

**RESOLUTION OF THE COUNTY OF MORRIS ESTABLISHING A POLICY THAT CONTRACTORS AWARDED PUBLIC WORKS CONTRACTS EQUAL TO OR IN EXCESS OF \$500,000.00 EMPLOY HIGHLY SKILLED WORKERS AND FOR ALL CONTRACTORS OF PUBLIC WORKS CONTRACTS TO VERIFY LAWFUL EMPLOYMENT ELIGIBILITY OF THEIR EMPLOYEES.**

**WHEREAS**, the County of Morris has a compelling interest in assuring that public works projects meet the highest standards of safety, workmanship and quality; and

**WHEREAS**, the County of Morris, as an owner, is concerned with the efficient use of its resources and the protection of investment in public works projects; and

**WHEREAS**, the County of Morris believes that public works projects costing \$500,000.00 or more, represent significant investments of public funds; and

**WHEREAS**, the County of Morris believes that public works projects require skilled work, competency, tradesman and craftsman; and

**WHEREAS**, the County of Morris believes that the public interest is fostered and benefited by Contractors that employ highly skilled workers; and

**WHEREAS**, as recognized by the Legislature of the State of New Jersey, public works projects completed by highly skilled workers results in lower repair costs and maintenance over the course of completed public works project's lifetime; and

**WHEREAS**, the Local Public Contracts Law requires that the County of Morris award contracts for public works projects to the lowest responsive and responsible bidder, where "responsible" means a bidder has the ability to complete the contract in accordance with the contract's requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit and workforce, equipment and facilities availability; and

**WHEREAS**, the County of Morris believes that Contractors awarded contracts for public works projects costing \$500,000.00 or more, are applying a higher degree of responsibility when such Contractors utilize a workforce of highly skilled workers and a Contractor's workforce is a condition directly related to the purpose and activity of public works projects; and

**WHEREAS**, the Local Public Contracts Law requires that specifications for the provision of goods or services be drafted in a manner to encourage free, open and competitive bidding but allows for standards and conditions directly related to purpose, function or activity for which the contract is awarded; and

**WHEREAS**, the Local Public Contracts Law requires that Contractors that are awarded contracts for public works projects are responsive if they conform in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request; and

**WHEREAS**, trade and craft apprenticeship and training programs registered with the United States Department of Labor's Bureau of Apprenticeship and Training or New Jersey State Apprenticeship Agency or equivalent training programs, provide a means of supplying and ensuring highly skilled workers in a cost effective manner; and

**WHEREAS**, registered trade and craft apprenticeship programs provide a public benefit in training, developing and maintaining a highly skilled workforce and are complementary to public works projects; and

**WHEREAS**, the County of Morris believes that requiring Contractors awarded contracts for public works projects costing \$500,000.00 or more to participate in active apprenticeship and training programs, or agreeing to employ any workers of journeyman status and paid at the journey rate, are an effective and suitable methods to ensure the use of highly skilled workers and achieve the highest standards of safety, workmanship and quality of public works projects in a cost effective manner, which will lower repair and maintenance costs over the life of completed public works projects; and

**WHEREAS**, the County of Morris seeks to encourage Contractors awarded contracts for public works projects for the County of Morris to hire residents of Morris County where such Contractors have a need for new employees; and

**WHEREAS**, Contractors create unfair competition when they intentionally and knowingly employ unauthorized aliens to perform labor, which not only denies job opportunities for lawful residents, but also harms the public as contractors misclassify such employees to avoid the payment of taxes and pay substandard wages, which further creates an unfair advantage over scrupulous contractors; and

**WHEREAS**, the County of Morris believes that responsible Contractors should verify that their employees are eligible for lawful employment; and

**WHEREAS**, respective of the Occupational Safety and Health Act of 1970, as amended (OSHA), the County of Morris believes safety to be of paramount consideration when public funds are invested in such public works; and,

**WHEREAS**, responsible contractors and subcontractors with respect to the performing of work on public works contracts in excess of \$500,000.00 total cost of project, must certify and disclose whether they have been cited and fined for a willful violation of federal or state safety laws in the past three years; and,

**WHEREAS**, with respect to the performing of work on public works contracts in excess of \$500,000.00 total cost of project, a responsible contractor or subcontractor when performing work on such projects demonstrates a higher degree of responsibility should they have at least one (1) supervisor or foreman onsite who has successfully completed an OSHA 10-hour, or 30-hour construction safety and health course; and,

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Chosen Freeholders of the County of Morris, in the State of New Jersey, as follows:

1. The recitals as provided above are hereby adopted and incorporated herein by reference as findings of the Board of Chosen Freeholders of the County of Morris.
2. The following terms shall have the following meanings:

“Apprentice Program” shall mean a registered apprenticeship program providing to each trainee combined classroom and on-the-job training under the direct supervision of a highly skilled worker in an occupation recognized as an apprenticeable trade, and registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and meeting the standards established by the Bureau, or registered by a State apprenticeship agency recognized by the Bureau.

“Contractor” shall mean a person or business entity awarded a public contract for a Public Works Project with the County of Morris and shall also include such Contractor’s authorized subcontractors.

“Employee” shall mean an individual who is employed by a Contractor or subcontractor and is providing work related to a Public Works Project or Qualified Public Works Project of the County of Morris and shall include “workman” or “worker” as defined at N.J.S.A. 34:11-56.26.

“Equivalent Training Program” shall mean a program of occupational study and training for an occupation recognized as an apprenticeable trade, provided by a secondary school accredited by the Council on Occupational Education or a training program recognized by the Bureau Apprenticeship and Training of the U.S. Department of Labor or the State of New Jersey as equivalent to an Apprentice Program.

“E-Verify Program” shall mean that internet based verification program as jointly administered by the United States Citizenship and Immigration Services, the United States Department of Homeland Security and the Social Security Administration for the confirmation of employment eligibility.

“OSHA 10-hour construction safety and health course” and “OSHA 30-hour construction safety and health course” pertain to the guidelines as provided by Occupational Safety and Health Administration (OSHA), on their website at <https://www.osha.gov/>

“Public Works Project” shall mean the construction, reconstruction, building, altering, repairing, improving or demolishing of any public structure, facility or improvement constructed or acquired by the County of Morris to house or provide local government functions and that are paid for, in whole or part, by the County of Morris, and for which it is required that workers are to be paid the prevailing

wage pursuant to the “New Jersey Prevailing Wage Act,” P.L. 1963, c. 150, exclusive of projects and contracts undertaken by independent agencies, subdivisions, or authorities within the County of Morris, even if such projects or contracts receive funding from the County of Morris.

“Qualified Public Works Project” shall mean the construction, reconstruction, building, altering, repairing, improving or demolishing of any public structure, facility or improvement constructed or acquired by the County of Morris to house or provide local government functions and that are paid for, in whole or part, by the County of Morris, and for which it is required that workers are to be paid the prevailing wage pursuant to the “New Jersey Prevailing Wage Act,” P.L. 1963, c. 150 and the cost estimate for the project, exclusive of any land acquisition costs, will equal or exceed \$500,000.00, exclusive of projects and contracts undertaken by independent agencies, subdivisions, or authorities within the County of Morris, even if such projects or contracts receive funding from the County of Morris.

3. All prospective contracts and specifications for a Qualified Public Works Project shall, as a material condition of the contract, require that the prevailing responsive Contractor, and all subcontractors participate in an active Apprentice Program or Equivalent Training Program as herein defined, for each trade or craft contemplated under the awarded contract with the County of Morris, or submit a statement of agreement that that such Contractor or subcontractor shall not employ any worker or employee less than journeyman status to be paid at the journeyman rate for each craft on the Qualified Public Works Project. The County of Morris may, in its discretion, waive this requirement for any Qualified Public Works Project if its enforcement would jeopardize receipt of any Federal, State or third-party grant or funding, or otherwise be prohibited under the terms of such Federal, State or third-party grant or funding.
4. All prospective contracts for a Qualified Public Works Project shall include a stipulation that if a responsive and responsible Contractor, that is awarded and executes a contract for a Qualified Public Works Project, and the Contractor or subcontractors as may be applicable, fails to comply with required participation in applicable Apprentice Programs or Equivalent Training Programs; or, alternatively, fails to submit a statement of agreement that such Contractor or subcontractor shall not employ any worker or employee less than journeyman status paid at a journeyman rate for each craft, or in fact employs any worker or employee at less than the journeyman status paid less than the journeyman rate for each craft, such failure or act shall be deemed to be an event of default under the contract and such failure shall constitute prior negative experience as to future eligibility for public works project contracts. The Contractor and subcontractors shall submit proof of participation in an Apprenticeship Program for all employees certified on payroll as apprentice level employees on their payroll certifications, pursuant to New Jersey Prevailing Wage Act,” P.L. 1963, c. 150, or shall certify as to journeyman status for workers paid at the journeyman rate for each craft with submittal to the County of certified payrolls.

5. The Contractors awarded a Qualified Public Works Project shall affirm that it has made a good faith effort to employ Morris County residents for completion of the Project when such Contractor has a need for new employees to complete the Qualified Public Works Project. Good faith effort shall include, but not be limited to: hosting a public job fair prior to the commencement of the Project open to residents of Morris County, posting of available employment opportunities with the Morris County One-Stop Career Center, posting of available employment opportunities with the Morris County Department of Human Services, Employment and Training Services, advertisement of employment opportunities in a newspaper of general circulation throughout Morris County, and internet advertisement.
6. Contractors or subcontractors when performing work on Qualified Public Works Projects shall have at least one (1) supervisor or foreman onsite who has successfully completed an OSHA 10-hour, or 30-hour construction safety and health course.
7. All prospective contracts and specifications for a Public Works Project shall require all Contractors and subcontractors for a Public Works Project to provide the County of Morris with an affidavit of employee eligibility prior to commencement of a Public Works Project. All Contractors and authorized subcontractors shall maintain Forms I-9 for each of Contractor's and subcontractor's employees and supply the County of Morris a copy of same upon request until the completion of the contract. The prevailing responsive Contractor, and its authorized subcontractors, shall verify the employment eligibility of any new employees hired after the commencement of any Public Works Project through the E-Verify Program and provide the County of Morris an affidavit of employee eligibility, appending thereto the results of the verification process.
8. All prospective contracts for a Public Works Project shall include a stipulation that if a responsive Contractor that is awarded and executes a contract for a Public Works Project, and the Contractor or Contractor's subcontractors as may be applicable, fails to comply with required participation in the E-Verify Program, or fails to provide documentation as required to establish the employment eligibility of its employees as required herein, or it is determined that the Contractor or its authorized subcontractors knowingly or intentionally employs ineligible individuals, such failure or conduct shall be deemed to be an event of default under the contract and such failure shall constitute prior negative experience as to future eligibility for public works project contracts.
9. In an effort to ensure compliance, the Board of Freeholders directs that the County Administrator, or County Administrator's designee, conduct random inspections and/or audits of Contractors and subcontractors of Public Works Projects and Qualified Public Works Projects to ensure compliance with

applicable New Jersey State laws, regulations, and policies as promulgated herein, in or at the County Administrator's discretion.

**BE IT FURTHER RESOLVED**, that upon the second anniversary of the adoption of this Resolution, the County of Morris intends to review the efficacy of the policies provided herein.

**BE IT FURTHER RESOLVED**, that if any provision of this Resolution is adjudicated by a Court of competent jurisdiction to be invalid, such provision shall be severable and all other provisions shall remain in full force and effect.

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect in thirty days from its passage and as provided by law.