

RESOLUTION NO. 373

AMENDING RESOLUTION NO. 251-A FOR 2011 TO CLARIFY VARIOUS PARTS AND ESTABLISH THAT THE ALBANY COUNTY AFFIRMATIVE ACTION PLAN APPLIES TO COUNTY CONSTRUCTION CONTRACTS

Introduced: 8/13/18

By Messrs. A Joyce and Signoracci:

WHEREAS, There is a long and productive history of partnership between labor and management for the training of skilled craft workers in New York State, and

WHEREAS, The promotion of apprenticeship training programs expands the pool of skilled workers by providing many residents the means to earn a decent living and creates opportunities for local residents, thereby fostering the local and regional economy, and

WHEREAS, Section 816-b of the New York State Labor Law authorizes counties and other government entities to require contractors and subcontractors on public construction projects to provide apprenticeship training programs, and

WHEREAS, It is the continued belief of this Legislature that these apprenticeship programs are a valuable tool to provide training opportunities for young people in the skilled construction trades and help them secure a promising future, and

WHEREAS, It is in the best interest of Albany County to afford opportunities for training in the appropriate building trades on County of Albany construction projects and more under the provisions of Section 816-b of New York State Labor Law, and

WHEREAS, In 2003 this Legislature passed Resolution No. 70 requiring contractors and subcontractors of County construction projects of \$250,000.00 or more to have in place agreements providing appropriate apprenticeship training programs approved by the Commissioner of the Department of Labor for the type and scope of work to be performed before the contracts are let, and

WHEREAS, In 2011 this Legislature updated and amended Resolution No. 70 for 2003 through the passage of Resolution No. 251-a requiring that such contractors and subcontractors submit proof of their registered apprenticeship programs with their bids,

WHEREAS, It is the continued commitment of the Albany County Legislature to ensure that equal opportunity is extended to all persons without regard to race, color, religion, age, national origin, marital status, sex or disability, and

WHEREAS, In 1996, the County of Albany codified this belief in adopting the Albany County Affirmative Action Plan, which established participation goals for historically disadvantaged business enterprises, including minorities and women, and

WHEREAS, This plan has not been applied to the full extent possible when it comes to construction contracts falling under Resolution No. 251-a for 2011 and its predecessor, now, therefore be it

RESOLVED, That Albany County hereby re-establishes and clarifies its policy to promote apprenticeship training as authorized by Section 816-b of the New York State Labor Law, and, be it further

RESOLVED, That to the greatest extent possible, the Albany County Affirmative Action Plan participation goals should be encouraged so that historically disadvantaged business enterprises are provided an equal opportunity to join in constructing the future of Albany County, and, be it further

RESOLVED, That the Director of Affirmative Action is hereby directed to review and update the Albany County Affirmative Action Plan to ensure that it provides the greatest opportunity to historically disadvantaged individuals, groups and enterprises, and, be it further

RESOLVED, That the Director of Affirmative Action is hereby directed to consider the contributions of Service-Disabled Veteran Business Enterprises and any other disadvantaged business enterprises provided protections under the laws of New York State and the United States, and, be it further

RESOLVED, The term “construction contract” shall mean any contract to which the County or any of its department or agencies shall be a signatory which involves the construction, reconstruction, improvement, rehabilitation, installation, alteration, renovation, demolition, or otherwise providing for any building, facility or physical structure of any kind with an aggregate value (which shall mean the total cost of all contracts of the project) in excess of \$250,000, and, be it further

RESOLVED, The terms “contractor or subcontractor” shall mean a contractor or subcontractor which directly employs labor under a construction contract for which an apprenticeship program has been approved by the New York State

Commissioner of Labor in accordance with Article 23 of the New York State Labor Law, and, be it further

RESOLVED, That Albany County hereby requires any contractor or subcontractor, at the time of bid date, to have apprenticeship agreements traditionally and historically appropriate for the type and scope of work to be performed, which have been registered with, and approved by, the New York State Commissioner of Labor, and, be it further

RESOLVED, Prior to entering into a construction agreement with Albany County, a contractor must submit, Certificates of Completion showing that they, or their sponsor, graduated at least one apprentice from a state approved and registered apprenticeship program, in the trade and/or job title called for within the construction contract, within a time period immediately preceding the bid date of such project, the length of said time period to be calculated by adding twenty-four months to the specific trade's program length as set forth in the New York State Prevailing Wage Schedule, except for the trade of laborer for which the length of the program is hereby defined to be two years. If a contractor is a signatory to a sponsor, the contractor must submit to the County a letter from the sponsor verifying its signatory status, and, be it further

RESOLVED, That apprenticeship agreements currently in place as of the effective date of this Resolution, which are still in probationary status shall be exempt from the graduation requirement, and, be it further

RESOLVED, That apprenticeship agreements currently in place as of the effective date of this Resolution, which are still in probationary status or apprenticeship agreements which were in probationary status during the period preceding the specific trade's program length as set forth in the New York State Prevailing Wage Schedule, shall be exempt from the graduation requirement for period measured from the date of the apprenticeship program is registered with the New York State Department of Labor plus the specific trade's program length plus two years.

RESOLVED, That it shall be a contractor's responsibility to submit the required Certificates of Completion as part of any bid submitted in connection with a construction contract and to provide to the County department or agency administering the construction contract the identity of apprentices who have graduated from their apprenticeship program, and, be it further

RESOLVED, That any contract with Albany County entered into by a contractor or subcontractor after the effective date of this Resolution which in the sole discretion of Albany County is deemed not to be in compliance with this resolution shall be declared null and void, and, be it further

RESOLVED, That if a contractor utilizes a subcontractor on a construction contract, the contractor shall submit Certificates of Completion showing that the subcontractor or the subcontractor's sponsor graduated at least one apprentice from a state approved and registered apprenticeship program, in the trade and/or job title called for within the construction contract, within a time period immediately preceding the bid date of such project, the length of said time period to be calculated by adding twenty-four months to the specific trade's program length as set forth in the New York State Prevailing Wage Schedule, except for the trade of laborer for which the length of the program is hereby defined to be two years. The contractor must submit these certificates at a time designated by the department or agency administering the construction contract, but in any event, these forms must be received by the County prior to a subcontractor beginning work under the contract. If the subcontractor is a signatory to a sponsor, the contractor must submit to the County a letter from the sponsor verifying the signatory status, and, be it further

RESOLVED, That it shall be the responsibility of the County department or agency administering a construction contract to verify that a contractor or subcontractor is a participant in a state approved and registered apprenticeship program and to include the submitted Certificates of Completion as an attachment to the recommendation for award submitted with the Request for Legislative Action seeking approval of the award of work to the contractor, and, be it further

RESOLVED, That it shall be the responsibility of the County department or agency administering a construction contract to designate an individual within that department or agency who shall be responsible for specifically identifying within a construction contract the trade(s) and/or job title(s) necessary to perform the construction contract and verifying the validity of Certificates of Completion and including same as an attachment to the recommendation for award submitted with the Request for Legislative Action seeking approval of the award of work to the contractor or subcontractor, and, be it further

RESOLVED, That it shall be the responsibility of the County Department or agency administering a construction contract to provide the County's Division of Affirmative Action with documentation demonstrating that a contractor or subcontractor has made good faith efforts pursuant to the Albany County Affirmative Action Plan initially established pursuant to Resolution No. 26 for 1996 to comply with the mandates contained therein, and, be it further

RESOLVED, That the Albany County Division of Purchasing shall promulgate such rules and regulations as necessary and appropriate for the implementation and enforcement of any provisions of this resolution, and, be it further

RESOLVED, That this Resolution shall apply to construction contracts advertised for bids on or after the effective date, and, be it further

RESOLVED, That the impact of this Resolution shall be re-evaluated no later than one (1) year after the date of its adoption to determine if the requirements imposed by this Resolution present an onerous and/or adverse impact on the County's finances or otherwise burden the various Departments or the Division of Purchasing, and, be it further

RESOLVED, That if any clause, sentence, paragraph, subdivision, section or part of the resolution or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this resolution, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance, directly involved in the controversy in which such judgment or order shall be rendered, and, be it further

RESOLVED, That the above changes shall take effect immediately after the passage of this resolution, and be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Referred to Law and Audit and Finance Committees – 8/13/18

Favorable Recommendation Law Committee – 8/27/18

Favorable Recommendation Audit and Finance Committee – 8/29/18

Mr. A. Joyce proposed the following amendment:

The Ninth RESOLVED clause shall be amended to read as follows:

“Resolved, That apprenticeship agreements which are in probationary status shall be exempt from the graduation requirement during the period of probationary status, and, be it further”

The Tenth RESOLVED clause shall be amended to read as follows:

“RESOLVED, That apprenticeship agreements currently in place as of the effective date of this Resolution, or those which come into effect thereafter, which were in probationary status during the period preceding the specific trade's program length as set forth in New York State Prevailing Wage Schedule, shall be exempt from the graduation requirement for period measured from the date of the apprenticeship program is registered with the New York State Department of Labor plus the specific trade's program length plus two years.”

On roll call the following voted in favor of the amendment: Messrs. Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Commisso, Dawson Domalewicz, Drake, Ethier, Feeney, Fein, Grimm, Higgins, Hogan, A. Joyce, R. Joyce, Mss.

Lekakis, Lockart, Mr. Mayo, Ms. McKnight, Messrs. Miller, O'Brien, Reinhardt, Signoracci, Simpson, Smith Tunny Ward, and Ms. Willingham – 30

Those opposed: Messrs. Burgdorf, Mauriello, Mendick and Stevens – 4

The amendment was adopted

On roll call the following voted in favor of the resolution as amended: Messrs. Beston, Bullock, Ms. Chapman, Messrs. Clay, Clenahan, Commisso Dawson, Domalewicz, Ethier, Feeney, Fein, Higgins, A. Joyce, R. Joyce, Ms. Lekakis, Mr. Mayo, Ms. McKnight, Messrs. Miller, O'Brien, Reinhardt, Signoracci, Simpson, Smith, Ward and Ms. Willingham – 25

Those opposed: Messrs. Burgdorf, Drake, Grimm, Hogan, Ms. Lockart, Messrs. Mauriello, Mendick, Stevens and Tunny – 9

Resolution as amended was adopted – 9/12/18