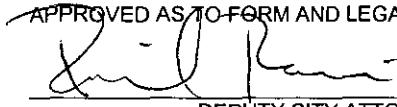


FILED
OFFICE OF THE CITY CLERK
OAKLAND

02 MAY -9 PM 5:49

REVISED 5/7/02

APPROVED AS TO FORM AND LEGALITY:

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE NO. 12422 C. M. S.

**AN ORDINANCE AMENDING ORDINANCE NO. 12389 C.M.S. AND
RESOLUTION NO. 69687 C.M.S. TO SUSPEND THE CITY'S LOCAL
EMPLOYMENT PROGRAM AND SMALL LOCAL BUSINESS PROGRAM
FOR AFFORDABLE HOUSING PROJECTS AND NEW TRAFFIC SIGNAL
INSTALLATIONS**

WHEREAS, the City Council adopted Resolution No. 69687 C.M.S., which established the Local Employment Program for construction projects (the "Local Employment Program") and the Local and Small Local Business Enterprise Program for construction, professional services, and purchasing (the "L/SLBE Program"); and

WHEREAS, the City Council adopted Ordinance No. 12389 C.M.S., which codified the L/SLBE Program and the Local Employment Program (together known as the "City Employment and Contracting Programs"); and

WHEREAS, the City and the Redevelopment Agency of the City of Oakland (the "Agency") have applied the employment and contracting requirements of the City Employment and Contracting Programs to all City public works projects and to all private development projects receiving City or Agency subsidy, including affordable housing subsidy; and

WHEREAS, the application of the City Employment and Contracting Programs to affordable housing projects receiving City or Agency subsidy has reduced competition among building contractors for work on such projects, increased the development costs of such projects, and has reduced the number and affordability of units produced with City and Agency funds; and

WHEREAS, City staff are developing modifications to the City Employment and Contracting Programs to make these Programs more workable, and these modifications will be presented to Council in the future for consideration; and

WHEREAS, the Council wishes to suspend the application of the City Employment and Contracting Programs to affordable housing projects until it adopts permanent modifications to said Programs and those modifications are implemented; and

WHEREAS, the application of the City Employment and Contracting Programs to the installation of traffic signals in the City has reduced the competition among building contractors for such contracts, increased the cost of the work, and increased the time needed to complete the installation, which has raised health and safety concerns on the part of the City; and

WHEREAS, the Council wishes to suspend the application of the City Employment and Contracting Programs to the installation of traffic signals for two years; and

WHEREAS, by suspending these requirements, the Council wishes to evaluate what effect such suspension would have on the cost and timeliness of traffic signal installation compared to its effect on local hiring and contracting; now therefore

The Council of the City of Oakland does ordain as follows:

Section 1. Ordinance No. 12389 C.M.S. and Resolution No. 69687 C.M.S., and any other Council actions amending the City Employment and Contracting Programs, are hereby amended to provide that the City will not apply the City Employment and Contracting Programs to development projects solely because the project receives affordable housing funding from the City or the Agency. For purposes of this section, "affordable housing funding" means funding from either HUD Home Investment Partnerships ("HOME") Program funds, HUD Community Development Block Grant ("CDBG") funds (to the extent CDBG funds are intended to support low and moderate income housing), HODAG repayment funds, the Agency's Low and Moderate Income Housing Fund (including bond proceeds deposited into the Low and Moderate Income Housing Fund), or land sales proceeds committed to affordable housing. "Funding" includes the conveyance of real property at a below-market rate by the City or Agency if the real property was acquired with HOME funds, CDBG funds, HODAG repayment funds, Agency Low and Moderate Income Housing funds, and/or land sales proceeds committed to affordable housing, and the property is conveyed exclusively for affordable housing development (as "affordable housing" is defined by the rules applicable to the funding source). This section applies to affordable housing funding authorized by the City Council or Agency governing body for a specific project from that period starting in calendar year 2002 until the effective date of any permanent modifications to the City Employment and Contracting Programs adopted by City Council ordinance.

For those projects covered by the suspension for which affordable housing funding was authorized by the City Council or the Agency governing body prior to the date of

enactment of this Ordinance, the City Manager or his or her designee is authorized and directed to renegotiate the number of affordable units, the level of affordability, and/or the amount of the funding to reflect the cost savings to those projects as a result of the suspension. This paragraph will only apply to those projects in which the City has not entered into contractual commitments for the funding as of the date of enactment of this Ordinance.

For purposes of this section, a “project” encompasses the building structure or structures containing the housing units and ancillary residential space assisted with the affordable housing funding. The City Manager or his or her designee is hereby authorized to determine in his or her discretion what the appropriate “project” is for purposes of applying this Ordinance to particular developments.

Mixed-funding projects, that is, projects that receive both affordable housing funding and subsidy funding from other City or Agency sources, shall still be subject to the City Employment and Contracting Programs if and to the extent that the other City or Agency funding sources subject the projects to the requirements of the Employment and Contracting Programs. However, notwithstanding anything to the contrary, the City Manager or his or her designee in appropriate cases may limit application of the City Employment and Contracting Program requirements only to those portions of a mixed-funding project not receiving affordable housing funding. The City Manager or his or her designee may implement such limitation by applying Program requirements only to work performed under contracts not funded out of affordable housing funding, by prorating Program goals to the appropriate portion of the project or contract, or by applying such other method as the City Manager or his or her designee deems appropriate.

SECTION 2. Ordinance No. 12389 C.M.S. and Resolution No. 69687 C.M.S., and any other Council actions amending the City Employment and Contracting Programs, are hereby amended to provided that the City will not apply the City Employment and Contracting Programs to public works contracts to install new traffic signals and ancillary work necessary to install new traffic signals. This section applies to public works contracts to install traffic signals awarded by the City Council from the effective date of this Ordinance until two years thereafter. This section applies to contracts in which at least 51% of the contract amount will be used for new traffic signal installation.

SECTION 3. This Ordinance shall not apply if and to the extent application of the City Employment and Contracting Programs are required under state or federal law or required by other governmental funding sources for the project.

SECTION 4. The City Manager or his or her designee shall continue to collect information on local employment, the use of local and small local business enterprises, and apprenticeship opportunities on affordable housing projects and traffic signal installations. The City Manager or his or her designee shall report to the Council on the effect of this suspension on local hiring and contracting, as well as the effect of this suspension on project costs, no later than two years from the effective date of this Ordinance.

SECTION 5. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes, and shall be effective for two years from its date of effectiveness, unless extended by Council ordinance.

SECTION 6. The City Manager and his or her designee is authorized to adopt rules and regulations consistent with this Ordinance as needed to implement this Ordinance, and to make such interpretations as he or she considers necessary to implement the policies adopted under this Ordinance, and is authorized to take whatever other action is necessary or appropriate with respect to these policies consistent with this Ordinance and its basic purpose.

SECTION 7. The recitals set forth in this Ordinance are true and correct and are hereby adopted by the Council as findings.

Introduction Date:

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 11 2002, 2002

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, ~~MAYNE~~, ~~NADL~~, ~~REID~~, SPEES, WAN, AND PRESIDENT DE LA FUENTE -5

NOES- Nadel, Mayne, Reid -3

ABSENT- 0

ABSTENTION- 0

ATTEST 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California