

OAKLAND CITY COUNCIL

RESOLUTION No. 69687 C. M. S.

PRODUCED BY COUNCILMEMBER \_\_\_\_\_

VLJ:smt

**RESOLUTION ADOPTING A LOCAL EMPLOYMENT PROGRAM  
AND A SMALL LOCAL BUSINESS ENTERPRISE PROGRAM  
FOR PUBLIC WORKS CONTRACTS**

**WHEREAS**, the City Council of the City of Oakland has determined that grave economic and social ills plague the City, such as a welfare rate of 23%; a crime rate evidencing the commission of 50,722 offenses from January to July of 1992; 1,500 homeless daily; and 19% of the population living below the poverty rate; and,

**WHEREAS**, these economic and social ills are directly a result of increased unemployment of persons living in the City of Oakland; and,

**WHEREAS**, the U.S. Supreme Court has ruled that a local resident employment program is permissible if the local entity determines that the influx of nonresidents is a peculiar source of the unemployment evil faced by residents, and that the program is narrowly tailored to redress that unemployment evil; and,

**WHEREAS**, the City Council, at its meeting of October 27, 1992, established a Task Force to gather further evidence to determine whether the influx of nonresidents into the City is a peculiar source of the increased unemployment of persons living in the City of Oakland; and,

**WHEREAS**, by Resolution No. 96463 C.M.S., the City Council, based upon substantial evidence, adopted the Interim Local Employment Program while the Task Force gathered further evidence to determine whether the adoption of a final local employment program was needed; and,

**WHEREAS**, the Task Force held hearings on November 16, 1992, and December 7, 1992, and heard public testimony with regards to the need of a final program; and,

**WHEREAS**, the City Council has reviewed the transcripts of those meetings and determined that the weight of the testimony evidenced that residents were denied employment opportunities in the construction industry within the City due to the influx of nonresidents; the following excerpt from the December 7, 1992 hearing, is illustrative thereof:

"Good evening, um, I'm for the Hire Oakland Program. I really have to be because no one from San Jose, Hayward, Livermore, or any place else is calling me for work for my trucks. I'm in the trucking business and I'm a resident here in Oakland. But the trucks from San Jose, Hayward, Livermore, and everywhere else are here on the jobs in Oakland. I'm gonna give you some examples, 98th Avenue, the widening of 98th Avenue, there's trucks from outside everywhere that are working on their job, but the Oakland truckers, including myself, our trucks are sitting in our yards...."; and,

WHEREAS, the U.S. Supreme Court has ruled that "local government should have considerable leeway in analyzing local evils and prescribing appropriate cures, particularly when government is merely setting conditions on the expenditure of funds it controls and it is limited in scope to employees working directly on Agency public works projects...."; and,

WHEREAS, in accordance with the leeway granted by the U.S. Supreme Court and based upon the evidence presented, the City Council desires to prescribe a local resident employment requirement on parties to which it contracts for the development and construction of a project funded or facilitated by the City; and,

WHEREAS, the City Council has considered alternative measures to ameliorate the unemployment evils which nonresidents pose, yet finds that this local resident employment program is necessary and narrowly tailored so as not to unduly infringe upon the privileges & immunities of nonresidents; and,

WHEREAS, the City Council at its October 27, 1992 meeting, also determined that small local businesses suffer particular disadvantages created by the City such as higher local taxes, higher prevailing wages, and more stringent zoning and other permit requirements; and,

WHEREAS, the recent catastrophic events of the Loma Prieta Earthquake, and the Oakland Hills Fire have resulted in blighted conditions which may deter the location of businesses in the City of Oakland; and,

WHEREAS, the public interest is best served by encouraging businesses to locate and remain in the City of Oakland; and,

WHEREAS, the City Council desires to promote the public interest and ameliorate the disadvantages suffered by small local businesses; and,

WHEREAS, by Resolution No. 96464 C.M.S., the City Council adopted the Interim Small Local Business Enterprise Program to promote the public interest and ameliorate the disadvantages suffered by small local businesses until the Task Force completed its review of the need for a final small local business enterprise program; and,

WHEREAS, the Task Force held hearings on November 16, 1992, and December 7, 1992, and heard public testimony with regards to the need of a final program; and

WHEREAS, the weight of the testimony substantiated that small local businesses do suffer disadvantages created by the City so as to necessitate implementation of a small local business enterprise program; now therefore be it

RESOLVED, that the City Council of the City of Oakland adopts the Local Employment Program for Public Works Contracts, a copy of which has been reviewed by the City Attorney and is on file with the City Clerk; and be it

FURTHER RESOLVED, that the provisions of the Local Employment Program shall be effective once the City Manager has completed all steps needed to fully implement the Program; and be it

FURTHER RESOLVED, that the Interim Local Employment Program continue in force and effect until the City Manager determines that the final Program is ready for implementation; and be it

FURTHER RESOLVED, that the City Manager shall apprise the City Council that the final Program is ready for implementation prior to his implementing such Program and terminating the Interim Program; and be it

FURTHER RESOLVED, that the City Council shall review or cause to be reviewed, on a biennial basis, the continued need for the Local Employment Program; and be it

FURTHER RESOLVED, that the City Council adopts the Small Local Business Enterprise Program for Public Works Contracts, a copy of which has been reviewed by the City Attorney and is on file with the City Clerk; and be it

FURTHER RESOLVED, that the provisions of the Small Local Business Enterprise Program be effective as of February 3, 1993; and be it

FURTHER RESOLVED, that the Interim Small Local Business Enterprise Program is terminated as of February 3, 1993; and be it

FURTHER RESOLVED, that the City Manager is hereby authorized to promulgate all necessary rules, regulations and administrative instructions to effectuate the Local Employment Program and the Small Local Business Enterprise Program.