopted, or as otherwise instructed by City Council.

Sec. 10.45.6. Enforcement.

If the DAA determines that a Contractor has violated this Article, the DAA may recommend that the Board of Public Works take any of the following actions:

- (a) Withhold payments as liquidated damages pursuant to the Contract.
- (b) Terminate, suspend or cancel the contract in whole or in part.
- (c) Debar the contractor from bidding on City projects for up to a two-year period.
- (d) Document the determination in the Contractor Evaluation required under Los Angeles Administrative Code Section 10.39, *et seq.*
- (e) Require that the Contractor document the determination in each of the Contractor's subsequent Contractor Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40, *et seq.*
- (f) The City may pursue any and all rights and remedies available at law or in equity.

Sec. 10. 45.7. Exemptions.

The following Contracts are exempt from this Article. The DAA shall develop rules and regulations for the application of these exemptions:

- (a) Contracts where the provisions of this Article conflict with federal or state law.
- (b) Contracts with another governmental entity.
- (c) Contracts where the provisions of this Article would conflict with federal or state grant funded contracts, or conflict with the terms of the grant or subvention.
- (d) Contracts awarded under urgent or emergency circumstances.

Sec. 10. 45.8. Application of this Article.

This Article is applicable to Contracts entered into after the rules and regulations have been promulgated by the DAA.

Sec. 10.45.9. No Third Party Beneficiary.

This Article does not create beneficial interests in any person who is not a party to the Contract.

Sec. 10.45.11. Coexistence with Other Available Relief for Specific Deprivations of Protected Rights.

This Article shall not be construed to limit a person's right to bring legal action for violation of other laws.

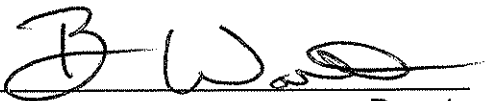
Sec. 10. 45.12. Severability.

If a court of competent jurisdiction finds any provision of this Article invalid, the remaining provisions shall remain in full force and effect.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of DEC 17 2010.

JUNE LAGMAY, City Clerk


By 
Deputy

Approved JAN 07 2011


Mayor

Approved as to Form and Legality

CARMEN TRUTANICH, City Attorney

By 
HUGO S. ROSSITTER
Deputy City Attorney

Date 10/13/2010

File No. 09-0963

DECLARATION OF POSTING ORDINANCE

I, MARIA VIZCARRA, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 181520 – Amending Los Angeles Administrative Code to add a new Article 19 to Chapter 1, Division 10, to require the Board of Public Works to approve a department-wide project labor agreement applicable to construction of public works of improvement - a copy of

which is hereto attached, was finally adopted by the Los Angeles City Council on **December 17, 2010**, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on **January 11, 2011** I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on **January 11, 2011** and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this **11th** day of **January 2011** at Los Angeles, California.



Maria Vizcarra, Deputy City Clerk

Ordinance Effective Date: **February 20, 2011**

Council File No. **09-0963**