

ORDINANCE NO. 5210

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING SECTION 5.08.120 OF THE MONTEREY COUNTY CODE RELATING TO EMPLOYMENT OF MONTEREY BAY AREA RESIDENTS ON COUNTY PUBLIC WORKS PROJECTS.

**County Counsel Summary**

*This ordinance amends Section 5.08.120 of the Monterey County Code to strengthen and clarify regulations related to contractors employing Monterey Bay Area residents on County public works projects. As revised by the ordinance, section 5.08.120 requires contractors on County public works projects to make a good-faith effort to employ qualified individuals who are, and have been for at least one year out of the past three years prior to the opening of bids, residents of the Monterey Bay Area in sufficient numbers so that no less than fifty (50) percent of the contractor's total construction work force, on each particular contract, including any subcontractor work force (with exception of specialty subcontractor items identified in bid items) measured in labor work hours, is comprised of Monterey Bay Area residents. Monterey Bay Area residents means people residing within Monterey County, San Benito County, or Santa Cruz County. This ordinance requires contractors to document and report on their compliance with the local employment requirements. It also defines "good faith effort," including a requirement that the contractor contact local hiring halls and advertise locally for qualified Monterey Bay Area residents.*

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The heading of Section 5.08.120 of the Monterey County Code is amended to read as follows:

5.08.120 Local Employment - Public Works Contractors

SECTION 2. Subsection B of Section 5.08.120 of the Monterey County Code is amended to read as follows:

B. General Provisions.

1. All County contracts for public works of improvement shall contain provisions pursuant to which the contractor shall make a good-faith effort to employ qualified individuals who are, and have been for at least one year out of the past three years prior to the opening of bids, residents of the Monterey Bay Area in sufficient numbers so that no less than fifty (50) percent of the contractor's total construction work force, on that particular contract, including any subcontractor work force (with exception of specialty subcontractor items identified in bid items) measured in labor work hours, is comprised of Monterey Bay Area residents.

2. Required Documentation.

a. The contractor shall keep an accurate record on a standardized form showing the name, place of residence, trade classifications, hours worked, proof of journey person or apprenticeship status, per diem wages and benefits of each person employed by the contractor, the contractor's subcontractors, on the specific public works project, including full-time, part-time, permanent and temporary employees, make sure records are available to the County with submission of final certified payroll records prior to final payment.

b. The contractor shall keep, and provide to the County, on forms acceptable to the County, an accurate record documenting compliance with this Chapter. Said records shall include: a listing by name and business 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 hire referrals requested, the number of local hires made as a result of the contract, and the identity of business address of the person(s) hired pursuant to the contract.

c. At the conclusion of each project and at other intervals as may be deemed appropriate by the Project Manager, the contractor shall provide a summary report of the percentage of actual labor work hours performed by Monterey Bay Area residents for each prime and subcontractor assigned to the project.

SECTION 3. Subsection F of Section 5.08.120 of the Monterey County Code is amended to read as follows:

F. Exceptions. The provisions of this Section shall not apply where the provision would conflict with a State or Federal law or regulation applicable to a particular contract for public works of improvement or where the Board, in accordance with the requirements of this Code or State law, determines that the contract is necessary to respond to a declared emergency which endangers the public health, safety, or welfare and that there is not time to apply the provisions of this Section.

SECTION 4. Subsection 4 is added to Subsection H of Section 5.08.120 of the Monterey County Code to read as follows:

4. A "good-faith" effort means the contractor will take the following or similar actions to recruit and maintain Monterey Bay Area residents as part of the construction workforce:

a. Contact local recruitment sources, including local hiring halls, to identify qualified individuals who are Monterey Bay Area residents;

b. Advertise for qualified Monterey Bay Area residents in trade papers, electronic/ "on-line" sources, and newspapers of general circulation in the Monterey Bay Area, unless time limits imposed by County do not permit such advertising.

c. If portions of the work are to be performed by subcontractors, identify qualified subcontractors whose workforce includes Monterey Bay Area residents; and

d. If current workforce does not exceed the fifty (50) percent local requirement, develop a written plan to recruit Monterey Bay Area residents as part of the construction workforce.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 6. This ordinance shall become effective on the 31<sup>st</sup> day following its adoption.

**PASSED AND ADOPTED** this 11th day of December, 2012, by the following vote:

AYES: Supervisors Armenta, Calcagno, Salinas, Parker & Potter  
NOES: None  
ABSENT: None

Dave Potter  
Chair, Monterey County Board of Supervisors

A T T E S T :  
GAIL T. BORKOWSKI  
Clerk of the Board of Supervisors

By: Gail T. Borkowski

Deputy

APPROVED AS TO FORM:

Wendy S. Strimling  
WENDY S. STRIMLING  
Senior Deputy County Counsel