

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SUBSECTIONS (A), AND (H) THROUGH (M)
OF SECTION 4-117 OF THE FRESNO MUNICIPAL CODE,
RELATING TO NATIONAL TARGETED HIRING IN
CONTRACTS FOR PUBLIC WORKS CONSTRUCTION

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 4-117 of the Fresno Municipal Code is amended to read:

SECTION 1234. - NATIONAL TARGETED HIRING IN CONTRACTS FOR
PUBLIC WORKS CONSTRUCTION.

(a) Definitions.

(1) "Apprentice" is any worker who is registered and approved by the State of California, Division of Apprenticeship Standards, or who is indentured in a "Viable Apprenticeship Program" as defined in subsection (a)(11).

(2) "City Manager" refers to the City Manager of the City of Fresno, or designee.

(3) "City Referral List" is the list compiled and maintained by the Program Coordinator, listing qualified Journeyman and Apprentice National Targeted Workers residing in the City of Fresno. City shall verify any designated Journeyman worker from the City Referral List meets the definition of Journeyman as defined by

1 of 7

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:

BC

Ordinance No.

California Code of Regulations, Title 8 Section 205, as it may be amended from time to time.

(4) "Contract" means a construction contract for any Public Work of Improvement, as defined in this article.

(5) "Contractor" is defined as any individual firm, partnership, or corporation, or combination thereof, including joint ventures and any subcontractor of any tier, which is an independent business enterprise and which has entered into Contract with respect to the construction of any part of a Public Work of Improvement.

(6) "Division of Apprenticeship Standards Forms" are the forms in which every Contractor will request any and all apprentices from each trade in order to establish compliance with this section, as provided more specifically in the implementing Administrative Order.

(7) "Program Coordinator" means the City employee, or designee, responsible for monitoring Contractors' compliance with federal Disadvantaged Business Enterprise requirements and the requirements of this section.

(8) "Journeyman" shall be defined as set forth in the California Code of Regulations, Title 8 Section 205, as it may be amended from time to time.

(9) "National Economically Disadvantaged Area" is:

- i. A zip code outside of the City of Fresno that includes a census tract, or portion thereof, in which the

median annual household income is less than \$~~[55,000]~~35,000 per year, as measured and reported by the U.S. Census Bureau in the most recent U.S. Census; or

ii. A zip code, or any portion of, which falls inside the City of Fresno, [which] the average median income of ~~which census tracts~~ is less than \$~~[55,000]~~35,000 per year, as measured and reported by the U.S. Census Bureau in the most recent U.S. Census. [The amount shall be adjusted annually to the nearest \$1,000 on July 2, based on changes in the Consumer Price Index.]

(10) "National Targeted Worker" is an individual who resides in a National Economically Disadvantaged Area.

(11) "Pre-Apprenticeship Program" means a program that works with Viable Apprenticeship Programs and teaches basic technical and job-readiness skills for a designated apprenticeable occupation or occupation sector, to prepare participates for apprenticeship training.

(12) "Viable Apprenticeship Program" means an apprenticeship program that is approved to train in the applicable craft or trade by the California Department of Apprenticeship Standards or U.S. Department of Labor, and which has a graduation rate of no less than fifty percent (50%), or has graduated at least one apprentice annually in each of the five (5) years immediately

preceding the date of the award of Contract by City. Any apprenticeship program that has been approved for less than ten (10) years shall be deemed a Viable Apprenticeship Program provided that, following the fifth anniversary of its approval by the California Department of Apprenticeship Standards or U.S. Department of Labor, it graduates at least one apprentice each subsequent year.

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~~[(g)]-(h)~~ Application. Except as otherwise provided and subject to all local, state, and federal laws affecting the City's procurement of goods and services, or use of funds, this section shall apply to any Public Work of Improvement of the City, including all departments, agencies, corporations, and attached and unattached boards and commissions, that cumulatively or alternatively utilize any public spending, public funding, or public incentives.

~~[(h)]-(i)~~ Non-Applicability of Section. The provisions of this section shall not apply to any of the following:

The City Manager shall develop rules and regulations for the application of these exemptions:

- (1) Work done by the City with its own personnel and/or equipment.
- (2) Any Public Work of Improvement obtained from or through any government entity.

(3) Contracts where the provisions of this section would conflict with federal or state grant funded contracts or conflict with the terms of the grant or subvention.

(4) When the Contract is deemed by Council to be of urgent necessity for the preservation of life, health, or property and such Contract is authorized by resolution passed by at least five affirmative votes of the Council and containing a declaration of the facts constituting the urgency.

[(5) Any Public Work of Improvement covered by a project labor agreement which includes hiring preferences.]

[(i)]-(j) Geographic Preferences. This section shall be interpreted to prohibit in-state or local geographic preferences in the hiring of National Targeted Workers for City's contracts for Public Work of Improvement utilizing federal or state funding.

[(j)]-(k) Local Funds. Provided no federal or state funding is jeopardized, a Public Work of Improvement funded solely by local funds shall impose a requirement on Contractors that National Targeted Workers must reside in a National Economically Disadvantaged Area located within the City of Fresno and as defined by subsection (b), paragraph (9), of this Ordinance.

[(k)]-(l) Indemnity. A Contractor under this section shall, to the furthest extent allowed by law, agree to indemnify, hold harmless, and defend the

City and each of its officers, officials, employees, agents, and volunteers in a form approved by the City Risk Manager.

~~[(1)]-(m)~~ Severability. If this section or any sentence, clause, or phrase of this section is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this section. The Council hereby declares that it would have passed this Ordinance and adopted this and each section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Date

Deputy

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Brandon M. Collet Date
Supervising Deputy City Attorney