

PROPOSED

ORDINANCE NO. 2019-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, PERTAINING TO THE BROWARD COUNTY CONSTRUCTION APPRENTICESHIP PROGRAM; CREATING SECTIONS 26-8 THROUGH 26-11 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO ESTABLISH APPRENTICE PARTICIPATION REQUIREMENTS FOR COUNTY CONSTRUCTION CONTRACTS; PROVIDING FOR CONTRACTORS TO PARTICIPATE IN AN APPRENTICESHIP PROGRAM FOR SPECIFIED COUNTY CONTRACTS; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Senator Steve Geller and Cosponsored by Mayor Mark D. Bogen, Vice-Mayor Dale V.C. Holness, and Commissioner Lamar P. Fisher)

WHEREAS, many construction employers are having a difficult time filling some or all skilled trade positions;

WHEREAS, the shortage of a sufficient number of candidates for skilled trade positions could result in delays, expenses, and challenges to the County's future construction projects;

WHEREAS, participation in an apprenticeship program will create opportunities for training and experience that will assist in ensuring that a trained workforce will be available in the future for County construction projects;

WHEREAS, requiring the employment of apprentices on certain County construction projects will promote business and economic development by increasing the number of skilled workers in Broward County; and

1 WHEREAS, the Broward County Board of County Commissioners has determined
2 that creating new Sections 26-8 through 26-11 of the Broward County Code of
3 Ordinances, pertaining to the Broward County Construction Apprenticeship Program, is
4 appropriate at this time,
5

6 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
7 BROWARD COUNTY, FLORIDA:
8

9 Section 1. Section 26-8 of the Broward County Code of Ordinances is hereby
10 created to read as follows:

11 [Underlining omitted]

12 **Sec. 26-8. Apprentices for County Construction Contracts.**

13 (a) *Title.*

14 This section may be cited as the "Construction Apprenticeship Program" (the
15 "Apprenticeship Program").

16 (b) *Legislative Findings and Intent.*

17 There is a shortage of skilled labor for construction projects. This shortage of labor
18 could result in delays, expenses, and other challenges to the County's future construction
19 projects. Apprenticeships create opportunities for training and experience that will assist
20 in ensuring that a trained workforce will be available for future County construction
21 projects. By requiring contactors to use apprentices for County construction contracts, it
22 is the intent of the County to increase the number of apprentices used by contractors,
23 creating opportunities that will enable these apprentices to develop into more skilled labor
24 that will then be available for County construction projects.

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
underscored type are additions.

1 Section 2. Section 26-9 of the Broward County Code of Ordinances is hereby
2 created to read as follows:

3 **Sec. 26-9. Definitions.**

4 *Apprentice* means any person who is enrolled in and participating in an
5 apprenticeship program registered with the Florida Department of Education or the United
6 States Department of Labor. If a registered apprenticeship program does not exist for the
7 type of work on the construction project, then apprentice means any person who is
8 participating in a company-sponsored training program for that type of work.

9 *Bidder* means any individual, firm, corporation, partnership, company, association,
10 joint venture, or other entity that seeks the award of a construction contract.

11 *CBE or County Business Enterprise* means an entity certified as a CBE pursuant
12 to the County's Business Opportunity Act of 2012, as amended.

13 *Contractor* means any individual, firm, corporation, partnership, company,
14 association, joint venture, or other entity that has a construction contract with the County.

15 *Construction contract* means a contract between the County and a contractor for
16 a construction project.

17 *Construction project* means a project, funded by County dollars in an amount of at
18 least \$2,000,000, that involves the process of building, altering, repairing, improving, or
19 demolishing any public structure or building, or other public improvements of any kind to
20 any real property owned or under the control of the County, which work is being performed
21 under a construction contract.

22 *Good faith efforts* means that the contractor, without an intent to defraud or seek
23 an unfair advantage, took all necessary steps to secure and maximize, consistent with
24

1 the requirements of this Ordinance, the required percentage for apprentices on a
2 construction project.

3 *Subcontractor* means an entity or individual providing services to the County
4 through a contractor for all or any portion of the construction contract.

5 *Labor hours* means the total hours worked on the site of a construction project by
6 workers who are employed by contractors or subcontractors on the construction project,
7 excluding hours worked by forepersons, superintendents, owners, and workers not
8 subject to the County's rate of wages requirement under Section 26-5, Broward County
9 Code.

10 Section 3. Section 26-10 of the Broward County Code of Ordinances is hereby
11 created to read as follows:

12 **Sec. 26-10. Apprenticeship Requirements and Exceptions.**

13 (a) When responding to a solicitation for a construction project, a bidder must
14 certify that:

15 (1) The bidder or its subcontractors participate in an apprenticeship program
16 that is registered with the Florida Department of Education or the United
17 States Department of Labor; or

18 (2) The bidder commits that at the time the bidder executes a construction
19 contract, it or its subcontractors will be participating in an apprenticeship
20 program that is approved by the Florida Department of Education or the
21 United States Department of Labor; or

22 (3) There are no registered apprenticeship programs for any type of work to be
23 performed on the construction project, but the contractor or its
24

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1 subcontractors will use a person participating in a company-sponsored
2 training program to perform that type of work on the construction project.

3 (b) Prior to the County entering into a construction contract, the County must
4 receive documentation from the bidder verifying compliance with Section 26-10(a).

5 (c) For the duration of the construction contract, at least twelve percent (12%)
6 of the labor hours on the construction project must be performed by apprentices employed
7 by the contractor or subcontractors.

8 (d) If the contractor is unable to achieve or maintain the required percentage,
9 the contractor must demonstrate and document the good faith efforts made to achieve or
10 maintain the required percentage. The County will determine whether the contractor
11 made all required good faith efforts by evaluating the contractor's submitted
12 documentation.

13 (e) A construction contract must include a provision requiring the contractor and
14 its subcontractors to comply with the requirements of this Ordinance.

15 (f) *Exceptions.*

16 (1) This Ordinance will not apply if:

- 17 a. It is prohibited by or in conflict with federal or state law or the terms
18 of a federal or state grant applicable to the construction project; or
19 b. The Board of County Commissioners determines that applying the
20 Ordinance to the construction project is not in the best interests of
21 the County.

22 (2) This Ordinance will not apply to a subcontractor that is a CBE if the
23 compensation to be paid under the applicable subcontract for labor costs
24 is less than \$1,000,000.

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1 (3) The twelve percent (12%) requirement of labor hours on the construction
2 project that must be performed by apprentices may be reduced by the
3 County Administrator or designee if:

4 a. The contractor has demonstrated to the County that there is an
5 insufficient number of apprentices available to meet the required
6 percentage; or

7 b. The County Administrator or designee determines that there exists a
8 disproportionately high ratio of material costs to labor hours, which
9 makes infeasible the required percentage of apprentice participation;
10 or

11 c. The County Administrator or designee determines that the ratio of
12 apprentice to worker required by Florida law does not make the
13 required percentage feasible.

14 Section 4. Section 26-11 of the Broward County Code of Ordinances is hereby
15 created to read as follows:

16 **Sec. 26-11. Required Documentation, Noncompliance, and Reporting.**

17 (a) *Required documentation.* The contractor must prepare and submit, on a
18 quarterly basis for the duration of the construction contract, accurate and timely records
19 identifying the name, address, trade classification, whether the worker is an apprentice,
20 the labor hours of all workers used by the contractor and each subcontractor on the
21 construction project, and the cumulative number of hours worked on the project to date
22 by apprentices. The contractor must require that each of its subcontractors prepare and
23 maintain, for submittal by the contractor to the County, accurate and timely records
24

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1 identifying the name, address, trade classification, and labor hours for apprentices used
2 by the subcontractors on the construction project.

3 (b) *Noncompliance.* Failure of a contractor to comply with the requirements of
4 this Ordinance may subject the contractor to all remedies available to the County at law,
5 including but not limited to debarment or suspension of the contractor from consideration
6 for the award of future contracts, and termination of the construction contract.

7 (c) *Reporting.* County staff must annually prepare a report that includes the
8 total dollar value of awards of construction projects, the number of apprentices hired for
9 the construction projects, the number of apprentices working on construction projects, the
10 number of hours worked by apprentices on the construction projects, and the total labor
11 hours expended on the construction projects.

12 Section 5. Severability.

13 If any portion of this Ordinance is determined by any court to be invalid, the invalid
14 portion will be stricken, and such striking will not affect the validity of the remainder of this
15 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
16 legally applied to any individual, group, entity, property, or circumstance, such
17 determination will not affect the applicability of this Ordinance to any other individual,
18 group, entity, property, or circumstance.

19 Section 6. Inclusion in the Broward County Code of Ordinances.

20 It is the intention of the Board of County Commissioners that the provisions of this
21 Ordinance become part of the Broward County Code of Ordinances as of the effective
22 date. The sections of this Ordinance may be renumbered or relettered and the word
23 "ordinance" may be changed to "section," "article," or such other appropriate word or
24 phrase to the extent necessary in order to accomplish such intention.

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1 Section 7. Effective Date.

2 This Ordinance is effective as of the date provided by law. This Ordinance shall
3 apply prospectively only and shall not apply to solicitations advertised by the County prior
4 to the effective date of this Ordinance.

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6
7 ENACTED

8 FILED WITH THE DEPARTMENT OF STATE

9 EFFECTIVE

10 **PROPOSED**

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12 Approved as to form and legal sufficiency:
13 Andrew J. Meyers, County Attorney

14
15 By /s/ Adam Katzman 04/16/19
16 Adam Katzman (date)
17 Senior Assistant County Attorney

18 By /s/ René D. Harrod 04/16/19
19 René D. Harrod (date)
20 Deputy County Attorney

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23 AMK/mm
04/16/19
24 Apprenticeship Program Ordinance
41026/0002

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