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# CITY OF OAKLAND

## AGENDA REPORT

**TO:** Office of the City Administrator  
**ATTN:** Dan Lindheim  
**FROM:** Department of Contracting and Purchasing  
**DATE:** January 13, 2008  
**RE:** **A Report and 1) Resolution Amending: A) Resolution No. 69687 C.M.S. Passed February 2, 1993, Authorizing the Local Employment Program, and B) Resolution No. 74762 C.M.S., Passed January 29, 1999, Authorizing a Pilot Apprenticeship Program, Both of which Require Contractors to Hire Oakland Residents to Implement Program Revisions; and an 2) Ordinance Amending Number 12388 C.M.S., Adopted December 18, 2001, to Authorize Revision of the Local Employment and Apprenticeship Programs By Resolution.**

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### SUMMARY

On October 28, 2008, the Public Works Committee requested staff recommend enhancement strategies for the 50% Local Employment (LEP) and 15% Apprenticeship Programs (15% AP). In response, Staff focused on, among other issues, economic development and work force development, including involvement of various stakeholders including community members, businesses, unions, and membership organizations. The City's local employment policies were also reviewed and recommendations are being made to increase opportunities for Oakland residents.

The recommendations are made within the context of existing local employment and apprenticeship policies. These recommendations focus on employment of Oakland residents with special consideration of "vulnerable population sectors", such as ex-offenders, youth and females living below the poverty level and graduates of pre-apprenticeship programs. A general overview of the recommendations is as follows:

1. Create more employment opportunities for Oakland residents by eliminating the LEP "core employee" exemption.
2. Establish hiring goals within the Local Employment Program (LEP) for females (voluntary), ex-offenders, and graduates from City of Oakland based pre-apprenticeship training programs. Apply additional credit for contractors able to satisfy Oakland hiring goals at a rate of (a) 5% females (voluntary); (b) 20% ex-offenders; and (c) 15% pre-apprenticeship graduates within the current 50% LEP and the 15% AP or over and above the 50% local resident goal.
3. Expand the Local Employment Program to apply to professional (non-construction) service occupations. Examples of professional service occupations would include data entry, customer service, auto mechanics, warehouse workers, manufacturing, etc. Professional services (non-construction) associated with engineering or accounting contracts would need to be assessed on an individual basis to determine the appropriateness of applying the local employment policies.

Item: \_\_\_\_\_  
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4. Secure workforce development monetary assistance from development agreements.
5. Require placement of 50% LEP and 15% Apprenticeship Programs and procedures in all Project Labor Agreements (PLAs) associated with Disposition and Development Agreements with the City.
6. Establish hiring goals based on zip code priorities.
7. Establish a revolving loan/grant fund to assist residents with the purchase of tools, clothing, and addressing initiation fees or reinstatement fees associated with state certified apprenticeship programs and union labor organizations.
8. Establish a bid incentive or bid preference for contractors who commit to and demonstrate capacity to meet the 50% resident hiring goals and 15% apprentice hiring goals through the provision of on-site resident employment on City funded or subsidized projects.

## **FISCAL IMPACT**

The reestablishment of the project specific 50% resident hiring goal will increase the staff time associated with the delivery of resident outreach, registration of residents, job development and referrals to contractors, increased interactions with the trade unions and other sources of state certified apprentices, and potentially increased staff time to resolve non-compliance issues when they occur. This may result in the need for an additional FTE (Administrative Assistant II) and minor restructuring of other resources. The cost associated with the Administrative Assistant II position is approximately \$91,909.96 including benefits.

There is a Contract Compliance Officer position that is vacant and budgeted for the current fiscal year. Filling this position would address the impact of transitioning the Assistant Compliance Officer position to Local Employment. Some cost savings have been realized with the vacant Contract Compliance Officer position and may offset part of the initial budgetary impact of filling the frozen Administrative Assistant II position.

Under the new recommended policies, from a programmatic standpoint, there will be a positive fiscal impact as more work hours will be leveraged for Oakland residents on City monitored projects. For example, if the core employee option were not applied, an additional \$11,131,362 in wages and fringe benefits could have been paid to Oakland residents for FY07-08. Those payroll dollars are then re-circulated at least 5 times within the Oakland community in the form of rents, services, purchases, and associated taxes to the City. The potential additional fiscal impact of the proposed changes would be an additional \$ 55,656,808.00 circulating through Oakland's economy.

While it is difficult to estimate the fiscal impact of providing living wage employment opportunities to the City's reentry, unemployed and under employed populations it is anticipated that as such opportunities are introduced to the community, there will be a reduction in support and public service needs typically associated with the lack of living wage employment. Living

wage jobs reduce some of the stressors that push individuals to work around the fringes of safe and productive living.

## **BACKGROUND**

Under the umbrella of the Mayor's "Model City" vision, the sources of recommendations were taken from the "Oakland Equity Policy", Hire Oakland and Contract Compliance sub-section of the Oakland Moving Forward, Community Task Force on Economic Development<sup>1</sup> and (b) The Oakland Equity Policy - Workforce Development Task Force of the Oakland Partnership<sup>2</sup>.

- The Model City vision of enhanced "Job Training and Workforce Development" set the tone and direction for the strategic planning and design processes of the Oakland Equity Policy and the Oakland Partnership.
- The "Oakland Equity Policy (OEP) surfaced from concerns regarding the belief that Oakland's economic growth has been uneven because it has not translated into social and economic development within disadvantaged neighborhoods.

The Oakland Equity Policy is designed to (a) provide a clear and consistent policy that conveys explicit objectives and yields reciprocal incentives for public/private equity partnerships; (b) assure reasonable financial and social returns on public investments in real estate Development; and (c) achieve balanced and equitable growth throughout the City, by creating linkages between Oakland's Central Business District Expansion and the social and economic development of disadvantaged neighborhoods.

- The Oakland Partnership's Workforce Development Task force is a public-private collaborative effort to create a vibrant economy. This effort, led by Oakland Mayor Ron Dellums and managed by the Oakland Metropolitan Chamber of Commerce (OMCC), involved over 1,000 participants from government, business, education, labor, and the community in general. In May 2007, a report was published outlining a series of recommendations entitled Taking Stock of Oakland's Economy produced by McKinsey & Company on behalf of the Oakland Metropolitan Chamber of Commerce.

### **History of Current LEP and 15% apprenticeship policies**

In February of 1993, the City of Oakland established the Local Employment Program (LEP) because Oakland residents were not sufficiently represented in the workforce used to build and rebuild the City. That initial program set a 40% resident hiring goal for City funded or assisted projects with all Oakland residents as "new hires". This program achieved an average of 41% resident employment on City of Oakland projects for the period FY 93-96.

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<sup>1</sup> [http://www.oaklandnet.com/TaskForceInfo/Economic\\_Development.pdf](http://www.oaklandnet.com/TaskForceInfo/Economic_Development.pdf)

<sup>2</sup> <http://www.oaklandpartnership.com/2008%20Quick%20Links/Reports/2008%20Executive%20Summary.pdf>

In February of 1997, the Local Employment Program (LEP) was revised to establish new goals and alternative penalty resolution opportunities for non-compliant contractors assessed with monetary penalties. The 1997 revisions established a 50% resident hiring goal; 50% of the new hires; and the first new hires were to be Oakland residents. It also established the option for contractors to satisfy local employment non-compliance issues through either monetary penalties or the provision of employment to Oakland residents on non-City funded projects equal to the non-compliance shortfalls.

The City also established the 15% Apprenticeship Program to secure employment opportunities for Oakland residents who wished to enter the construction industry as building and construction trade apprentices. This program achieved an average of 54% for the period FY 99-02. Both programs achieved compliance with their respective hiring goals of 40% and 50%. In 2002 additional revisions were made to the Local Employment Program (LEP) and 15% Apprenticeship Program. The 2002 revisions, while continuing to state the resident hiring goals established through the 1997 revisions, also established a program linkage to 'new hires'.

The need for new hires was the trigger for the local employment programs, e.g., if a contractor could perform the work with their established labor pool (core employees), there would be no local employment goals established for the project, even if no Oakland residents worked on the project. Local employment programs would be applied only to the new hires for the project(s). The percentage of work performed by 'core employees' determined what the local hiring goals would be for that project.

In June of 2005, the core employee utilization was capped at 50% of a projects total work hours. This effectively established a minimum of 50% of the project's work hours to serve as the basis for establishing the local hire goal(s). Contractors are also afforded the opportunity to split their local hire goal(s) between City funded projects, and non-City funded projects. A contractor would be in compliance with the resulting resident hiring goals with 12.5% of the project's work hours being performed by Oakland residents. In spite of these program limitations, the City was able to secure an average of 34% of the total hours worked on City monitored projects being performed by Oakland residents.

Thirty percent (30%) of the projected job increase in the construction industry in the nine bay area counties will be in Alameda and Contra Costa Counties. Given the current economic impacts, there are 7,600 new construction jobs projected for Alameda and Contra Costa Counties between 2004 and 2014. Projections remain favorable when viewed out to the year 2014. This anticipated expansion of employment opportunities in the construction industry is occurring at the same time local labor is experiencing a reduction in available skilled workers. The construction industry is facing the same set of baby boomer related issues that other major industries face. It is anticipated that nearly 30% of the skilled building and construction trade industry workers will retire within the next 5 years. Current circumstances will likely accelerate that process for many labor unions. This reduction in the number of skilled trade workers is occurring at the same time necessary infrastructure construction and housing expansion must

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occur to address the retrofitting needs of bridges, schools, roads, waterways, and increasing housing needs.

## **KEY ISSUES AND IMPACTS**

In its efforts to improve service delivery to residents and businesses, two parallel and integrated processes considered what was working and what needs improvement. Over 40 community based task forces were initiated and established through the efforts of Mayor Dellums and Oakland's citizenry. The Oakland Partnership created formal work sessions with business sector representatives, task force representatives, and City staff to identify and facilitate community and economic development, and the equitable distribution of benefits.

Both processes reviewed the City's Local Employment and 15% Apprenticeship policies and made recommendations for increasing policy impacts on the health and growth of the community. Recommendations included modifications to establish more targeted hiring goals within programs, increasing the number of on-site resident work hours leveraged, and expanding the application of those policies to employment beyond the construction industry.

To better ensure that residents who face significant barriers to employment have opportunities, the 'Hire Oakland and Contract Compliance Task Force made the following recommendations, with which staff concur:

### **Labor and Hiring**

#### **Project Labor Agreements and Local Employment (LEP) /Apprenticeship (15% AP)**

- Modify Local Employment Program (LEP) to eliminate the definitions and utilization of core employee designation and core/fixed workforce, and hire more Oakland residents particularly ex-offenders, women, and pre-apprenticeship training graduates.
- Incorporate LEP goals in Project Labor Agreements (PLAs) as part of all Disposition and Development Agreements (DDAs) signed by City of Oakland.
- Include the Oakland's Local Employment Program/15% Apprenticeship Program in PLAs within the City of Oakland's jurisdiction.

### **Community Benefits**

- Utilize Disposition and Development Agreements (DDAs) to achieve community benefits related to local hire.
- District specific Capacity Studies to define the exact positive and negative impacts of the proposed development and appropriately identify leverage mechanisms for the Community.
- Establish an Advisory Council to review projects to ensure community benefits related to local hire.
- Establish a Business Executive Board to inform and advise the City on the capital structure of transactions which the City may sponsor.

- Local employment hiring goals should be expanded for construction, and established for professional service occupations. Current policies encourage the hiring of Oakland residents for non-construction employment, but only set formal hiring goals for construction employment. The Oakland community has at least equal capacity to identify, prepare, and refer qualified and capable residents for various professional service positions, as it does for construction employment and training opportunities.

### **The Oakland Partnership**

- Allocate a significant portion of the City's federal Workforce Investment Act (WIA) funds for training for youths and adult ex-offenders.
- Enhance the quantity and accessibility of job opportunities for job seekers who face barriers to entry: youth, ex-felons re-entering the workforce, etc.
- Review City's local employment policies – The local employment policies currently in place could be expanded to include sectors other than construction (such as professional services). Also, workforce preparation and job placement for Oakland residents should be part of the City's local employment ordinance, As the City engages with employers with whom it has a contracting relationship, its workforce development and contract compliance staff can work in concert to identify specific, active roles for employers and developers in creating workforce development opportunities and employment.

### **PROGRAM DESCRIPTION**

The eight recommendations contained in this report specifically support the concepts of workforce development and job training. Oakland's Mayor speaks to the vision of the "Model City Strategic Action Proposal" as a plan that reflects the vision of a "city that functions cohesively with a vibrant economy and a healthy, well educated citizenry who effectively engage with the city's political, economic, and social institutions."

Based on the underlying principle that every human being has the right to a healthy and productive life, the Model City vision sets the tone for what the City of Oakland continues to aim to achieve through aggressive public policy and the power of the public purse.

The proposal cites the following startling statistics:

1. Oakland demographics reflect a crisis of poverty experienced by more than 10,000 families and well over 25,000 children.
2. Over 150,000 people in Oakland live in economic hardship.
3. 70,000 are very poor with incomes below \$9,800 for a single person and below \$20,000 for a family of four.
4. Many Oakland residents face entrenched poverty, unemployment, and lack of health care.
5. While many residents are working, they still live at or below the poverty level.
6. With a 70% recidivism rate, the cycle of incarceration is daunting.

7. There are on average approximately 2,6000 parolees per year.
8. There are over 8,000 adult probationers on average per year.
9. There are over 800 juvenile probationers in Oakland on average per year.

Staff makes the following specific recommendations to better ensure that the City's Local Employment Program (LEP) and 15% Apprenticeship Programs achieve the goals of securing employment opportunities for Oakland residents expanding hiring goals beyond construction to include non-construction contracts and facilitating access for Oakland residents who wish to enter the construction industry as building and construction trade industry workers:

**1. Create more employment opportunities for Oakland residents by eliminating the LEP "core employee" exemption. A core employee is defined as:**

- An apprentice or journey level employee with any license required by state or federal law for the project work to be performed;
- Will have worked a total of at least 1000 hours in the craft during the prior 3 years;
- On the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award; and
- Has the ability to perform safely the basic functions of the applicable trade.

Discussion: The Local Employment Program carries two levels of goals. The overall 50% workforce goal by craft and "new-hires" wherein contractors look first to fill their vacancies with Oakland residents. If Oakland residents are not available, those hours are exempt from compliance totals.

The core employee designation applies to the overall 50% workforce goal and was put into place to eliminate the requirement for businesses to lay off non-Oakland employees to hire un-employed Oakland residents and satisfy the goals of the Local Employment Program. This policy protects existing core employees. The core employee also assists small businesses with limited workers and large businesses that wanted to maintain their current workers.

Under the current policy, contractors do not have to lay off existing non-Oakland residents in order to comply. However, the down side of the current policy reduces employment opportunities for un-employed Oakland residents.

- 2. Establish hiring goals within the Local Employment Program (LEP) for females (voluntary), ex-offenders, and graduates from City of Oakland based pre-apprenticeship training programs. Apply additional credit for contractors able to satisfy Oakland hiring goals at a rate of (a) females (voluntary); (b) ex-offenders; and (c) pre-apprenticeship graduates within the current 50% LEP and the 15% AP or over and above the 50% local resident goal. Additional credit would be tied to meeting or exceeding the 50% resident hire on project.**

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Discussion: Currently, the general category of Oakland residents is the target beneficiary population for the Local Employment Program. The new recommendation establishes three subcategories within the LEP target population: (a) 5% female (voluntary), (b) 5% ex-offender and (c) 5% pre-apprenticeship graduate.

A 50% goal could be achieved at any percentage configuration of the above as long as it satisfies the minimum 5% baseline. For example, a contractor may propose: 10% females (voluntary), 30% ex-offenders and 10% pre-apprenticeship graduates or 15 % females (voluntary), 20% ex-offenders, 15% pre-apprenticeship graduates or and any combination thereof.

Bid discounts and credits may equal up to one additional bid discount/point similar to the Local/Small Local Program.

**3. Expand the Local Employment Program to apply to professional Non-construction service occupations.**

Discussion: Currently, there are 50% LEP and 15% Apprenticeship goals that apply to construction contracts only. Recommendation #3 looks to apply employment goals to non-construction / professional services projects where hiring opportunities may exist.

Examples of non-construction or professional service occupations include data entry, customer service, auto mechanics, warehouse workers, manufacturing, etc. Contracts must be assessed on a case- by-case basis to determine appropriate application of the LEP policies. Other occupational categories may include first and mid-level managers, professionals, technicians, sales, administrative support and service workers.

Professional services contracts are negotiated, as opposed to low-bids where the dollar amount is a primary determinant of responsive and responsible. Negotiated agreements allow discussions regarding employment opportunities. Negotiated agreements work well in concert with alternative strategies such as “community benefits packaging” (CBP) where contractors build a tailor-made set of added value benefits specific to the project community. An example of community benefits may include sponsoring a Rebuilding Together Oakland project, Habitat for Humanity project or providing tuition for residents of the project community.

**4. Secure workforce development monetary assistance from development agreements.**

Discussion: Large development projects often generate employment opportunities subsequent to the construction phase of the project. Development agreements often contain monetary contributions from socially responsible developers. Such agreements may assist a community with preparing residents for employment. Socially responsible agreements are as unique as the developers and the city in which the development occurs. The developer contributed \$850,000 to assist the City of San Francisco with preparing low income residents



for customer service positions generated by the Westfield Centre Bloomingdales project; b) the developer for the Bay View Hunters Point Shipyard makes annual contributions of \$225,000 to existing community based job training programs and assistance programs to identify job training needs at the Shipyard, including social service needs that support job training programs, and continues through substantial project completion; and c) the Mission Bay South development agreement included the establishment of a \$1.5 million First Source Resource Fund to enable the City to administer a program to prepare Economically Disadvantaged Individuals for entry level positions.

These development projects represent both publicly subsidized and privately funded developments. Given the reduction in federal, state, and local revenues available to assist with workforce development, the inclusion of greater private sector support is needed to address the ever increasing need for such resources. It can be argued that the developer benefits from the provision of such resources, by improving the economic health of the community in which the development is occurring.

**5. Require placement of 50% LEP and 15% Apprenticeship Programs and procedures in all Project Labor Agreements (PLAs) associated with Disposition and Development Agreements (DDAs) with the City.**

Discussion: City of Oakland's LEP and 15% Apprenticeship policies can work in concert with Project Labor Agreements (PLAs). Both work to increase employment of targeted groups and require the payment of prevailing wages. PLAs include targeted hiring. When City policies are paired with PLAs a project has the best of both circumstances as City policies speak specifically to Oakland residents and PLAs speak to the rights and benefits and are tied to specific trade agreements.

An example of targeted hiring that could be included in Project Labor Agreements can be demonstrated through the Oak to 9<sup>th</sup> Labor Agreement. This agreement commits to providing apprentice employment opportunities to at-risk individuals secured from identified pre-apprenticeship training programs in Oakland. The commitment is to provide approximately 300,000 employment hours based on 6% of approximately 5 million work hours over a ten year period. The following demonstrates how current City LEP and 15% Apprenticeship policies can refine and enhance opportunities for Oakland residents.

<b><u>Oak to 9<sup>th</sup> Proposed Local Employment</u></b>	<b><u>City of Oakland's Policies</u></b>
<ol style="list-style-type: none"> <li>1. Oak to 9<sup>th</sup> Local Employment generates 300,000 entry-level resident work hours.</li> <li>2. Resident earnings will be limited to first period apprentice wages for the Oak to 9<sup>th</sup> Local Employment Program.</li> </ol>	<ol style="list-style-type: none"> <li>1. The City of Oakland's LEP/15% Apprenticeship Program will generate 1.25 million entry-level and journey-level resident work hours.</li> <li>2. Resident earnings will include both apprentice and journey-level wages under the LEP/15% Apprenticeship Program.</li> </ol>

<p>3. In order for the goal of 300 resident placements to occur, the majority of the apprentices would rotate away from the project to allow for 30 individuals per year to be employed for the designated minimum of 1000 work hours (six months of full time employment) over 10 yrs.</p> <p>4. Oak to 9<sup>th</sup> Local Employment projected resident earnings based on averaging* first period apprentice wages and fringe for Carpenters, Laborers, Iron Workers, Cement Masons, and Painters would be 300,000 hours @ \$ 21.68 per hour = <u>\$6,504,000.</u></p> <p>5. The contractor's ability to comply with the hiring objectives set forth in either the Oak to 9<sup>th</sup> Local Hire Program or the City's LEP/15% Apprenticeship Program is based on the contractor using discretionary hiring capacity identified in their respective collective bargaining agreements.</p>	<p>3. City of Oakland's LEP/15% Apprenticeship Program projected resident earnings based on averaging journey-level and apprentice level wages and fringe for Carpenters, Laborers, Iron Workers, Cement Masons, and Painters; and using a ratio of 5:1 journey-level to apprentice-level work hours.</p> <p>4. This ratio generates 1,041,667 journey-level hrs @ \$ 40.94 per hour = \$42,645,846.00, and 208,333 apprentice hours @ \$ 21.68 per hour = \$ 4,516,659.40. Total wage and fringe for resident work hours generated by the City of Oakland's LEP/15% Apprenticeship Program would be <u>\$47,162,505.00.</u></p> <p>5. The contractor's ability to comply with the hiring objectives set forth in either the Oak to 9<sup>th</sup> Local Hire Program or the City's LEP/15% Apprenticeship Program is based on the contractor using discretionary hiring capacity identified in their respective collective bargaining agreements.</p>
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**6. Establish hiring goals based on zip code priorities (any type of resident may live within a given zip code).**

Discussion: Section 3- The Housing and Urban Development (HUD) Act of 1968 promotes local economic development, neighborhood economic improvement, and individual self-sufficiency.

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

**7. Establish a revolving loan/grant fund to assist residents with the purchase of tools, clothing, and addressing initiation fees or reinstatement fees associated with state certified apprenticeship programs and union labor organizations.**

Discussion: Many Oakland residents, including pre-apprenticeship graduates, seeking employment opportunities on city funded projects need help securing basics such as tools,

boots and bus tickets for transportation. Developers with projects that are not subsidized by city funds but whose corporate philosophy demonstrates the desire to provide added value to the community in which their projects occur, may opt to create a loan or grant program as part of a community benefit package. In this case, as an option, staff will work with developers to craft a plan to provide such financial support.

Many cities have used the community benefit package approach. Typically they occur in cities where specific social justice policies are not in place. Community benefit packages prove to be most successful when neighborhoods are involved in developing a plan.

- 8. Establish a bid incentive or bid preference for contractors who commit to and demonstrate capacity to meet the 50% resident hiring goals and 15% apprentice hiring goals through the provision of on-site resident employment on City funded or subsidized project.**

Discussion: Staff recommends retaining the option for businesses to meet the 50% LEP and 15% Apprenticeship goals by satisfying ½ the workforce hours with Oakland residents on non-city funded projects. However, this added incentive encourages businesses to meet the goals on current City funded projects. Through this provision, there will be a significant savings in staff time required to track, monitor, and resolve shortfall workforce hours on non-city funded projects. In addition, employment opportunities are more readily available to Oakland residents and in proximity to the project for which the hours are worked.

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic and Social Equity***

The consistent application of the City's local employment and 15% Apprenticeship programs will facilitate the inclusion of increasing numbers of Oakland residents as members of local building and construction trade unions and the construction industry.

The majority of residents assisted through these policies will secure benefits that include medical, dental, vision care, and retirement earnings. The recommended implementation of the targeted resident hiring goals will have an impact on other City resources as individuals transition to self sufficiency. There will be a rippling affect to the broader Oakland community with the infusion of additional wages and benefits to Oakland residents. Under the new recommended policies, from a programmatic standpoint, there will be a positive fiscal impact as more work hours will be leveraged for Oakland residents on City monitored projects.

### ***Environmental***

No environmental opportunities have been identified.

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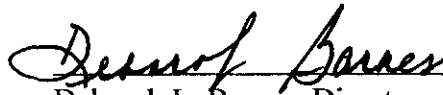
**DISABILITY AND SENIOR CITIZEN ACCESS**

There are no disability or senior citizen access issues.

**ACTION REQUESTED OF CITY COUNCIL**

It is recommended that Council adopt the report and 1) Resolution amending: A) Resolution No. 69687 C.M.S. passed February 2, 1993, authorizing the Local Employment Program, and B) Resolution No. 74762 C.M.S., passed January 29, 1999, authorizing a Pilot Apprenticeship Program, both of which require contractors to Hire Oakland Residents to Implement Program Revisions; and an 2) Ordinance amending Number 12388 C.M.S., adopted December 18, 2001, to authorize revision of the Local Employment and Apprenticeship Programs by Resolution.

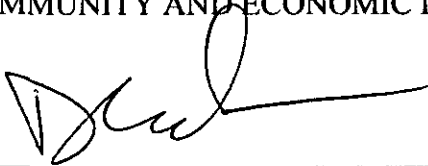
Respectfully submitted,



Deborah L. Barnes, Director  
Department of Contracting and Purchasing

Prepared by:  
Jonothan Dumas,  
Employment Services Supervisor  
Department of Contracting and Purchasing

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE



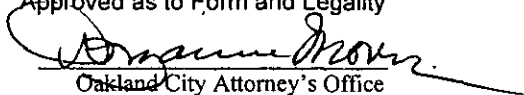
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Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AMENDING: A) RESOLUTION NO. 69687 C.M.S., PASSED FEBRUARY 2, 1993, AUTHORIZING THE LOCAL EMPLOYMENT PROGRAM, AND B) RESOLUTION NO. 74762 C.M.S., PASSED JANUARY 29, 1999, AUTHORIZING A PILOT APPRENTICESHIP PROGRAM, BOTH OF WHICH REQUIRE CONTRACTORS TO HIRE OAKLAND RESIDENTS TO IMPLEMENT PROGRAM REVISIONS**

**WHEREAS**, the model city vision, which is based on the underlying principle that every human being has the right to a healthy and productive life, sets the tone for what the City of Oakland continues to aim to achieve through aggressive public policy and the power of the public purse; and

**WHEREAS**, the "Model City" proposal sites the following startling statistics:

- Oakland demographics reflect a crisis of poverty experienced by more than 10,000 families and well over 25,000 children,
- Over 150,000 people in Oakland live in economic hardship,
- 70,000 are very poor with incomes below \$9,800 for a single person and below \$20,000 for a family of four,
- Many Oakland residents face entrenched poverty, unemployment, and lack of health care,
- While many residents are working, they are still living at or below the poverty level,
- With a 70% recidivism rate, the cycle of incarceration is daunting,
- There are over on average approximately 2,6000 parolees per year,
- There are over 8,000 adult probationers on average per year,
- There are over 800 juvenile probationers in Oakland on average per year; and

**WHEREAS**, Oakland's Mayor speaks to the vision of the "Model City Strategic Action Proposal" as a plan that reflects the vision of a "city that functions cohesively with a vibrant economy and a healthy, well educated citizenry who effectively engage with the city's political, economic, and social institutions"; and

**WHEREAS**, the City believes that it is its responsibility to facilitate a community where residents are able to live, work, and play; and

**WHEREAS**, the City believes that residents should derive maximum benefits from expenditures made by the City; and

**WHEREAS**, the City wishes to facilitate the participation of disenfranchised residents in the economic opportunities the City assists with generating, and is committed to maximizing access of Oakland residents to living wage jobs; and

**WHEREAS**, the City Council formally established the Local Employment (LEP) program in 1993 by Resolution No. 69687 C.M.S., passed February 2, 1993, which required businesses under contract with the City of Oakland to hire Oakland residents because residents were not sufficiently represented in the workforce used to build and rebuild the City; and

**WHEREAS**, the initial (LEP) program set a 40% resident hiring goal for City funded or assisted projects with all Oakland residents as "new hires" and achieved an average of 41% resident employment on City of Oakland projects for the period FY 93-96; and

**WHEREAS**, in February of 1997, the Local Employment Program (LEP) was revised to establish new hiring goals (50% resident hiring goal and 50% of new hires), first new hire requirements (must be Oakland residents), and established the option for contractors to satisfy local employment non-compliance hiring deficits through either monetary penalties or by employing Oakland residents on non-City funded projects equal to the non-compliance shortfalls; and

**WHEREAS**, the City Council formally established the 15% Apprenticeship program in 1999 by Resolution No. 74762 C.M.S., passed January 26, 1999, which required licensed contractors under public works contract with the City of Oakland to hire Oakland residents to secure employment opportunities for residents in the construction industry as building and construction trade apprentices and the program achieved an average of 54% for the period FY 99-02; and

**WHEREAS**, in 2002 additional revisions were made to the Local Employment Program (LEP) and 15% Apprenticeship Program continuing the same resident hiring goals but establishing a program linkage to 'new hires'; and

**WHEREAS**, prior to the local employment programs contractors could perform work with their established labor pools (core employees) and there were very few opportunities for Oakland residents to work on City or City-funded projects; and

**WHEREAS**, local employment programs were applied only to the new hires for the project(s) with the percentage of work performed by 'core employees' used as the basis to determine what the local hiring goals would be for a project; and

**WHEREAS**, in June of 2005 the programs were revised again to: 1) cap core employee utilization at 50% of a projects total work hours, which effectively established a minimum of 50% of the project's work hours to serve as the basis for establishing the local hire goal(s), and 2) allow contractors to split their local hire goal(s) between City funded projects, and non-City funded projects; and, in spite of these program limitations, the City was able to secure an average of 34% of the total hours worked on City monitored projects being performed by Oakland residents; and

**WHEREAS**, thirty percent (30%) of the projected job increase in the construction industry in the nine bay area counties will be in Alameda and Contra Costa Counties; given the current economic impacts, there are 7,600 new construction jobs projected for Alameda and Contra Costa Counties between 2004 and 2014; projections remain favorable when viewed out to the year 2014; this anticipated expansion of employment opportunities in the construction industry is occurring at the same time local labor is experiencing a reduction in available skilled workers as the construction industry is facing the same set of baby boomer related issues that other major industries face and it is anticipated that nearly 30% of the skilled building and construction trade industry workers will retire within the next 5 years; and

**WHEREAS**, current circumstances will likely accelerate that process for many labor unions as reductions in the number of skilled trade workers is occurring at the same time necessary infrastructure construction and housing expansion must occur to address the retrofitting needs of bridges, schools, roads, waterways, and increasing housing needs; and

**WHEREAS**, the Department of Contracting and Purchasing has made the following determinations that demonstrate the continued need for the City's Local Employment and Apprenticeship programs:

- while the current unemployment rate for the City is at a regional high of 10.4% overall, there are groups of individuals in Oakland with significantly higher unemployment rates; and
- the building and construction trade industry has acknowledged the positive impact on the retention rates of individuals who enter their apprenticeship programs through pre-apprenticeship training programs, and
- Oakland has locally and nationally recognized pre-apprenticeship training programs that work with populations that reflect the economic and social diversity of Oakland's residents, and
- the local construction industry is being adversely affected by current national economic instabilities; and

**WHEREAS**, the City recognizes that the current Local Employment Program and 15% Apprenticeship programs are not maximizing the on-site work hours that could be leveraged for Oakland residents on City funded projects; and

**WHEREAS**, the program revisions recommended at this time are designed to focus on employment of Oakland residents with special consideration of "vulnerable population

sectors” such as ex-offenders, youth and females living below the poverty level and graduates of pre-apprenticeship programs; and

**WHEREAS**, the changes in policy further support the concepts of workforce development and job training; now, therefore, be it

**RESOLVED:** That Resolution No. 69687 C.M.S., passed February 2, 1993, which authorizes the Local Employment Program, and Resolution No. 74762 C.M.S., passed January 29, 1999, which authorized a pilot Apprenticeship Program are hereby amended as follows:

1. Eliminating the LEP “core employee” exemption.
2. Establish hiring goals within the Local Employment Program (LEP) for females, ex-offenders, and graduates from City of Oakland based pre-apprenticeship training programs. Apply additional credit for contractors able to satisfy Oakland hiring goals at a rate of (a) 5% females (Voluntary); (b) 20% ex-offenders; and (c) 15% pre-apprenticeship graduates within the current 50% LEP and the 15% Apprenticeship Program or over and above the 50% local resident goal.
3. Expand the Local Employment Program to apply to professional and non-construction service occupations. Examples of such service occupations would include data entry, customer service, auto mechanics, warehouse workers, manufacturing, etc. Professional services associated with engineering or accounting contracts would need to be assessed on an individual bases to determine the appropriateness of applying the local employment policies.
4. Secure workforce development monetary assistance from development agreements.
5. Require placement of 50% LEP and 15% Apprenticeship Programs and procedures in all Project Labor Agreements (PLAs) associated with Disposition and Development Agreements with the City.
6. Establish hiring goals based on zip code priorities.
7. Establish a revolving loan/grant fund to assist residents with the purchase of tools, clothing, and initiation or reinstatement fees associated with state certified apprenticeship programs and union labor organizations.
8. Establish a bid incentive or bid preference for contractors who commit to and demonstrate capacity to meet the 50% resident hiring goals and 15% apprentice hiring goals through the provision of on-site resident employment on City funded or subsidized projects; and be it

**FURTHER RESOLVED:** That the City Administrator shall revise the City’s written LEP and Apprenticeship programs in accordance with the above; and be it

**FURTHER RESOLVED:** That all provisions of the current LEP and Apprenticeship programs that are not amended herein, shall remain in full force and effect; and be it

**FURTHER RESOLVED:** That the City Administrator is further authorized to require for-profit or non-profit entities or individuals that receive a subsidy from the City of



Oakland for a project involving construction, to implement the City of Oakland's LEP and/or Apprenticeship programs on related Project Labor Agreements; and

**FURTHER RESOLVED:** That the term "subsidy" as used in this resolution shall include any for-profit or non-profit entity or individual that receives a City of Oakland project subsidy which shall include grants, rent subsidies, bond financing, financial planning, tax increment financing, land writedowns, and tax credits, forgiveness of a loan and a loan provided at below market interest rate to the extent of any differential between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan by the applicable federal rate as used in 26 U.S.C. Sections 1274(d), 7872(f).

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

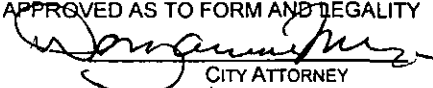
AYES- BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID,  
KAPLAN AND PRESIDENT DE LA FUENTE

NOES-  
ABSENT-  
ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk And Clerk Of The Council  
Of The City Of Oakland

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

INTRODUCED BY COUNCIL MEMBER  
2000 DEC 22 PM 4:17

APPROVED AS TO FORM AND LEGALITY  
  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AMENDING ORDINANCE NUMBER 12388 C.M.S., ADOPTED  
DECEMBER 18, 2001, TO AUTHORIZE REVISION OF THE LOCAL EMPLOYMENT  
AND APPRENTICESHIP PROGRAMS BY RESOLUTION**

**WHEREAS**, the City Council formally established the Local Employment (LEP) program in 1993 by Resolution No. 69687 C.M.S., passed February 2, 1993, which required businesses under contract with the City of Oakland to hire Oakland residents; and

**WHEREAS**, the City Council formally established the Apprenticeship program in 1999 by Resolution No. 74762 C.M.S., passed January 26, 1999, which required licensed contractors under public works contract with the City of Oakland to hire Oakland residents; and

**WHEREAS**, a 2001 change in State law made State public contract codes applicable to charter cities in the absence of express, conflicting provisions in a city charter or city ordinance (Pub. Contr. Code Section 1100.7); and

**WHEREAS**, to assure that Oakland could continue its local contracting programs the City Council adopted several city programs by ordinance that were previously established by resolution in December 2001, including the LEP and Apprenticeship programs in connection with public works projects (Ordinance No. 12388 C.M.S. and Ordinance No. 12389 C.M.S., both passed December 18, 2001); and

**WHEREAS**, the City Administrator's authorization to implement the LEP and Apprenticeship programs is codified in Oakland Municipal Code Section 2.04.040.J; and

**WHEREAS**, the City Council and City Administrator wish to maintain flexibility to revise the policies and requirements of the adopted programs as needed by resolution; and

**WHEREAS**, the City Council and City Administrator wish to apply the LEP program to all professional services contracts as well as public works project related contracts; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** Oakland Municipal Code, Title 2, Chapter 2.04, Section 2.04.020.J. Oakland Municipal Code, Title 2, Chapter 2.04, Section 2.04.020.J is hereby amended to allow revision of specific LEP and Apprenticeship program requirements by resolution, and to extend the LEP program to all professional services contracts, as follows:

**2.04.020.J. Apprentice Hiring and Local Hire:**

The City Administrator is authorized in evaluation of all sealed, faxed and telephoned bids for public works projects, and in evaluation of all requests for proposals for professional services or other service-related contracts, to require contractors to comply with the city's apprentice hire and local hire programs as set forth in this code established by Ordinance No. 12389 C.M.S., passed December 18, 2001, and as thereafter revised pursuant to a resolution of the City Council.

**Section 3. Severability:** If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

**Section 4. Effective Date:** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes on final adoption; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

**PASSED BY THE FOLLOWING VOTE:**

AYES-                   BROOKS, BRUNNER, KAPLAN, KERNIGHAN, NADEL, QUAN, REID AND  
                              PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_

## **Notice and Digest**

### **ORDINANCE AMENDING ORDINANCE NUMBER 12388 C.M.S., ADOPTED DECEMBER 18, 2001, TO AUTHORIZE REVISION OF THE LOCAL EMPLOYMENT AND APPRENTICESHIP PROGRAMS BY RESOLUTION**

This ordinance will revise Oakland Municipal Code, Title 2, Chapter 2.04, Section 2.04.020.J, Apprentice Hiring and Local Hire to allow the City Council to revise specific LEP and Apprenticeship program requirements by resolution, and to extend the LEP program to all professional services contracts.