

## ORDINANCE NO. 913

### AN ORDINANCE REGARDING LOCAL EMPLOYMENT FOR PUBLIC WORKS CONTRACTS AT THE MONTEREY PENINSULA AIRPORT DISTRICT

THE BOARD OF DIRECTORS OF MONTEREY PENINSULA AIRPORT DISTRICT DO ORDAIN AS FOLLOWS:

#### SECTION 1. Definitions.

“Contract for public works or improvement” means any contract with the Monterey Peninsula Airport District (MPAD) for *non-routine* construction, alteration, demolition or repair work.

“Local Area” means the counties of Monterey, Santa Cruz and San Benito and any location within a fifty (50) mile radius of the Monterey Regional Airport.

“Qualified individual” means an individual who has been domiciled, as defined by Section 200(b) of the California Elections Code, within the boundaries of the Local Area for at least one(1) year immediately preceding the date of the award of contract by MPAD and who can verify his or her domicile upon request of the contractor or MPAD by producing documentation such as a rent/lease agreement, telephone and utility bills or payment receipts, a valid California driver’s license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within the Local Area.

“Viable apprenticeship program” means an apprenticeship program approved by the California Department of Apprenticeship Standards that has graduated apprentices annually for at least the fast five (5) years. Any apprenticeship program that has been approved for less than 10 years shall be deemed a viable apprenticeship program provided that, following the fifth anniversary of its approval by the California Department of Apprenticeship Standards, it graduates apprentices each subsequent year.

**SECTION 2. Findings.** The Board of Directors of the Monterey Peninsula Airport District (MPAD) hereby finds that:

2.1 Unemployment rates in the Monterey County Region (Local Area) have been consistently higher than in California as a whole.

2.2 to the lack of local jobs, much of the work force residing in the Local Area is forced to 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.

2.3 The Board of Directors of MPAD has concluded that a policy that encourages contractors who receive MPAD contracts or subsidies to hire residents of the Local Area will benefit the Local Area as a whole.

2.4 Such policy will provide job opportunities to Local Area residents, expand MPAD’s employment base, lessen the drain on public assistance resources, and reduce the impacts on the environment caused by high unemployment and long commuting times to jobs outside the area.

### **SECTION 3. Declaration of Policy and Purpose.**

3.1 It is the policy of MPAD to ensure full and equitable opportunities for Local Area residents to participate in the employment opportunities that arise from public works contracts.

3.2 It is also the policy of MPAD to increase the number of employed persons living in the Local Area in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist throughout the Local Area.

3.3 In furtherance of this policy MPAD has established a local employment program to encourage the hiring and retention of Local Area residents for the work to be performed under public works contracts, unless such a provision would conflict with a State or Federal law or regulation

### **SECTION 4. Scope and Goals.**

4.1 Unless such a provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works or improvements, all MPAD contracts for public works or improvements shall contain provisions pursuant to which the contractor promises to make a good faith effort, with the assistance of local labor union hiring halls or community organizations, to employ qualified individuals who are, and have been for one (1) year prior to the effective date of the contract, residents of the Local Area in sufficient numbers so that no less than fifty percent (50%) of the contractor's total construction work force, including any subcontractor work force, measured in labor work hours, is comprised of Local Area residents.

4.2 This contractor shall comply with any otherwise applicable requirement imposed upon the contractor by the California Labor Code, including requirements to hire apprentices pursuant to Labor Code section 1777.5.

**SECTION 5. Good Faith Effort.** A bidder or contractor who fails to meet the goal of having 50 percent of its work force be residents of Monterey shall, nevertheless, be deemed to have made a "good faith effort" to hire sufficient numbers of residents of the Local Area if, prior to execution of the contract with MPAD, three (3) or more of the following employee recruitment activities have been undertaken and documented:

5.1 Advertising existing and projected position vacancies, job informational meetings, job application workshops, job application centers, and job interviews by posting notices which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process, in conspicuous local authorized public places, including but not limited to the City Hall, schools, post offices, libraries, and senior citizens' centers;

5.2 Conducting a job informational meeting to inform the community of employment opportunities of the contractor, to be held at MPAD or other public facility (may be combined with other contractors);

5.3 Providing ongoing assistance to Local Area residents in completing job application forms;

5.4 Conducting a job application workshop to assist the community in applying and interviewing for jobs in the contracting industry, to be held at MPAD or other public facility (may be combined with other contracts);

5.5 Establishing a job application center located in MPAD, where job applications may be obtained, delivered to and collected;

5.6 Conducting job interviews within 10 miles of the location designated for contract performance;

5.7 Advertising valid existing and projected position vacancies through the local media, such as community television network, local newspapers of general circulation, and trade papers or minority focus newspapers;

5.8 Telephone solicitation of known potential local subcontractors or employees;

5.9 Any other means of obtaining employees who are residents of the Local Area that are reasonably calculated to comply with the goals of this section.

#### **SECTION 6. Required Documentation.**

6.1 The contractor shall keep, and provide to MPAD, on standardized forms acceptable to MPAD, an accurate record showing the name, place of residence, hours employed and per diem wages and benefits of each person employed by the contractor, and the contractor's subcontractors, on the specified public works project, including full-time, part-time, permanent and temporary employees.

6.2 The contractor shall keep, and provide to MPAD, on forms acceptable to MPAD, an accurate record documenting the contractor's good faith efforts to comply with the local resident employment and apprentice employment provisions of this section. Said records shall include: a listing by name and address of all local recruitment sources contacted by the contractor; the date of the local recruitment contact and the identity of the person contacted; the trade and classification and number of employment referrals requested; the number of local residents employed as a result of the contact; and the identity and address of the person(s) employed pursuant to the contact.

**SECTION 7. Forms Submitted Under Penalty of Perjury.** All forms required under this section shall attest to the veracity of the information set forth therein and shall be submitted under penalty of perjury.

**SECTION 8. Irresponsible Bidder Declaration.** Should any contractor or subcontractor fail to abide by the good faith local resident employment and apprentice employment provisions of this section, the contractor or subcontractor may be declared by MPAD to be an irresponsible bidder as defined by applicable MPAD ordinance or state law.

**SECTION 9. Binding on Subcontractors.** The good faith local resident employment and apprentice employment provisions of this section shall bind the contractor both with respect to persons employed directly by the contractor and to all persons employed by the contractor's subcontractors. The contractor shall be responsible for assuring that all subcontractors document said compliance by submitting, and making available to MPAD, the forms required by this section.

#### **SECTION 10. Contracts – Bid Documents – Subcontracts.**

10.1 Contracts and bid documents shall incorporate this section by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of the contract or subcontract.

10.2 All subcontracts shall expressly acknowledge MPAD's status as a third party beneficiary to that subcontract and further expressly acknowledge that MPAD, as a third party beneficiary, shall have the right to enforce the provisions of this section with regard to that subcontract or seek remedies available under this section should a party to the subcontract fail to comply with any of the provisions of this section that apply to the subcontract.

10.3 Contracts and bid documents shall require bidders, contractors and subcontractors to maintain records necessary for monitoring their compliance with this section.

**SECTION 11. Exceptions.** The provisions of this section shall not apply:

11.1 Where MPAD determines that the contract is necessary to respond to a declared emergency which endangers the public health, welfare or safety and there is no time to apply the provisions of this section.

11.2 To MPAD construction contracts or portions thereof, wherein the work is of a highly specialized nature as determined by the Board of Directors when the contract specifications are approved.

**SECTION 12. Effective Date.** This ordinance shall take effect thirty (30 days from and after the date of its adoption.

**ADOPTED BY THE BOARD OF DIRECTORS OF THE MONTEREY PENINSULA AIRPORT DISTRICT** this 19th day of December, 2012, by the following roll call vote:

<b>AYES:</b>	<b>DIRECTORS:</b>	Miller, Nelson, Sabo, Searle, Chair Leffel
<b>NOES:</b>	<b>DIRECTORS:</b>	None
<b>ABSTAIN:</b>	<b>DIRECTORS:</b>	None
<b>ABSENT:</b>	<b>DIRECTORS:</b>	None

Signed this 19<sup>th</sup> day of December, 2012



Mary Ann Leffel, Chair

ATTEST



Charles R. Hayes  
District Secretary