

S 404

(R-2015-214)

10-20-14

RESOLUTION NUMBER R- 309276

DATE OF FINAL PASSAGE OCT 21 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO
CONFIRMING THE CITY OF SAN DIEGO'S INTERPRETATION AND
ENFORCEMENT OF PROPOSITION A

WHEREAS, on September 2, 2011, an initiative petition was filed with the City that would amend the San Diego Municipal Code to prohibit the City from requiring a contractor to use a project labor agreement (PLA) on City construction projects, later known as Proposition A; and

WHEREAS, on June 5, 2012, Proposition A was passed by the voters of the City of San Diego and, in relevant part, was codified as San Diego Municipal Code section 22.4402; and

WHEREAS, after the initiative petition was filed with the City but before the vote on Proposition A, the California Public Contract Code was amended to prohibit state funding or financial assistance for construction projects of charter cities with a charter provision, initiative, or ordinance that prohibits, limits, or constrains in any way the governing board's authority or discretion to adopt, require, or utilize a PLA on some or all of the construction projects awarded by the City; and

WHEREAS, San Diego Municipal Code section 22.4402 includes an exception ("the exception clause"), which states the prohibition against requiring a PLA applies "except as required by state or federal law as a contracting or procurement obligation, or as a condition of the receipt of state or federal funds"; and

WHEREAS, California Public Contract Code sections 2500 - 2503 would prohibit the City from receiving State funding and financial assistance for its construction projects if the City did not have discretion to adopt, require, or utilize PLAs on all City construction projects; and

WHEREAS, Proposition A's Official Ballot Argument in support states "Proposition A was written to protect the City's access to state construction funds"; and

WHEREAS, the exception clause incorporates State law in the manner in which California Public Contract Code sections 2500 - 2503 require, which is for the City to have authority and discretion, not limited in any way, to adopt, require, or utilize PLAs on all City construction projects, notwithstanding the contrary operative language of Proposition A, to be eligible to receive State funding and financial assistance; and

WHEREAS, the City is obligated to comply with and enforce ordinances of the City of San Diego, including Proposition A, and will do so in accordance with the language of Proposition A, including the exception clause; and


WHEREAS, California Public Contract Code sections 2500 - 2503 are in effect and enforceable against the City at this time; and

WHEREAS, as long as California Public Contract Code sections 2500 - 2503 are in effect and enforceable against the City, the exception clause is operative and the City maintains complete authority and discretion to adopt, require, or utilize PLAs on all City construction projects, no matter the funding source; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that as required by California Public Contract Code sections 2500 - 2503, and under the exception clause of San Diego Municipal Code section 22.4402, the City and the City Council are not prohibited, limited, or constrained in any way from adopting, requiring, or utilizing PLAs that include the taxpayer

protection provisions of California Public Contract Code section 2500 on any construction projects awarded by the City.

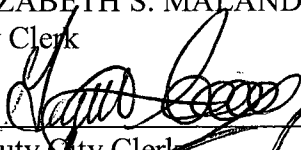
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Thomas C. Zeleny
Deputy City Attorney

TCZ:
10/16/2014
Or.Dept:CD3
Doc. No. 882932

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 10/20/2014

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10/21/2014
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on OCT 20 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 21 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Resolution Number R- <u>309276</u></p>
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