ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE ADDING CHAPTER 3.156 TO THE SACRAMENTO CITY CODE, RELATING TO COMMUNITY BENEFITS AGREEMENTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 3.156 is hereby added to the Sacramento City Code to read as follows:

Chapter 3.156 COMMUNITY BENEFITS AGREEMENTS

3.156.010 Title.

This chapter may be referred to as the Community Benefits Agreements Ordinance.

3.156.020 Purpose.

The purpose of this chapter is to establish a requirement that developers who receive significant development subsidies from the city provide community benefits as a condition of receiving those subsidies. This chapter requires developers to enter into community benefits agreements with the city as a condition of receiving significant development subsidies. In establishing this requirement, the city is seeking to achieve its goals of promoting inclusive economic development, securing community benefits, increasing the city's overall tax base, increasing the housing stock, facilitating new employment opportunities, and promoting economic growth within the city. This chapter provides the city with flexibility in determining the benefits that will be required under each agreement so that the benefits can be tailored to the type and impact of the development project.

3.156.030 Definitions.

The following definitions apply in this chapter:

"Affordable dwelling unit" means a dwelling unit that (i) will be rented at an affordable rent or sold at an affordable housing price and (ii) will have a regulatory agreement recorded on title, requiring the unit to remain affordable for a period of no less than 30 years.

"Affordable housing price" means a sales price of a for-sale dwelling unit that requires a low-income household to expend no more than 35% of its income on housing expenses (mortgage principal and interest, taxes, insurance, and assessments).

"Affordable rent" means an annual rent that is at or below the annual rent established by the California Tax Credit Allocation Committee for Sacramento County for the bedroom size and income level of a dwelling unit as of the date the development project is expected to be placed into service.

"Community benefits agreement" means a written contract between the city and a subsidized party that includes the terms by which the city will provide a development subsidy and the public benefits that the subsidized party must provide in exchange.

"Completed project" means a development project for which the city has issued a certificate of occupancy for all structures.

"Development project" means the construction, reconstruction, demolition, or alteration of the size of any structure.

"Development subsidy" means the city's expenditure of public funds or loss of revenue to subsidize a development project in the city, in a cumulative amount equal to or greater than the threshold amount, in the form of grants, below-market-rate loans, loan guarantees, fee waivers, land price subsidies, tax abatements, tax exemptions, tax credits, and bonds (excluding bonds issued under the Mello-Roos Community Facilities Act of 1982 (Cal. Gov. Code § 53311 et seq.), single-family mortgage revenue bonds issued under California Health & Safety Code section 52000 et seq., and assessment bonds issued under the Improvement Bond Act of 1915 (Cal. Sts. & Hy. Code §§ 8500-8887)), whether approved by the city in a single act or multiple acts. "Development subsidy" does not include an expenditure or loss in any amount as part of: (i) a public project, as defined in section 3.60.010; (ii) the disposal or acquisition of land under California Government Code section 37364; (iii) a housing project, including a mixed-use project, if at least 80% of the project's gross square footage is designated for residential use; or (iv) a project for which an application for a site plan and design review permit was approved under article I of chapter 17.808 before the effective date of this chapter, if the permit has not expired.

"Local area" means Sacramento, Yolo, Placer, El Dorado, Amador, San Joaquin, Sutter, Yuba, Nevada, and Sierra counties.

"Priority neighborhood" means a qualified census tract as defined in 26 U.S.C. section 42(d)(5)(B)(ii).

"Priority order" means priority is given from highest to lowest to: residents of the city who reside within a ZIP code any part of which is within a two-mile radius of the development project; residents of a priority neighborhood within the city; other residents of the city; residents of Sacramento County, outside of the city; and residents of Yolo, Placer, El Dorado, Amador, San Joaquin, Sutter, Yuba, Nevada, and Sierra counties.

"Subsidized party" means a person who is or will be the direct beneficiary of a development subsidy.

"Threshold amount" means $10,000,000, as adjusted in section 3.156.060.

3.156.040 Community benefits agreement - required.

A. A subsidized party shall enter into a community benefits agreement as a condition of receiving a development subsidy.

B. The community benefits agreement must include the terms required under section 3.156.030 and any other terms required by the city or agreed upon by the city and the subsidized party.

C. The city council may only approve a development subsidy if it approves a community benefits agreement at the same time.

3.156.050 Community benefits agreement – terms.

A. Except as provided in subsection C, each community benefits agreement must include the following terms:

1. To the extent permitted by law, a term requiring the subsidized party and its contractors, subcontractors (not including suppliers), and tenants to employ residents of the local area in priority order to:

a. Perform work on the development project for which the city is providing the development subsidy;

b. Perform work to improve, maintain, and repair the completed project; and

c. Work in businesses located in the completed project.

2. A term requiring the subsidized party and its contractors and subcontractors to comply with California's prevailing wage law (Cal. Labor Code §1770 *et seq.*) in connection with the development project.

3. A term specifying a clearly identifiable class of persons who will be third-party beneficiaries under the community benefits agreement.

4. A term requiring the following indemnity language: "The subsidized party shall defend, indemnify, and hold harmless the city, its officers, employees, and agents from and against all claims, actions, losses, damages, liability, costs and expenses of every type and description, including, but not limited to, attorney fees, to which any or all of them may be subjected by reason of, or resulting from, directly or indirectly, in whole or in part, the community benefits agreement."

5. Terms requiring the subsidized party to:

a. Provide small and local businesses with support, such as technical assistance, increased access to capital, or resources for building improvements;

b. Implement anti-displacement strategies, such as those intended to create stable tenancies, create paths to home ownership, provide secure employment opportunities, or enable small businesses to grow;

c. Provide affordable dwelling units; and

d. Undertake transportation projects or initiatives, such as those that enhance community connectivity, improve transportation options, or promote motor-vehicle-traffic-reducing measures.

B. In addition to the terms in subsection A, the city may require a community benefits agreement to include terms that require project-specific community benefits that it finds are warranted under the circumstances.

C. The city council may approve a community benefits agreement that does not include any term under subsection A.5 that it expressly finds is not warranted under the circumstances.

3.156.060 Adjustment of threshold amount.

A. During the years 2024 through 2025, the threshold amount is $10,000,000.

B. Every 24 months beginning on January 1, 2026, the threshold amount shall be adjusted automatically to take into consideration inflation by a factor equal to the percentage increase, if any, in the construction cost index for San Francisco (based on 1913 U.S. average = 100) during the 24 months ending on the preceding September 1 as published by Engineer News Record/McGraw-Hill Construction Weekly, or any substitute index that the city council adopts by resolution. The city manager or the city manager's designee shall calculate the adjustment, if any, to the threshold amount and shall advise the city clerk of the amended threshold amount.

3.156.070 Community input.

The city manager shall seek the input of the community that is or will be affected by the development project when developing the terms of, and evaluating the subsidized party's performance under, the community benefits agreement. In seeking the community's input, the city manager shall follow the policies and procedures, if any, that may be adopted under section 3.156.080.

3.156.080 Policies and procedures.

The city manager may adopt policies and procedures to implement and enforce the provisions of this chapter, including policies and procedures that address accessible and comprehensive community-input processes.