

# CITY OF MILWAUKEE

Form CA-43

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November 6, 2003

Mr. Barry Zalben  
Legislative Reference Bureau  
200 East Wells, Room B-11  
Milwaukee, WI 53202

Attn: Richard Pfaff

Re: Unemployed Residents Preference Program

Dear Mr. Zalben:

On October 28, 2003, you transmitted to our attention a proposed revision to sec. 309-41, Milwaukee Code of Ordinances, relating to the City's Unemployed Residents Preference Program. The new ordinance would be Chapter 355.

The only change between the current ordinance and the proposal is the increase in applicability. Instead of being limited to DPW construction contracts (and other DPW contracts identified by the Commissioner of Public Works), the proposal expands the program to all contracting departments, and to all service contracts, with the exception of professional service contracts. We assume that the policymakers will consider the feasibility and expense of such an expansion.

When we assisted in creating the original program, we advised that the Common Council must make findings demonstrating the urgent problem facing the City, and that the program is a narrowly-tailored method of addressing that problem. The findings supporting the program in 1991 are attached. Court decisions interpreting the Privileges and Immunities Clause of the United States Constitution require this approach because the program favors Milwaukee residents over other United States citizens. (Opinion of the City Attorney dated April 23, 1990, attached).

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It is for this reason that the current ordinance requires annual review and adoption of a resolution re-affirming the continued necessity of the program and the adequacy of the percentage requirement. Section 309-41-6, MCO.

It is our opinion that, before this ordinance revision is adopted, updated findings be made by the Council to support the need for the ordinance, its expansion, and the percentage requirement. If the appropriate findings are made, as is required under the current ordinance, we believe that the revision would be legal and enforceable.

Very truly yours,



GRANT F. VANGLEY  
City Attorney



LINDA ULISS BURKE  
Deputy City Attorney

LUB:bl

Encs.

1093-2003-3558/74541

..NUMB: 872263  
..VERS: SUBSTITUTE 6  
..REF:  
..XXBY: ALD. PRATT, MURPHY, KALWITZ, CULLEN AND KRAJNIAK  
..TITL: A substitute ordinance relating to a residents preference program for the award of construction contracts and providing a penalty.  
..SECS: 309-41 cr  
..ANLS:

- Analysis -

This ordinance requires that the department of public works ensure that 14% of the worker hours on most public works projects awarded by the city be performed by unemployed residents of the special impact area, as designated by the federal economic development administration. The special impact area currently experiences unemployment at a rate 3 to 4 times that of the city and the metropolitan area. The 14% requirement will be reviewed annually. The department shall be responsible for the implementation and enforcement of this program.

..BODY:

Whereas, Between 1980 and 1989, there was a 30% decline in the number of manufacturing jobs in the city of Milwaukee while the relatively lower paying service sector grew by 21.2% over the same period; and

Whereas, The unemployment situation is more severe in the city of Milwaukee than it is in other jurisdictions in the area; and

Whereas, There is a further concentration of unemployment within the city in the special impact area designated by the federal economic development administration; and

Whereas, The unemployment rates for the first 10 months of 1990 were 4.9% for the city of Milwaukee; 4.1% for Milwaukee county; 3.8% for the metropolitan area; 4.4% for the state of Wisconsin; 5.4% for the U.S.; and 16.7% for the special impact area; and

Whereas, The number of unemployed city residents has averaged approximately 17,000 persons over the last 4 years; and

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Whereas, While 65% of county residents live in the city, approximately 75% of the unemployed in Milwaukee county live in the city, and while 43% of the residents of the metropolitan area live in the city, approximately 53% of all unemployed persons in the metropolitan area reside in the city; and

Whereas, While the special impact area contains 25% of the city's population, in recent years the area has had over 62% of the city's unemployed residents; and

Whereas, While approximately 16% of Milwaukee county's residents live in the special impact area, over 43% of the county's unemployed residents live in this area; and

Whereas, The 16.7% unemployment rate in the special impact area for the first 10 months of 1990 was more than double the metropolitan, state and national rates; and

Whereas, Based upon statistics for the first 10 months of 1990, the city unemployment rate excluding the special impact area would have been as low as 2.5%; and

Whereas, Per capita income is lower in the city of Milwaukee than in any other community in Milwaukee county; and

Whereas, The higher unemployment rate in the special impact area specifically reflects a severe impact on the economic well-being of the city's population; and

Whereas, The high rate of unemployment in the city has a severe negative effect on the city's property tax base, revenues and expenditures for city services; and

Whereas, The special impact area suffers from enormous economic and social problems; and

Whereas, In 1990, the special impact area accounted for 95 of the 165 homicides committed in the city of Milwaukee; and

Whereas, The high unemployment in this area has translated into neighborhood problems, including high housing vacancy rates, increasing evidence of boarded-up units and declining rates of owner occupancy; and

Whereas, The median household income in the special impact area is only approximately 40% of the city median household income; and

Whereas, The special impact area is characterized by the deteriorated state of housing and commercial areas and a concentration of the poorest households in the city; and

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Whereas, Based on all contracts awarded in 1989 by the department of public works, the department found that city residents accounted for only 35.8% of employes hired by contractors on city-funded projects; and

Whereas, City residents accounted for only 38% of the total number of worker hours in street paving contracts; 26.9% in sewer and water contracts; 38.6% on sidewalk resurfacing contracts; 27.7% in the bridges and buildings area and 48.1% in parks and playgrounds; and

Whereas, Accordingly, non-city residents accounted for 62% of the total number of worker hours in street paving contracts; 73.1% in sewer and water contracts; 61.4% on sidewalk resurfacing contracts; 62.3% in the bridges and buildings area and 51.9% in parks and playgrounds; and

Whereas, The city and its residents have been harmed by the existing unemployment rate, particularly in the special impact area, which has been caused in part by the employment of nonresidents in city public works contracts; and

Whereas, Such harm includes, but is not limited to, the inability of unemployed city residents to pay property taxes which support the provision of city services to residents of the city; and

Whereas, Such harm also includes an increase in demand for city-funded services by unemployed residents, such as increased needs for services provided by the city's health, building inspection and police departments; and

Whereas, The city finds that there are at present qualified unemployed residents residing in the special impact area in sufficient numbers to work on most public works contracts; and

Whereas, A requirement that special impact area residents make up a designated percentage of the workforce on public works contracts will benefit all city residents by alleviating the special impact area's unemployment problem, will equalize the unemployment rates among the various jurisdictions in the area, and will diminish the harm suffered by the city and city residents from the employment of nonresidents on public works contracts without a substantial increase in cost to the city; and

Whereas, The city of Milwaukee through its contracting function has a significant impact on local economic activity; and

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Whereas, In 1990, in the area of construction, the city of Milwaukee, through the department of public works, awarded \$33,386,613 worth of contracts, which were funded in large part by property taxes paid by city residents; and

Whereas, It is in the best interests of the city of Milwaukee, its labor force and business community that action be taken to create jobs and to alleviate the unemployment situation in the special impact area; and

Whereas, The common council of the city of Milwaukee finds that the high concentration of unemployment in the special impact area is detrimental to the economic and social health of the community; and

Whereas, The finance and personnel committee and the economic development committee of the common council have held public hearings and taken testimony concerning the unemployment situation in the city and its impact on individuals, business and city government; and

Whereas, The finance and personnel committee and the economic development committee are aware of other studies undertaken by public and private agencies in the area which document the severe unemployment situation in this city, and most particularly in the special impact area; and

Whereas, Based upon all of the proceedings and testimony before the finance and personnel committee and the economic development committee of the common council, and reports and studies, all of which are part of this file, the common council finds that action must be taken to address the critical unemployment situation in the city of Milwaukee; now, therefore,

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 309-41 of the code is created to read:

**309-41. Participation of City Residents in City Construction Contracts.** 1. DEFINITIONS. In this section:

a. "Construction" means either new construction work or repair work on any roads, bridges, sewers, streets, alleys, buildings or any other public work whatsoever.

b. "Contract" means a binding agreement executed by the city in which the city is committed to expend or does expend its funds or other resources.