

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE TITLE 3, REQUIRING THAT PUBLIC FUNDS USED FOR CONSTRUCTION PROJECTS DO DOUBLE DUTY BY ALSO PROVIDING APPRENTICES WITH JOB TRAINING HOURS TO MEET THE REQUIREMENTS NECESSARY TO BECOME THE NEXT GENERATION OF SKILLED TRADES PERSONS

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

WHEREAS, the Aspen Institute and others have identified that the number one reason over 50% of apprentices fail to complete their training is they don't get enough on the job training hours to meet the certification requirements in a reasonable time and recommends that it is good public policy to use public works contracts to provide apprentices with the job training hours necessary to graduate; 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, growing participation and establishing robust apprenticeship programs will provide a clear pathway for a large segment of high school graduates seeking family wage careers and will create a greater pool of skilled workers for all contractors, organized or independent; and

WHEREAS, Washington's traditional sources of high-wage, low-skilled work (forests and factories) are declining due to automation and global trade. For there to be an increase in wages, there needs to be both an increase in the use of technology and highly-skilled workers. 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

1 **WHEREAS**, women and racial minorities have traditionally been under represented
2 within the skilled trades; and
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4 **WHEREAS**, Whatcom County is committed to working in partnership with labor,
5 business and the Washington State Apprenticeship and Training Council to create a skilled
6 workforce that reflects the diversity of our population and promotes community
7 development; and
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9 **WHEREAS**, Whatcom County aspires to have the percentages of Apprentices who
10 are women, disadvantaged youth, and those who are racial minorities be more reflective of
11 the makeup of the County's population; and
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13 **WHEREAS**, the need to provide more family-wage jobs is reflected in the County's
14 Comprehensive Plan, and the County is seeking to encourage cooperative educational
15 opportunities responsive to the changing needs of the workplace, both locally while
16 increasing economic stability throughout Whatcom County; and
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18 **WHEREAS**, since the 1990s, city, county, and port governments in Washington
19 State have proven that apprenticeship utilization programs increase the number of people
20 training as registered apprentices; and
21

22 **WHEREAS**, with RCW 39.04.320 the Washington State Legislature recognized in
23 2005 the importance of apprenticeship training programs and expanded requirements that
24 state agencies require 15% of total labor hour be performed by approved apprentices for
25 projects that cost \$1 million or more; and
26

27 **WHEREAS**, between 2006 and 2009, the number of registered apprentices actively
28 training in Washington doubled after the state legislature expanded apprentice utilization in
29 state public works contracting, with building and construction trades leading the way; and
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31 **WHEREAS**, since 2012 all contractors operating in Whatcom County seeking to win
32 state funded public works contracts are already required by RCW 39.04.320 to ensure that
33 no less than fifteen percent of the labor hours will be performed by apprentices on projects
34 for school districts and four-year institutions of higher education estimated to cost one
35 million dollars or more; and
36

37 **WHEREAS**, a joint study from Washington General Administration and the
38 Washington Department of Labor and Industries concluded that the state's apprentice
39 utilization program is successful; and
40

41 **WHEREAS**, the County finds that it would be in the best interests of the public
42 health, safety and welfare for the County to implement an apprenticeship utilization goal
43 which encourages employment of apprentices by requiring minimum level of 15%
44 apprentice employment as a requirement in the awarding of qualifying public works
45 construction contracts greater than \$1,000,000.
46

47 **NOW, THEREFORE, BE IT RESOLVED**, that the County Code shall be amended to
48 include a new chapter "CONSTRUCTION PROJECTS – APPRENTICE REQUIREMENTS" as
49 detailed in the attached Exhibit A; and
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NOW, THEREFORE, BE IT FURTHER RESOLVED, that should the City of Bellingham adopt a similar apprenticeship requirement language in the future that Whatcom County shall consult with the City of Bellingham for the purpose of harmonizing City and County code requirements.

ADOPTED this ____ day of _____, 2019.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Rud Browne, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

WHATCOM COUNTY, WASHINGTON

Civil Deputy Prosecutor

Jack Louws, County Executive

() Approved () Denied

Date Signed: _____

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EXHIBIT A

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 Remedies
- X.XX.090 Emergencies

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 registered in an Approved Apprenticeship Program.
- (2) "Approved Apprenticeship Program" means an apprenticeship training program which is approved or recognized by the Washington State Apprenticeship and Training Council.
- (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 employed directly and by subcontractors upon the public works project and who are subject to state or federal prevailing wage requirements, and shall include additional hours worked as a result of a contract or project adjustment or pursuant to an agreed-upon change order.
- (5) "Minimum Apprentice Labor Hours" refers to labor hours actually worked on a public works project by apprentices expressed as a percentage of total labor hours. The minimum percentage of apprentice labor hours by project shall be:
 - a. For contracts less than \$1,000,000 there shall be no requirement;
 - b. For contracts advertised for bid before January 1, 2021 there shall be no requirement;
 - c. For contracts advertised for bid on or after January 1, 2021 estimated to cost three million dollars or more, no less than ten percent of the labor hours shall be performed by Apprentices.
 - d. For contracts advertised for bid on or after January 1, 2022 estimated to cost two million dollars or more, no less than twelve percent of the labor hours shall be performed by Apprentices.

1 e. For contracts advertised for bid on or after January 1, 2023, estimated to cost
2 one million dollars or more, no less than fifteen percent of the labor hours
3 shall be performed by Apprentices.
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5 (6) "Employee apprenticeship program (EAP)" refers to the requirements of this chapter
6 and any administrative regulations applicable thereto.
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8 (7) "EAP coordinator" refers to the person designated by the County Executive to
9 administer and coordinate the employee apprenticeship program.
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11 (8) "EAP utilization plan" refers to the plan for utilization of apprenticeship labor in a
12 public work project.
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14 (9) "Estimated cost" shall mean the anticipated cost of a public work, as determined by
15 the County, based upon the expected costs of materials, supplies, equipment, and
16 labor, but excluding taxes and contingency funds.
17

18 (10) "Notice to proceed" refers to the written authorization to the contractor under
19 the public work contract to commence work.
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21 (11) "Public work" refers to all County funded construction projects that constitute
22 a public work pursuant to RCW 39.04.010 as now or hereafter amended and
23 estimated to cost \$1,000,000 or more.
24

25 (12) "Subcontractor" means a person, corporation, partnership, limited liability
26 company, or joint venture that has contracted with the contractor to perform all or
27 part of the work to construct a public work by a contractor.
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30 **X.XX.020 Use of apprentices required for public works.**
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32 Apprentices shall be utilized on the construction of all public works in accordance with this
33 chapter.
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35 **X.XX.030 Administration.**
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37 (1) Apprenticeship Program Goal.

38 All contractors and subcontractors constructing or involved with the construction of
39 public works, and all service providers involved with the construction of a public work,
40 shall ensure that the combined Minimum Apprentice Labor Hours applicable for the size
41 and bid date of the contract are performed by Apprentices.

42 (2) Contract Requirements.

43 Contracts for such construction projects shall include provisions detailing the
44 apprentice labor requirements. The EAP coordinator shall develop the necessary bid
45 documents and contract specification language to implement the requirements of this
46 chapter.
47

48 (3) Submission of EAP Utilization Plan.

49 All contractors shall submit an EAP utilization plan and shall meet with the EAP
50 coordinator to review said EAP utilization plan prior to being issued a notice to
51 proceed. Failure to submit an EAP utilization plan may be grounds for the County to

1 withhold remittance of a progress payment until such plan is received from the
2 responsible contractor. A meeting with the EAP coordinator prior to issuance of a
3 notice to proceed shall be excused only when the EAP coordinator is unavailable to
4 meet prior to the scheduled date for issuance of the notice to proceed and the
5 contractor and the EAP coordinator have otherwise scheduled a meeting for the
6 coordinator to review the contractor's plan. The contractor shall be responsible for
7 meeting the EAP utilization goal requirements of the contract, including all
8 amendments and change orders thereto, and shall be responsible for overall
9 compliance for all hours worked by subcontractors. To the extent practical, the
10 contractor shall recruit apprentices from multiple trades or crafts.

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12 **X.XX.040 EAP utilization plan.**

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14 The EAP utilization plan shall meet the following requirements:

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

23
24 **X.XX.050 Exceptions and waivers.**

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26 During the term of a construction contract subject to this chapter, the County may reduce
27 or waive the apprentice labor hour goals upon determination that:

- 28 (1) The contractor has demonstrated that it has utilized best efforts to meet the
29 established percentage requirement but remains unable to fulfill the goal;
- 30 (2) The contractor has demonstrated that insufficient apprentices are available to meet
31 the EAP utilization goals;
- 32 (3) The reasonable and necessary requirements of the contract render apprentice
33 utilization infeasible at the required levels;
- 34 (4) There exists a disproportionately high ratio of material costs to labor hours, which
35 does not make feasible the required minimum level of apprentice participation;
- 36 (5) There is no evening classes within 30 miles, or day classes within a 100 miles of the
37 job site that the Apprentice can attend to meet the school requirements of their
38 apprenticeship;
- 39 (6) To the extent that apprentice labor hour goals are in conflict with funding
40 agreements in place, including federal aid projects, in connection with the public
41 work; or
- 42 (7) For reasons deemed appropriate by the County Executive and not inconsistent with
43 the purpose and goals of this chapter.

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45 **X.XX.060 Monitoring.**

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47 The County shall implement a system for monitoring the actual use of apprentices in
48 construction projects subject to this chapter. Such monitoring shall include identifying
49 individual apprentices by name and Washington State apprenticeship registration number;
50 reviewing documents provided by the contractor showing total apprentice labor hours;
51 determining the apprentice hours worked by minorities, disadvantaged youth, and women,

1 and as available, persons with disabilities and economically disadvantaged youth; and
2 assessing whether the contractor has complied with the apprenticeship requirement
3 established in its contract.

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5 **X.XX.070 Reporting.**
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7 The County Executive shall report to the County Council annually upon the use of
8 apprentices for public work projects. The report shall include, to the extent it is available:

- 9 (1) The percentage of labor hours actually worked by apprentices on each project and
10 the total number of labor hours on each project;
11 (2) The number of apprentices by contractor broken down by trade and craft category;
12 (3) The number and percentage of minorities, women, persons with disabilities and
13 disadvantaged youth utilized as apprentices on each project;
14 (4) The number of new apprentices indentured during the reporting year as a result of
15 the County's apprenticeship requirements; and
16 (5) The percentage of apprentices in training on County projects who have graduated to
17 journey level during the reporting year.
18 (6) All exemptions and waivers granted under section X.XX.050
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20 **X.XX.080 Remedies.**
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22 Failure by a contractor to comply with established apprenticeship requirements, unless
23 otherwise waived or excused in writing by the County Executive pursuant to X.XX.050, shall
24 be deemed a breach of contract for which the County shall be entitled to all remedies
25 allowed by law and under the contract. Failure to comply with the apprenticeship
26 requirements may also be considered evidence bearing on a contractor's qualification for
27 award of future contracts with the County.
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30 **X.XX.090 Emergencies.**
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32 This chapter shall not apply in the event of an emergency. For the purposes of this section,
33 "emergency" means unforeseen circumstances beyond the control of the County that either:
34 (a) present an immediate threat to the proper performance of essential functions; or (b) will
35 likely result in material loss or damage to property, bodily injury, or loss of life if immediate
36 action is not taken.