

ORDINANCE NO. 977

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTER 3.36 TO THE LANCASTER MUNICIPAL CODE RELATING TO LOCAL HIRING PREFERENCES IN PUBLIC WORKS CONTRACTS

WHEREAS, the unemployment rate in the City of Lancaster (“City”) and the Antelope Valley has consistently been higher than in the State of California and County of Los Angeles as a whole. According to the Labor Market Information Division of the Employment Development Department, the average annual unemployment rate in the City as of February 2011 was approximately 16.6%; and

WHEREAS, statistics indicate that the Antelope Valley’s higher unemployment rate correlates to a higher number of families living in poverty and to a higher crime rate; and

WHEREAS, due to the lack of local jobs, a high percent of the workforce residing in the City must commute long distances to find work, causing increased traffic on state highways, increased pollution, increased use of gas and other fuels and other serious environmental impacts; and

WHEREAS, due to the lack of local jobs, many residents of the city must leave for work very early in the morning and return late in the evening, often leaving children and teenagers alone and unsupervised during the hours between school and the parents’ return from work outside the area; and

WHEREAS, absentee parents and unsupervised youth can result in increased problems for families, communities and the city, including, but not limited to, increased crime, more frequent and serious injuries, poor homework accomplishments, failing grades, and increased high school dropout rates; and

WHEREAS, the city has determined that it is in the public interest and welfare to add Chapter 3.36 to the Lancaster Municipal Code in order to establish a local hiring preference in public works contracts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 3.36 (“Local Hiring Preferences in Public Works Contracts”) is hereby added to the Lancaster Municipal Code to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit “A”, is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase

or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the _____ day of _____, 2012, and placed upon its second reading and adopted at a regular meeting of the City Council on the _____ day of _____, 2012 by the vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 977, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

EXHIBIT "A"

CHAPTER 3.36

LOCAL HIRING PREFERENCES IN PUBLIC WORKS CONTRACTS

Sections:

- 3.36.010 Findings and purpose.**
- 3.36.020 Definitions.**
- 3.36.030 Requirements for bidders and contractors.**
- 3.36.040 Requirements for subcontractors.**
- 3.36.050 Hiring discretion.**
- 3.36.060 Nonresponsive bids.**
- 3.36.070 Required documentation.**
- 3.36.080 Forms submitted under penalty of perjury.**
- 3.36.090 Monitoring.**
- 3.36.100 Compliance.**

3.36.010 Findings and purpose.

A. The city council finds and declares as follows:

1. The unemployment rate in the city has consistently been higher than in the State of California and County of Los Angeles as a whole. According to the Labor Market Information Division of the Employment Development Department, the average annual unemployment rate in the city as of February 2011 was 16.6%.

2. Statistics indicate that the city's higher unemployment rate correlates to a higher number of families living in poverty and to a higher crime rate.

3. Due to the lack of local jobs, a higher percentage of the workforce residing in the city must commute long distances to find work, causing increased traffic on state highways, increased pollution, increased use of gas and other fuels and other serious environmental impacts.

4. Because of the shortage of local jobs, many residents of the city must leave for work very early in the morning and return late in the evening, often leaving children and teenagers alone and unsupervised during the hours between school and the parents' return from work outside the area.

5. Absentee parents and unsupervised youth can result in increased problems for families, communities and the city as a whole, including , but not limited to, increased crime, more frequent and serious injuries, poor homework accomplishments, failing grades, and increased high school dropout rates.

6. The Antelope Valley needs an expanding employment base and a local hiring preference in public works contracts will benefit the city as a whole.

7. The City spends significant amounts on purchasing personal property and materials, in contracting for services, and in constructing improvements to real property or to existing facilities. The funds used in making those purchases are derived, in part, from taxes, fees, and other revenues of local businesses in the city. To the extent possible, such funds should be placed back into the local economy.

8. The construction industry is a potential path to middle income employment, and is therefore a crucial opportunity to connect residents with economic opportunities.

9. A local hiring preference in public works contracts will provide job opportunities to city and Antelope Valley residents, expand the area's employment base, lessen the drain on public assistance resources and reduce the impacts on the environment caused by the high unemployment and long commuting times to jobs outside the area.

B. The purpose of this Chapter is to ameliorate the foregoing by: (i) increasing the local workforce base by decreasing unemployment and thereby enhancing and retaining job skills; and (ii) increasing local spending power, which will result in a stronger, more self-reliant economy.

3.36.020 Definitions.

Except as otherwise expressly set forth herein, the following words and terms as used in this chapter shall have the following meanings:

“Construction work hours” means the total hours worked on a public works contract by qualified individuals, whether those individuals are employed by a contractor or subcontractor.

“Contractor” means the following: (i) any person or entity who submits a bid to the city for a public works contract; and/or (ii) any person or entity who provides labor and/or materials for the city pursuant to a public works contract.

“City” means the City of Lancaster.

“Days” means calendar days unless otherwise specified.

“Local resident” means an individual who is legally domiciled in the Antelope Valley immediately preceding the date of the Notice of Solicitation or bid advertisement by the city. An individual's domicile is his or her one and only true, fixed and permanent home and principal establishment. An individual shall verify his or her domicile upon request of the contractor or city by producing satisfactory documentation such as a rent/lease agreement, utility bills, a valid state-issued driver's license or identification card, or any other similar and reliable evidence. For the purpose of this chapter, the following ZIP Codes are considered to be within the Antelope Valley: 93501, 93502, 93504, 93505, 93510, 93516, 93523, 93524, 93532, 93534, 93535, 93536, 93539, 93543, 93550, 93551, 93552, 93553, 93560, 93584, 93586, 93590, 93591, 93596, 93599, which includes the cities and communities of Acton, Boron, California City, Edwards Air Force Base, Elizabeth Lake, Lake Los Angeles, Lancaster, Littlerock, Mojave, Palmdale, Pearblossom, Quartz Hill and Rosamond.

“Public works contract” has the same meaning as set forth in Section 1101 of the California Public Contracts Code, as amended or supplanted.

“Qualified individuals” means any and all skilled and unskilled workers, including but not limited to work site foremen, journeymen, technical engineers, apprentices, construction trainees, and construction helpers. Qualified individuals also include any and all other workers appropriate for construction activities regardless of level of skill.

“Subcontractor(s)” means any person or entity that assumes by secondary contract some or all of the obligations of a contractor.

3.36.030 Requirements for contractors.

A. Every contractor submitting a bid to the city for a public works contract shall agree to make a good faith effort to hire qualified individuals who are local residents in sufficient numbers so that (with respect to such public works contract) no less than fifty percent (50%) of the total construction workforce, including any subcontractor workforce, measured in construction work hours, is comprised of local residents.

B. A “good faith effort” means a contractor will take the following or similar actions to recruit and maintain local residents as part of the construction workforce:

1. Contact local recruitment sources to identify qualified individuals who are local residents;

2. Advertise for qualified individuals who are local residents in trade papers and newspapers of general circulation within the city and the County of Los Angeles, unless time limits imposed under the applicable public works contract relative to the commencement and/or completion of work do not permit such advertising;

3. With respect to any portion of a public works contract to be performed by a subcontractor, identify subcontractors whose workforce includes qualified individuals who are local residents; and

4. Develop a written plan to recruit local residents as part of the construction workforce.

C. Every contractor shall complete and sign under penalty of perjury a Certification of Good Faith Effort to Hire Local Residents, on the form provided in the city’s bid package, and shall submit the same with its sealed bid no later than the date and time of the bid opening.

D. A contractor shall include in each and every subcontract relating to a public works contract, a provision whereby the subcontractor agrees to make a good faith effort to hire qualified individuals who are local residents. A contractor shall be responsible for a subcontractor’s compliance with the provisions of this Chapter.

E. The purchasing agent shall prescribe rules, regulations, and procedures relating to the application, administration, and interpretation of the provisions of this Section. Such rules, regulations, and procedures shall be consistent with the provisions of this Section and may specify details and forms to be used.

3.36.040 Requirements for subcontractors.

Each subcontractor for work, laborers or materialmen relating to a public works project subject to this Chapter shall, in its contract with the prime contractor, promise to make a good faith effort (as defined in Section 3.36.030) to hire qualified individuals who are local residents and to maintain documentary evidence of such actions.

3.36.050 Hiring discretion.

This Chapter does not limit the contractor's or the subcontractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Chapter shall be interpreted so as to require a contractor or subcontractor to employ a worker not qualified for the position in question, or to employ any particular worker.

3.36.060 Nonresponsive bids.

The City may declare a bid to be nonresponsive under the provisions of this Chapter for good cause including, but not limited to, the following circumstances: (i) if a contractor fails to complete and sign under penalty of perjury the Certificate of Good Faith Effort to Hire Local Residents and/or fails to submit the same with its sealed bid no later than the date and time of the bid opening; or (ii) if a contractor, or a subcontractor listed by a contractor, fails to comply with the good faith effort requirements set forth in Sections 3.36.030 and 3.36.040.

3.36.070 Required documentation.

During its performance of a public works contract, a contractor shall keep an accurate record on a standardized form showing the name, place of residence, trade classification, hours employed, proof of qualified individual status, per diem wages and benefits of each person employed by the contractor on the specific public works project, including full-time, part-time, permanent and temporary employees. A contractor shall require each subcontractor performing work pursuant to a public works contract awarded by the city to the contractor to maintain records of the same information for the subcontractor's workforce and shall require each subcontractor to provide a copy of such records to the contractor upon the contractor's request. A contractor shall make the records and documents set forth in this Section available to the city, upon request, within five (5) business days.

3.36.080 Forms submitted under penalty of perjury.

All forms required under this Chapter shall be attested to as true as to the information set forth therein and shall be submitted under penalty of perjury.

3.36.090 Monitoring.

From time to time, and at its sole discretion, the City may monitor and investigate compliance of any contractor and/or subcontractor with respect to the requirements of this Chapter. The city shall have the right to engage in random inspections of job sites, subject to construction schedule and safety concerns. Each contractor and subcontractor shall allow representatives of the city, in the performance of their duties, to engage in random inspections of job sites and to have access to the employees of the contractor and subcontractor and the records required to document compliance with this Chapter. The City shall establish a procedure for city monitoring of compliance with this Chapter and to address allegations of noncompliance. The city shall have sole authority over the administration of this Chapter.

3.36.100 Exclusions and exceptions.

The provisions of this Chapter shall not apply under any of the following circumstances: (i) when a state or federal law or regulation applicable to a particular public works contract prohibits a local hiring requirement; (ii) when the city determines, in accordance with the requirements of this code or applicable state law, that a contract is necessary to respond to an emergency which endangers the public health, safety or welfare; and/or (iii) when the City determines that a suitable pool of qualified individuals who are local residents does not exist for a specific public works contract.