

ORDINANCE NO. _____

CREATING A LOCAL EMPLOYMENT AND APPRENTICESHIP PROGRAM (LEAP)

WHEREAS, a highly skilled workforce is essential for enhancing economic growth and the continued prosperity of all our citizens; and

WHEREAS, shortages of skilled construction workers limit job growth and affect our economy; and

WHEREAS, this "skills gap" problem will continue to grow, due to the large numbers of skilled worker retirements and increased construction activity; and

WHEREAS, the responsibility to train the next generation of skilled workers rests with both the public and private sectors and must be done before too much of the knowledge and experience of existing skilled workers is lost due to retirements; and

WHEREAS, apprenticeship is a proven, highly-effective training model allowing entry-level workers to gain experience in a highly skilled occupation through a combination of on-the-job training and classroom instruction; and

WHEREAS, growing participation in apprenticeship programs today will ensure a viable workforce in the construction trade industry tomorrow; and

WHEREAS, Washington's traditional sources of high-wage, low-skilled work (forests and factories) are declining due to automation and global trade; and

WHEREAS, for there to be an increase in wages, there needs to be both an increase in the use of technology and highly-skilled workers; and

WHEREAS, if employers cannot find trained workers in Whatcom County, they will look to other places to locate their business facilities and create jobs; and

WHEREAS, apprenticeship programs can provide opportunity for disadvantaged youth and other individuals whose education has been disrupted to "learn and earn" their way to career path that offers the promise of a stable family wage future; and

WHEREAS, women and racial minorities have traditionally been under represented within the skilled trades; and

WHEREAS, Whatcom County is committed to working in partnership with labor and business to create a skilled workforce that reflects the diversity of our population and promotes community development; and

WHEREAS, the need to provide more family-wage jobs is reflected in the County's Comprehensive Plan, and the County is seeking to encourage cooperative educational opportunities responsive to the changing needs of the workplace, both locally while increasing economic stability throughout Whatcom County; and

1 **WHEREAS**, since the 1990s, city, county, and port governments in Washington
2 State have proven that apprenticeship utilization programs increase the number of people
3 training as registered apprentices; and
4

5 **WHEREAS**, with RCW 39.04.320 the Washington State Legislature recognized in
6 2005 the importance of apprenticeship training programs and expanded requirements that
7 state agencies require 15% of total labor hour be performed by approved apprentices for
8 projects that cost \$1 million or more; and
9

10 **WHEREAS**, between 2006 and 2009, the number of registered apprentices actively
11 training in Washington doubled after the state legislature expanded apprentice utilization in
12 state public works contracting, with building and construction trades leading the way; and
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14 **WHEREAS**, since 2012, agencies under the authority of the governor, local school
15 districts, and four year institutions of higher education have required a 15% apprentice
16 utilization provision for projects that cost \$1 million or more; and
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18 **WHEREAS**, a joint study from Washington General Administration and the
19 Washington Department of Labor and Industries concluded that the state's apprentice
20 utilization program is successful; and
21

22 **WHEREAS**, the Council finds that it would be in the best interests of the public
23 health, safety and welfare for the County to implement an apprenticeship utilization goal
24 which encourages employment of apprentices by requiring minimum level of 15%
25 apprentice employment as a requirement in the awarding of qualifying public works
26 construction contracts greater than \$1,000,000.
27

28 **NOW, THEREFORE, BE IT RESOLVED**, that the Whatcom County Code Title 3 shall
29 be amended to include a new chapter "CONSTRUCTION PROJECTS - APPRENTICE
30 REQUIREMENTS" as outlined in Exhibit A to this ordinance.
31

32 **ADOPTED** this ____ day of _____, 2019.
33

34
35 ATTEST:
36
37

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

38 _____
39 Dana Brown-Davis, Clerk of the Council
40

Rud Browne, Council Chair

41 WHATCOM COUNTY EXECUTIVE
42 APPROVED AS TO FORM:
43

WHATCOM COUNTY, WASHINGTON

44 _____
45
46 Civil Deputy Prosecutor
47

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____
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EXHIBIT A
AMENDMENT TO WHATCOM COUNTY CODE TITLE 3

Whatcom County Code Chapter X.XX
CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS

Sections:

- X.XX.010 Definitions.
- X.XX.020 Use of apprentices required for public works.
- X.XX.030 Administration.
- X.XX.040 EAP utilization plan.
- X.XX.050 Exceptions and waivers.
- X.XX.060 Monitoring.
- X.XX.070 Reporting.
- X.XX.080 Failure to meet utilization goal.

X.XX.010 Definitions.

Where used in this chapter, unless the context clearly requires otherwise, the following terms shall have the meaning and construction set forth herein:

- (1) "Apprentice" means an apprentice enrolled in an Approved Apprenticeship Program.
- (2) "Approved Apprenticeship Program" means an apprenticeship training program which: (a) is approved or recognized by the Washington State Apprenticeship and Training Council, and (b) all training and hours worked accumulate towards his/her graduation to journey level irrespective of any change of employer.
- (3) "Contractor" means a person, corporation, partnership, limited liability company, or joint venture entering into a contract with the County to construct a public work.
- (4) "Labor hours" refers to the total number of hours worked by workers receiving an hourly wage who are directly employed on the site of the public work and who are subject to state or federal prevailing wage requirements. "Labor hours" shall also include hours worked by workers employed by subcontractors on the site of the public work, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed-upon change order.
- (5) "Employee apprenticeship program (EAP)" refers to the requirements of this chapter and any administrative regulations applicable thereto.
- (6) "EAP coordinator" refers to the person designated by the County Executive to administer and coordinate the employee apprenticeship program.
- (7) "EAP utilization plan" refers to the plan for utilization of apprenticeship labor in a public work project.
- (8) "Estimated cost" shall mean the anticipated cost of a public work, as determined by the County, based upon the expected costs of materials, supplies, equipment, and labor, but excluding taxes and contingency funds.
- (9) "Notice to proceed" refers to the written authorization to the contractor under the public work contract to commence work.

1 (10) "Public work" refers to all County funded construction projects that constitute a
2 public work pursuant to RCW 39.04.010 as now or hereafter amended and estimated
3 to cost \$1,000,000 or more.
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5
6 (11) "Subcontractor" means a person, corporation, partnership, limited liability company,
7 or joint venture that has contracted with the contractor to perform all or part of the
8 work to construct a public work by a contractor.
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10 (12) "Director" means the Director of Public Works, or his or her designee, or successor
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12 **X.XX.020 Use of apprentices required for public works.**

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14 Apprentices shall be utilized on the construction of all public works in accordance with this
15 chapter.
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17 **X.XX.030 Administration.**

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19 (1) Apprenticeship Program Goal.

20 All contractors and subcontractors constructing or involved with the construction of
21 public works, and all service providers involved with the construction of a public work,
22 shall ensure that the lesser of at least 15 percent of the total labor hours actually
23 worked on the public work project, or 15 percent of the estimated labor hours, are
24 performed by apprentices.
25

26 (2) Diversity Goals.

27 The Director in consultation with the Council shall establish aspirational percentage
28 goals for Apprentices who are women, disadvantaged youth, and those who are racial
29 minorities. Contractors may be allowed to offer utilization below the aspirational
30 percentage goals by substituting other efforts to meet the intent of building a trained
31 construction workforce for a proportion of the utilization percentages for women,
32 disadvantaged youth, and minorities.
33

34 (3) Contract Requirements.

35 Contracts for such construction projects shall include provisions detailing the
36 apprentice labor requirements.
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38 (4) Submission of EAP Utilization Plan.

39 All contractors shall submit an EAP utilization plan and shall meet with the EAP
40 coordinator to review said EAP utilization plan prior to being issued a notice to
41 proceed. Failure to submit an EAP utilization plan may be grounds for the County to
42 withhold remittance of a progress payment until such plan is received from the
43 responsible contractor. A meeting with the EAP coordinator prior to issuance of a
44 notice to proceed shall be excused only when the EAP coordinator is unavailable to
45 meet prior to the scheduled date for issuance of the notice to proceed and the
46 contractor and the EAP coordinator have otherwise scheduled a meeting for the
47 coordinator to review the contractor's plan. The contractor shall be responsible for
48 meeting the EAP utilization goal requirements of the contract, including all
49 amendments and change orders thereto, and shall be responsible for overall
50 compliance for all hours worked by subcontractors. To the extent practical, the
51 contractor shall recruit apprentices from multiple trades or crafts.
52

53 **X.XX.040 EAP utilization plan.**
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1 The EAP utilization plan shall meet the following requirements:

- 2 (1) Shall be submitted on forms prepared or approved by the EAP coordinator;
- 3 (2) Shall specify the planned labor hours for each trade or craft;
- 4 (3) Shall provide for quarterly reports, as well as a final report, indicating the total labor
5 hours and the apprenticeship hours utilized by the contractor and all subcontractors
6 on the project; and
- 7 (4) Shall include a description of how the contractor will satisfy the EAP utilization goal
8 on the particular public work project and include a summary of outreach and
9 recruitment procedures to hire apprentices to work on the project.

10
11 **X.XX.050 Exceptions and waivers.**
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13 During the term of a construction contract subject to this chapter, the County may reduce
14 or waive the apprentice labor hour goals upon determination that:

- 15 (1) The contractor has demonstrated that it has utilized best efforts to meet the
16 established percentage requirement but remains unable to fulfill the goal;
- 17 (2) The contractor has demonstrated that insufficient apprentices are available to meet
18 the EAP utilization goals;
- 19 (3) The reasonable and necessary requirements of the contract render apprentice
20 utilization infeasible at the required levels;
- 21 (4) There exists a disproportionately high ratio of material costs to labor hours, which
22 does not make feasible the required minimum level of apprentice participation;
- 23 (5) To the extent that apprentice labor hour goals are in conflict with funding
24 agreements in place, including federal aid projects, in connection with the public
25 work; or
- 26 (6) For reasons deemed appropriate by the County Executive and not inconsistent with
27 the purpose and goals of this chapter.

28
29 **X.XX.060 Monitoring.**
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31 The County shall implement a system for monitoring the actual use of apprentices in
32 construction projects subject to this chapter. Such monitoring shall include identifying
33 individual apprentices by name and Washington State apprenticeship registration number;
34 reviewing documents provided by the contractor showing total apprentice labor hours;
35 determining the apprentice hours worked by minorities, disadvantaged youth, and women,
36 and as available, persons with disabilities and economically disadvantaged youth; and
37 assessing whether the contractor has complied with the apprenticeship requirement
38 established in its contract.

39
40 **X.XX.070 Reporting.**
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42 The County Executive shall report to the County council annually upon the use of
43 apprentices for public work projects. The report shall include, to the extent it is available:

- 44 (1) The percentage of labor hours actually worked by apprentices on each project and
45 the total number of labor hours on each project;
 - 46 (2) The number of apprentices by contractor broken down by trade and craft category;
 - 47 (3) The number and percentage of minorities, women, persons with disabilities and
48 disadvantaged youth utilized as apprentices on each project;
 - 49 (4) The number of new apprentices indentured during the reporting year as a result of
50 the County's apprenticeship requirements; and
 - 51 (5) The percentage of apprentices in training on County projects who have graduated to
52 journey level during the reporting year.
 - 53 (6) All exemptions and waivers granted under section X.XX.050
- 54

1 **X.XX.080 Failure to meet utilization goal.**
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3 (1) Hours Assessment.

4 Contracts for the construction of public work projects shall provide that contractors
5 failing to meet the EAP utilization goals they committed to when bidding for County
6 contracts shall be assessed an amount for each hour that is not achieved. The
7 amount per hour shall be based on the extent the contractor or service provider met
8 its goal. The amount per hour that shall be assessed shall be as follows:
9

Percent of goal met	Assessment per unmet apprentice hour
10 100%	\$ 0.00
11 90% to 99%	\$ 2.00
12 75% to 89%	\$ 3.50
13 50% to 74%	\$ 5.00
14 1% to 49%	\$ 7.50
15 0%	\$10.00

16
17
18 When determining the percent of goal that is met, all rounding shall be down to the
19 nearest whole percent. No assessment shall be waived by the County unless it is
20 determined by the County Executive to be in the best interests of the County, which
21 determination shall be made after consultation with the EAP coordinator.
22

23 (2) Deposit of Assessments.

24 All assessments imposed pursuant to this section shall be deposited into a separate
25 account and utilized to support pre-apprenticeship, training and outreach programs
26 within the County. Contributions need not be made for labor hours that have been
27 adjusted in accordance with section X.XX.050.
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