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EXECUTIVE POLICY ORDER ESTABLISHING WAGE LAW COMPLIANCE CERTIFICATION REQUIREMENTS FOR TAX INCREMENT FINANCING (TIF)

The following provisions shall be incorporated into all municipal Tax Increment Financing (TIF) Agreements with the City of Northampton:

1. It shall be a special and material condition of this Agreement that any construction manager, general contractor or other lead or prime contractor, or any entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person that is engaged to perform the construction work during the term of this Agreement on the property that is the subject of the Tax Increment Financing Plan (hereinafter, collectively and individually, the "firm") shall comply with the following qualifications and conditions at all times during their performance of work on the property:

- a) The firm shall not have been debarred or suspended from performing construction work by any federal, state, or local government agency or authority;
- b) The firm shall comply with G.L. c. 149 (including but not limited to Sections 148 and 148B), c. 151, c. 152 and the Fair Labor Standards Act with respect to the performance of construction work on the property that is subject to the TIF Plan;
- c) The firm shall certify that neither they nor any of their subcontractors of any tier have been subject to a federal or state criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date vendors submit their bids or proposals; or
- d) The firm shall disclose any such criminal or civil judgment, administrative citation, final administrative determination, order or debarment and include copies with their applications.
- e) The firm shall report any such criminal or civil judgment, administrative citation, final administrative determination, order or debarment resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act while their TIF application with the City is pending and, if awarded a TIF, during the term of the resulting TIF, within five (5) days of applicant's receipt.

f) Applicants awarded a TIF that have disclosed a federal or state criminal or civil judgment, administrative citation, final administrative determination, or order resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act within three (3) years prior to the date they submit their applications, or Applicants awarded a TIF that receive a federal or state criminal or civil judgment, administrative citation, order or final administrative determination or order resulting from a violation of G.L. c. 149, c. 151, or the Fair Labor Standards Act during the term of the TIF, and that are not otherwise prohibited from public contracting, may be required by the City to obtain a wage bond or other form of suitable insurance in an amount equal to the aggregate of one year's gross wages for all employees, based on an average of its total labor costs for the past two years. Such bond must be maintained for the term of the TIF, and proof of such bond must be provided upon request by the City.

2. If any person or entity subject to the foregoing qualifications and conditions fails to comply with any of the foregoing qualifications and conditions with respect to work on the property, the parties agree that such an event materially frustrates the public purpose for which this Agreement and any certification of the tax increment financing plan by the EACC was intended to advance. In such an event, the tax relief provided by this agreement shall be terminated, and the City of Northampton shall petition the EACC for revocation of any certification of the TIF plan, and/or shall return any such funds already received in connection with the project.

3. In the event the owner of the property that is the subject of the Tax Increment Financing Plan challenges the termination of the tax relief provided by this agreement and/or the revocation by the EEAC of any certification of the TIF plan, the owner shall set aside in an escrow account the full amount of the tax savings that would have accrued under this Agreement while any such challenge remains pending. The owner shall have a continuing obligation to contribute to the escrow account the amount of additional tax savings that accrue under this Agreement while its challenge remains pending. The owner shall promptly provide to the City documentation of its compliance with this obligation. The conditions of the escrow account shall provide that, in the event the owner is unsuccessful in its challenge, the funds in the account shall be paid to the City. The owner's obligations under this subsection shall be judicially enforceable.



David J. Narkewicz
Mayor, City of Northampton

Dated: May 11, 2018