CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 40 (2020)

A BILL FOR AN ORDINANCE

RELATING TO COMMUNITY WORKFORCE AGREEMENTS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the provisions of Ordinance 19-24, relating to community workforce agreements.

SECTION 2. Chapter 2, Article ___, Revised Ordinances of Honolulu 1990, as enacted by Ordinance 19-24, is amended to read as follows:

"Article ___. Community Workforce Agreements

Sec. 2-___.1 Definitions.

As used in this article:

"Agreement to be Bound" means the agreement attached to the Community Workforce Agreement that [~~must~~] may be executed by [~~each and every~~] a Contractor as a condition of working on a Covered Project, under which [~~each and every~~] a Contractor agrees to be bound by the CWA.

"Community Workforce Agreement" or "CWA" means the multi-craft collective bargaining agreement between the city, the Hawaii Building and Construction Trades Council and its affiliated labor unions, and the Hawaii Construction Alliance and its affiliated labor unions, that governs the terms and conditions of employment on [~~all~~] Covered Projects.

"Contractor" means any individual, firm, partnership, corporation, or other business entity (including but not limited to a general contractor, project manager, construction manager, or primary employer, or combination thereof), including joint ventures, and any successors and assigns of the foregoing, that has entered into a contract to perform, assign, award, or subcontract any part of the construction work on a Covered Project, and all contractors and subcontractors of any tier.

"Covered Work" means all work covered by Master Agreements of the Unions.

"Covered Project" means any large-scale public works project, including any police, fire, emergency services, erosion, rock-fall mitigation, road, storm-water or sewer infrastructure, and pump station projects, in which there is a contract in excess of $2,000,000 for the building, erection, installation, or assembly of a new structure, building, or facility, or of new infrastructure, including any such projects receiving

funding from a bond issuance of the city, and any other public works project where the city has determined that delay in completing the project may lead to interruption or delay of services or use of facilities that are important to the essential operations or infrastructure of the city; provided, however, that the term does not include the routine operation or maintenance of a structure, building, or facility, or of new infrastructure.

"Local Area" means the City and County of Honolulu.

"Maintenance" means the upkeep of a structure, building, or facility, or of infrastructure, to preserve the original functional and operational state of the structure, building, facility, or infrastructure, and includes any task that has been traditionally and historically performed by public workers in or upon structures, buildings, facilities, and infrastructure.

"Master Agreement" means the master collective bargaining agreement of each Union signatory to the Community Workforce Agreement.

"Operation" means activities related to the normal performance of the functions for which a structure, building, facility, or infrastructure is intended to be used.

"Union" includes the Hawaii Building and Construction Trades Council ("HBCTC") and the Hawaii Construction Alliance ("HCA"), and their affiliated labor organizations, acting on their own behalf and on behalf of their own respective affiliates and member organizations, whose names are subscribed to the Community Workforce Agreement. The parties to the Community Workforce Agreement may mutually agree, in writing, to amend or modify the list of affiliated labor organizations in the event there is a change in affiliation. Nothing in this article is intended to imply that the city has the authority to approve which local unions may affiliate with the HBCTC or HCA.

~~[Sec. 2-____.2 Required terms for citywide community workforce agreement.~~

~~The citywide Community Workforce Agreement ("CWA") must include the following terms:~~

~~(1) The CWA must be binding on all Contractors at all tiers, and all Contractors shall condition the engagement of each subcontractor on the subcontractor's execution of an Agreement to be Bound;~~

~~(2) The CWA must include all construction work on a Covered Project that is included in a Master Agreement;~~

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~~(3) The City may select any qualified bidder for its award of a contract for a Covered Project without regard to whether it is otherwise a signatory to a Master Agreement. The bidder need only be willing, ready and able to execute and comply with the terms of the CWA in order to be awarded a contract on a Covered Project;~~

~~(4) The CWA must prohibit discrimination on any basis prohibited by federal, state, or local law;~~

~~(5) Alleged violations of the CWA must be resolved by a mandatory, final, and binding arbitration procedure;~~

~~(6) The Unions shall refrain from strikes, picketing, and other labor actions on or arising from a Covered Project and the Contractors shall refrain from lockouts or similar actions on or arising from a Covered Project;~~

~~(7) Contractors shall request referral of residents of the Local Area, and the CWA must contain a goal that not less than eighty percent of all hours on Covered Projects will be worked by residents of the Local Area. To the extent allowed by law, and consistent with the Unions' hiring hall provisions, as long as they possess the requisite skills and qualifications, residents of the Local Area shall be referred to Contractors working on Covered Projects. In the event there are insufficient residents in the Local Area to meet the needs of Covered Projects, Contractors may request referral of residents from other counties in the State of Hawaii;~~

~~(8) All apprentices must be indentured in a state-approved apprenticeship program;~~

~~(9) Incorporation of the "Helmets to Hardhats" program, which creates pathways for careers in construction to returning veterans;~~

~~(10) The wages, hours, shift schedules, holidays, and other terms and conditions of employment must be governed by the Master Agreement of the applicable craft; and~~

~~(11) The CWA must be in effect for a five-year term, and unless otherwise ordered by the City, will roll over for successive five-year terms thereafter. The CWA must apply to each Covered Project until completion of the project.~~

~~**Sec. 2-___.3 Local business preference.**~~

~~The city has an interest in the use of local businesses in order to support the local economy and local infrastructure development. Therefore, to the maximum extent possible, Contractors on Covered Projects are encouraged to contract with businesses that are owned by residents of the city or have their primary business located within the city.~~

~~**Sec. 2-___.4 Contract awards.**~~

~~The award of a contract on a Covered Project must be conditioned upon the execution of an Agreement to be Bound by the CWA, and all Contractors on all Covered Projects must execute an Agreement to be Bound by the CWA as a precondition of performing, assigning, awarding, or subcontracting work on a Covered Project.~~]

Sec. 2-___.2 Contract awards.

The award of a contract on a Covered Project may be conditioned upon the execution of an Agreement to be Bound by the CWA, and all Contractors on all Covered Projects so conditioned must execute an Agreement to be Bound by the CWA as a precondition of performing, assigning, awarding, or subcontracting work on a Covered Project.

Sec. 2-___.3 Required terms for citywide community workforce agreement.

In the event a Community Workforce Agreement is required, the CWA must include the following terms:

(1) The CWA must be binding on all Contractors at all tiers, and all Contractors shall condition the engagement of each subcontractor on the subcontractor's execution of an Agreement to be Bound;

(2) The City may select any qualified bidder for its award of a contract for a Covered Project without regard to whether it is otherwise a signatory to a Master Agreement. The bidder need only be willing, ready and able to execute and comply with the terms of the CWA in order to be awarded a contract on a Covered Project;

(3) The CWA must prohibit discrimination on any basis prohibited by federal, state, or local law;

(4) Alleged violations of the CWA must be resolved by a mandatory, final, and binding arbitration procedure;

(5) The Unions shall refrain from strikes, picketing, and other labor actions on or arising from a Covered Project and the Contractors shall refrain from lockouts or similar actions on or arising from a Covered Project;

(6) All apprentices must be indentured in a state-approved apprenticeship program;

(7) Incorporation of the "Helmets to Hardhats" program, which creates pathways for careers in construction to returning veterans; and

(8) The CWA must be in effect for a five-year term, and unless otherwise ordered by the City, will roll over for successive five-year terms thereafter. The CWA must apply to each Covered Project until completion of the project."

SECTION 3. SECTION 3 of Ordinance 19-24 is amended to read as follows:

"SECTION 3. [~~No later than 90 days after~~] After the effective date of this ordinance, the Mayor [~~shall:~~] shall

[~~(1) Negotiate~~] negotiate with the Unions and execute on behalf of the City a Community Workforce Agreement [~~to apply to all Covered Projects; or~~

~~(2) Seek an extension of time from the Council, if necessary to complete negotiations. However, the Mayor is directed to negotiate and execute the Community Workforce Agreement with all deliberate speed. The Council may grant the extension of time by adopted resolution~~]."

SECTION 4. Consistency with Hawaii State Constitution. All "covered projects" and all "community workforce agreements," as those terms are defined in Chapter 2, Article ___, Revised Ordinances of Honolulu 1990, as enacted by Ordinance 19-24 and as amended by this ordinance, shall comply with and be in accordance with the right to organize for the purpose of collective bargaining guaranteed under Article XIII, Sections 1 and 2, of the State Constitution, and the operation and maintenance of facilities that are constructed pursuant to such community workforce agreements shall be consistent with the merit principle under Article XVI, Section 1, of the State Constitution.

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SECTION 5. Conflict with federal or Hawaii State law. Nothing in this ordinance shall be interpreted or applied so as to conflict with federal or State law, or to create any requirement, power, or duty in conflict with any federal or State law.

SECTION 6. Severability. If any provision of this ordinance, or the application thereof to any person or circumstances, is held invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 7. Ordinance material to be repealed is bracketed and stricken and new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

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SECTION 8. This ordinance takes effect on May 30, 2020.

INTRODUCED BY:

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DATE OF INTRODUCTION:

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APR 7 2020
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Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

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Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____ .

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KIRK CALDWELL, Mayor
City and County of Honolulu