

**RESOLUTION NO. 23-080**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CARSON, CALIFORNIA, CONDEMNING CONSTRUCTION  
INDUSTRY LABOR LAW VIOLATIONS**

**WHEREAS**, the City of Carson has a strong interest in economic development that grows the middle class and protects the workforce and law-abiding employers; and

**WHEREAS**, the City of Carson has a responsibility to protect public health and safety, and seeks to ensure that construction projects meet legal standards on a worksite; and

**WHEREAS**, violation of wage and hour, income tax, employment tax, discrimination, safety and workers' compensation laws are an issue of major concern in the construction industry; and

**WHEREAS**, the construction industry in the State of California features an extensive underground sector in which workers are misclassified as independent contractors or paid in cash off the books, denying the public necessary tax revenues and denying workers the protection of wage and hour laws - this has been referred to as construction's "underground economy." While this has long been the case in single-family residential construction and renovation, today this form of workplace fraud has penetrated the largest commercial construction sites in California; and

**WHEREAS**, a study from the Los Angeles-based Economic Roundtable found that more than 143,900 jobs - or one out of six jobs - in California's \$152 billion construction industry were part of the so-called underground economy in 2011. Of those, 104,100 jobs were unreported by employers and more than 39,000 employees were misclassified as independent contractors; and

**WHEREAS**, estimates vary widely, but some put the underground economy at 11% to 12% of U.S. gross domestic product (GDP). In the third quarter of 2022, U.S. GDP was estimated at \$25.7 trillion, which puts the underground economy at more than \$2.8 trillion; and

**WHEREAS**, these practices hurt workers, law-abiding businesses, government, and Carson taxpayers; and

**WHEREAS**, studies have shown that the underground construction economy is concentrated in the non-union sector of the construction market; and

**WHEREAS**, studies have shown that one powerful enforcement action to prevent the theft of wages, taxes, and diminution of quality of services is to support union contracts between employers and employees; and

**WHEREAS**, studies have determined that the heavy concentration of payroll violations and wage theft on large commercial construction projects, especially among employees of mechanical, electrical and drywall contractors, offers good opportunities for strategic enforcement initiatives targeting these specific sectors within the broader construction industry; and

**WHEREAS**, in certain circumstances, the nonpayment of workers' wages or the misclassification of an employee as an independent contractor constitutes criminal conduct under California law; and

**WHEREAS**, employers who force their employees into the underground economy, either by misclassifying them as independent contractors or by paying them off the books, routinely violate minimum wage and overtime laws. They do not pay workers' compensation or unemployment insurance premiums, leaving the workers themselves on the hook if they are injured or laid off. They do not pay required social security contributions, leaving these workers without proper retirement benefits; and

**WHEREAS**, studies have shown that employers who successfully push their workforce into the underground economy (by mislabeling them independent contractors or paying them off the books) save significant payroll and fringe benefit costs for their workers, substantially undercutting their law-abiding business competitors; and

**WHEREAS**, when workers are forced into the underground economy by employers who misclassify them or do not report them at all, public programs experience significant tax losses. Social security contributions are not made; state and federal income taxes are not paid; and

**WHEREAS**, according to the California Office of the Attorney General, the State of California loses billions of dollars to the underground economy, and fraud and tax evasion most often occur in cash-driven businesses such as construction; and

**WHEREAS**, California Assembly Bill 1296 established the Tax Recovery in the Underground Economy Criminal Enforcement Program (TRUE) on January 1, 2020. Formerly known as Tax Recovery and Criminal Enforcement (TRaCE), TRUE is an important measure to support the State's efforts to combat and deter underground economic crimes in California. The passage of AB 1296 strengthens TRUE by permanently establishing the program in state law and creating the framework for the State legislature to fund TRUE investigative teams in every major metropolitan area in the state. By strengthening TRUE, the state will improve its multi-agency collaboration to combat economic activities, protect consumers, workers, and law abiding businesses, as well as collect lost tax revenue for the state.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON DOES HEREBY RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** The City Council condemns construction industry labor law violations, including those related to misclassification of employees as independent contractors, paying employees off the books, employee retaliation, failing to pay required overtime, and failing to pay required workers' compensation, unemployment insurance premiums, or social security contributions, which are necessary for the protection and benefit of their workers as well as for fairness to the law-abiding above-ground construction industry economy.

**SECTION 3.** The City Council further finds that the City of Carson currently takes numerous measures, including but not limited to the following, to prevent the aforementioned abuses from occurring on City-permitted or contracted construction sites:

**A.** The City has entered into a Project Labor Agreement with the Los Angeles/Orange Counties Building and Construction Trade Councils and the Signatory Craft Unions ("PLA"), which:

(i) establishes the policy of the City for qualifying "project work" (as defined in the PLA to generally mean construction work on City public projects) to be contracted exclusively to contractors who agree to be bound by the PLA and to require each of their subcontractors to be bound;

(ii) provides that the contractors recognize the Los Angeles/Orange Counties Building and Construction Trade Councils and the signatory local Unions as the exclusive bargaining representative for the employees engaged in project work and that the Unions shall be the primary source of all craft labor employed on same, and that in the event a contractor has its own core workforce, it shall follow the procedures outlined in the PLA with respect to selection and referral of Union employees; and

(ii) requires compliance by such contractors and subcontractors with all applicable laws and provides that, upon finding a violation, the City may take such action as is permitted by law to encourage the contractor to come into compliance, including assessing fines and penalties and/or removing the offending contractor from project work, and also, in accordance with the contract between the City and the contractor, City may cause the contractor to remove any offending subcontractor from its project work.

**B.** The form Public Works Agreement template that the City uses for all of its public project construction contracts requires construction contractors to: (i) comply with applicable labor and wage laws, including with respect to payment of prevailing wages, maintenance of payroll records, 8-hour work day limitations, overtime payment requirements, and provision of workers' compensation insurance for its employees; and (ii) comply with the PLA to the extent the work performed under the construction contract is within the scope of the PLA.

**C.** Prior to issuance of building and construction permits for private development/construction projects, City requires submittal of proof that the developer's construction company is state licensed and carries the required workers' compensation insurance.

**SECTION 4.** The City Council further finds that, with the foregoing measures and protections in place, the City has not experienced any significant instances of construction industry labor law violations of which the City is aware in recent years on any City-contracted or permitted construction site. Nevertheless, the City Council hereby directs the City Manager to do the following in order to further help ensure that such abuses do not occur on any City-contracted or permitted construction site in the future:

**A.** Direct staff to promptly report, and assist others with reporting, any suspected instances of construction industry wage theft, worker misclassification, employee retaliation, or other labor law violations to the appropriate enforcement agencies for further investigation, including the California Attorney General, the California Employment Development Department, the U.S. Department of Labor Wage and Hour Division, the Internal Revenue Service, the National Labor Relations Board, local law enforcement agencies, and/or other government entities, as appropriate.

**B.** Pursue enforcement of City's contract remedies against any City contractor which engages in such violations or which fails to comply with its duties of ensuring its subcontractors do not engage in such violations.

**C.** Call upon the State Attorney General, Employment Development Department, and Tax Recovery in the Underground Economy Employee Criminal Enforcement Program (TRUE), and/or other representatives of the City and state and federal labor enforcement agencies, to develop recommendations for how they can partner with the City in strengthening existing prevention and/or enforcement efforts to prevent and address wage theft, worker misclassification, and employee retaliation on City-permitted or contracted construction sites, including opportunities for the City to: (i) support the investigation and resolution of employment violations; (ii) educate construction employers and employees about City, state and federal legal requirements; (iii) improve collaboration and cooperation between the City and other local, state, and federal agencies investigating and enforcing civil and criminal employment violations; (iv) incentivize construction employers and their subcontractors to comply with City, state, and federal wage, workers classification, and nonretaliation requirements; and (v) penalize construction employers who, directly or through sub-contractors, violate wage, worker classification, and/or non-retaliation requirements. The working group shall propose recommendations to ensure that all workers can exercise their rights under the law regardless of immigration status.

**SECTION 5.** This Resolution shall be effective immediately upon its adoption.

**SECTION 6.** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

[Signatures on Following Page]

**PASSED, APPROVED and ADOPTED** this 2nd day of May, 2023.

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Mayor Lula Davis-Holmes

**ATTEST:**

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Khaleah K. Bradshaw, City Clerk

**APPROVED AS TO FORM:**

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Sunny K. Soltani, City Attorney