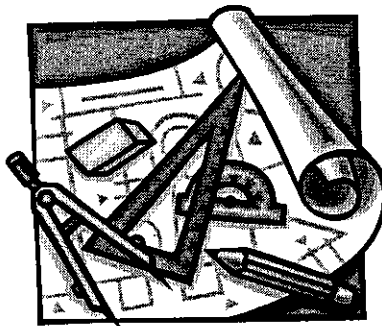


# **Project Labor Agreement (PLA)**

## **Community Resource Toolkit**



**March 2004**

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Appendix A:

- The Construction Industry
- Key Parties
- How a Construction Project Works
- How Local Organizations Can Help to Translate This Construction Activity Into Jobs and Contracting Opportunities

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- Summary of Enabling Legislation

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- New Jersey Schools Construction Corporation Project Labor Agreement (PLA)
- Paterson Municipal Ordinance (Increasing the Utilization of Minority and Women Workers)

• **INTRODUCTION**

We are all aware of the historic \$8.6 billion expenditure that the state will make to construct or renovate schools in the Abbott school districts. We also know that this offers an unprecedented opportunity to generate employment and contracting opportunities for the residents of these areas and to contribute significantly to local economic revitalization. In order for this to occur, however, school districts, local government and community and faith-based organizations and interested residents will need to do things differently than in the past.

There are a number of policy options that can help to maximize opportunities for minorities, women and economically disadvantaged individuals and urban businesses. Foremost among them is the state's intent to utilize **Project Labor Agreements** for school construction.

This booklet will provide a series of tools that communities can draw on to become an effective actor in this process. While it is particularly geared toward the upcoming schools construction, it is important to note that the state's enabling legislation applies to ALL public works construction in excess of \$5 million in project cost throughout the state.

Because PLAs are being developed and implemented for statewide use for the first time, this booklet is a work in progress. Regular updates will be available on the NJISJ ([www.njisj.org](http://www.njisj.org)) website as well as the websites of other sponsoring organizations.

**PLA Community Resource Toolkit Sponsors**

Coalition for Our Children's Schools  
Education Law Center  
The Harris Organization  
Housing and Community Development Network of New Jersey  
Local Initiatives Support Corporation (LISC) – Multi-City Program  
New Jersey Institute for Social Justice  
New Jersey Public Policy Research Institute  
Public Education Institute



## What is a Project Labor Agreement?

A Project Labor Agreement (PLA) is an agreement made between a project owner and organized or unionized labor to govern the construction of major construction projects. All of the contractors who work on the projects must agree to comply with the PLA which generally addresses issues such as wages, dispute resolution, work hours, etc.

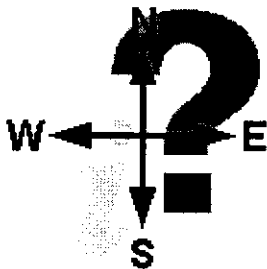
By far, the most important element in a PLA is the guarantee by the unions not to engage in any job action, including a strike on the construction site. Organized labor unions agree to the PLA to ensure ongoing employment for their members. The combination of fixed labor costs and elimination of the risk of strikes helps the state to complete construction projects on time and within budget.

A PLA becomes a tool for local economic development by including specific provisions that address issues of concern to local communities. These provisions may include but are not limited to:

- Opportunities for residents to join unions or to work on these sites as non-union workers;
- Contracting opportunities for minority and women-owned firms; and
- A process to ensure that general contractors take these objectives seriously and that meaningful and timely information is made available locally to demonstrate hiring and contracting performance;
- The availability of meaningful and timely information to local groups to demonstrate hiring and contracting performance.

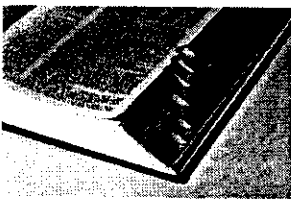
Advocates can work to make sure that PLAs contain these types of provisions. A summary of the enabling legislation and public policy objectives of the PLA can be found under Tab C.

## How to Get Started



- Invite a group of interested community leaders, groups and residents to learn about the school building program and Project Labor Agreements, and begin to identify potential benefits for your community.
- Get information and share this document with community groups, the school board and local government officials. The PLA Strategy Group Co-sponsors can run a workshop in your community.
- Organize a Community Committee. Review the school construction schedule for your district. (See schedules under tab E).
- Talk to your city officials about passing an ordinance for local construction. (See sample ordinance language under tab D).
- Meet with local building trades leaders on Community Provisions for hiring and for contracting. See contact information page 13.

- Establish a monitoring committee to retrieve (from the Schools Construction Corporation (SCC) web-site) and review performance reports.
- Do you have a local training consortium? Training consortia prepare local residents for construction work opportunities. Identify training organizations and other sources for qualified candidates for the trades. Examples include:
  - **Newark/Essex County Construction Careers Program (N/EC CCP):** An eight-week pre-apprenticeship program in Newark, NJ, sponsored by the New Jersey Institute of Social Justice, in partnership with the Essex County Building and Construction Trades Council, Essex County Vocational School District, the Newark Public Schools, community-based organizations, and private funders. The program provides participants with exposure to the construction trades, upgrading of math and reading skills and workplace readiness training by staff of the Essex County Vocational Schools and union personnel. Contact: New Jersey Institute for Social Justice, 60 Park Place, Suite 511, Newark, NJ 07102; phone: 973-624-9400; website: [www.njisj.org](http://www.njisj.org).
  - **Brownfields Environmental Minority Worker's Training Program:** A twenty-week pre-apprentice program, directed by the St. James Social Services Corporation, the umbrella organization for St. James AME church outreach programs in Newark, NJ. In partnership with the New Jersey/New York Environmental Worker's Training Consortium, the program trains economically disadvantaged men and women in environmental remediation, carpentry, and construction. In addition, the program provides computer literacy, math and life skills training. Contact: St. James AME Church, 588 Dr. Martin Luther King, Jr. Blvd., Newark, NJ 07102; phone: 973-624-4007; e-mail: [StJamesAMEchurch.socialservices@att.net](mailto:StJamesAMEchurch.socialservices@att.net).
  - **The Abbott Schools Construction Trades Training Program:** A seven-week pre-apprenticeship program, directed by the Camden Consortia, a part of the Delaware Valley Regional Consortium. The program provides training to Camden city residents to prepare them for apprenticeship opportunities in the construction and vocational trades. Life skills, job readiness skills, and basic adult education are also provided. Contact: American Community Partnership, the lead organization for the program, at 1300 Admiral Wilson Blvd., Camden, NJ 08109, phone: 856-966-9818; website: [www.acpusa.org](http://www.acpusa.org).
- Establish a relationship with the press to report public policy objectives associated with this historic expenditure.



### Glossary of PLA Terms

Many terms and phrases are used in the construction industry and among trade unions. This glossary defines some of the most common terms likely to arise in conversation and negotiation on enhancing the employment and contracting aspects of Project Labor Agreements.

**Apprentice** – An Apprentice is a construction trade union member who is employed and receiving on the job training to become a skilled tradesperson. Most (but not all) individuals join

the trades as apprentices. During the indenture period, which can last from 6 months to 5 years depending on the trade, the apprentice works with experienced union members (journeymen) on the job site and attends classes during the evenings and on Saturdays. Apprentices are covered by collective bargaining agreements that set wages and benefits. Apprentices progress through increasing skill levels (first, second, third year, etc.) and upon successfully completing all requirements, they become journey workers.

**Apprentice Equivalent** – An Apprentice Equivalent is currently defined as an individual who has a construction skill and wishes to enter the trades or work on the job-site, OR who has completed a recognized pre-apprenticeship program but has not yet taken the union entry tests.

**Core Employees** – These are employees identified by the owner or management of union or non-union contractors who are working under a Project Labor Agreement. A contractor may use a percentage of these workers on the PLA covered job-site. Additional workers required by the contractor to complete the work must be referred from the applicable trade union.

**Direct Entry** – Individuals who have adequate construction skills can apply to the trades unions for acceptance based on a demonstration of their skill level and, depending on the trade, passing the exam. This may result in the individual being designated a journey worker or an advanced apprentice.

**Economically Disadvantaged Person** – not yet defined.

**Journey Worker** – A journey worker is a skilled construction tradesperson who has successfully completed all of the on-the-job training and classroom-related instruction and other requirements necessary to practice his/her trade.

**Labor Utilization Ratio** – This ratio establishes the number of journey workers that must be on a job-site for each apprentice on the job-site. The ratio usually ranges from 4 to 6 journey workers for every 1 apprentice and assures both good on-the-job training opportunities and adequate supervision. The closer the ratio is to 4 journey workers for each apprentice, the more apprentices there will be on the job. Therefore, more training opportunities will be available. (These ratios are also included in each trade's collective bargaining agreement and vary depending on the trade. Exemptions can be made to decrease these ratios should the need arise.)

**Pre-Apprentice** – A Pre-Apprentice is an individual who is enrolled in a pre-apprentice program that prepares them to meet the entry requirements of the union's apprenticeship programs. Pre-apprentice programs generally offer life skills, test preparation for union entrance exams, exposure to trades, GED classes, basic construction skills and support services to facilitate access to employment. A pre-apprenticeship program is usually unpaid and does not include union membership.

**Prevailing Wage** – Wage levels established by the federal or state government that apply to any public works project for journey workers and apprentices in the construction trades. These wage levels must be paid to union and non-union members alike.

**State Affirmative Action Goals** – The state has fixed goals for contracting with small businesses. As of the writing of this document, set-aside programs for minority and women-owned businesses have been suspended. For small businesses the goal is 25% of each contract.

The goals for employment of minority, women and economically disadvantaged individuals vary by county.

**Supplemental Agreement** — A locally negotiated addendum to a Project Labor Agreement addressing specific local issues that are not adequately covered in the Project Labor Agreement.

## Community Provisions for PLAs



### **Employment and Other Worker Provisions:**

Most individuals new to the construction industry will primarily join the trades by becoming an apprentice.

What the School Construction Corporation's PLA already says:

- Contractors are required to use apprentices, especially first year apprentices at high levels on these job sites. (the ratio of apprentices to journey workers is 4:1 and 50% of all apprentices must be first year, minority, economically disadvantaged or women)

These ratios help to open opportunities for the largest number of new potential workers.

- The PLA also includes a category called Apprentice Equivalent. Apprentice Equivalents either may already possess construction skills, but not yet be members of the union, or they have completed a recognized pre-apprentice program, but have not yet taken a union entrance exam.
- Apprentice Equivalents are allowed to work on the job-site if a contractor is out of compliance with affirmative action targets.

### ***What can be Added:***

Additional provisions can further ensure that the PLA results in employment opportunities specifically for minorities and women who have been historically woefully underrepresented in the trades. For example:

- Provisions should require that 70% of the first year apprentice class be made up of minorities, women and economically disadvantaged individuals. Of the 70% a 10% goal should be established for women.
- The first year is not enough, however. It is important to ensure that minorities, women and economically disadvantaged individuals that have been accepted as apprentices into the construction trades progress in their skills development through to journey worker status. Therefore, targets can be included for second through fifth year apprentices. Both contractors and unions will be required to report on the use of advanced apprentices on the job -site and the progression of apprentices through union training programs.

- As we all know, individuals who already possess construction skills will also want to take advantage of the employment opportunities offered by the school construction. The PLA or supplemental agreement should include a provision to require contractors to use qualified workers from other sources in the event that the union is unable to provide minorities and women sufficient to meet the affirmative action targets required by the school or other public works construction contract within 48 hours.

## Small and Minority Contractor Provisions

Non-union and small contractors raise a number of legitimate concerns that PLAs will constrain their ability to bid for these projects and successfully work on the job-site. **It is important to note that the enabling legislation and the existing PLA both allow non-union contractors to work on jobs governed by a PLA.** In addition, the legislation includes requirements governing the inclusion and monitoring of minority and women-owned businesses and employment. See Appendix B for key points of the legislation.



What the PLA already says:

These contractors will be allowed to use a 12% of their core employees by craft to work on the job, however, other workers will be referred by the union (drawn in order from the union's out of work list).

Additional provisions could include:

- Provisions indicating the manner of referral of workers to the job site should be included in the PLA. For example, 3 core employees could be placed on the job site for every 1 union member referred by the union hall until the core employee allowance has been satisfied.
- Language that ensures that minority-owned, women-owned and small (MWS) contractors are treated in a non-discriminatory and fair fashion by the unions.
- Requirements within the bid documents that a good faith effort be undertaken to create a pool of contracting opportunities for MWS contractors to bid upon, such as contracts below a certain dollar value.
- Agreements can be developed to encourage joint venture bidding between small and large contractors as well as collective bids among small contractors.

These types of efforts help to ensure that MWS firms are able to take advantage to contracting opportunities in the construction industry.



## Monitoring, Enforcement and Oversight Provisions

The Schools Construction Corporation (SCC) has indicated its intent to establish its own monitoring capability. While this is a positive development, it may not be adequate.

Many public works projects contain legal requirements to hire minorities and women and to use small, minority and women-owned contractors in the construction project. However, the historical performance of construction projects on these issues has been disappointing.

To ensure effective implementation of the hiring and contracting provisions of the PLA, it is essential to have high quality and frequent performance reporting as well as monitoring of these objectives by interested parties. In addition, adequate sanction and enforcement provisions are necessary to cause contractors to take these objectives seriously.

What the PLA already says:

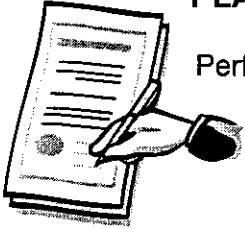
A Local Administrative Committee consisting of the Building Trades Council President, the School Construction Corporation, and the Project Management Firm will oversee the Agreement procedures and initiatives; 2) monitor the effectiveness of the Agreement; and 3) identify opportunities to improve efficiency and work execution.

The PLA is silent on oversight of the implementation of the employment and contracting goals.

**Examples of new approaches to monitoring include:**

- Creation of a 'social justice committee' that includes carefully selected community groups (probably only one or two), the project management firm and the SCC to monitor the employment and contracting goals of the PLA and to offer an avenue for dispute resolution with respect to these items.
- Incorporating an independent monitoring organization with construction expertise to ensure the effective implementation of the PLA provisions. This type of organization would work closely with the contractors, unions, local training consortia and the project management firms to make sure that workers and firms are available and ready to work on these projects. This requires access to the construction project plans. An independent monitor would report to both the SCC and the community. This type of monitoring will require a funding source.
- Some PLAs include on-site monitoring by journey workers. These individuals are trained by community organizations and report to community organizations on issues regarding employment for women and minorities on the job site. Journey workers have been allowed a specific period of time each week to complete these duties and the cost can be incorporated into the overall project cost.
- Some PLAs have established project oversight committees made up of community stakeholders, training and outreach organizations, the general contractor and others. This oversight committee deals with affirmative action goals implementation. If contractors on the job site are having difficulty finding certain trades people, they bring this information to the committee meetings that are held on-site on a monthly basis for assistance.

## PLA Reporting

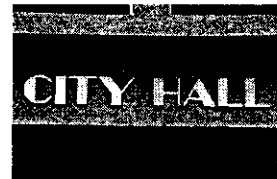


Performance reports should be made available as frequently as possible --- even twice monthly. Frequent reporting would allow for prompt monitoring, since the pace of construction can be so quick that contractors are already off the job before reports are received and analyzed by local monitors.

- Reports, normally based on review of certified payrolls should include race, ethnicity, gender, apprentice level (if appropriate) and residence of all workers and percent completed on the project.
- Reports should also be made on revenue earned by minority, small and women contractors disaggregated by race.
- In addition, local training consortia should report the same data including the number of trainees in the pipeline and placement performance of program graduates.
- Community representatives (including local government and school board) should establish a relationship with the SCC and the local project management firm to communicate satisfaction or dissatisfaction with these performance results. Repeated poor performance, lack of rectification or inadequate application of enforcement provisions should be communicated to key state elected officials.

## Action for Local Government!

The enabling legislation for Project Labor Agreements states that a PLA must fully conform to all applicable local ordinances regarding the implementation of set-aside goals for women and minority-owned businesses. Additionally, the PLA must include a publicly available plan regarding the shares of employment and apprenticeship positions for minority group members and women as set forth in local ordinances. The shares of employment must equal or exceed preexisting requirements. Below are examples of actions that can be taken by local governments to ensure that local businesses and residents benefit from development covered by a PLA:



### Ordinances



City councils have the power to pass ordinances that impact construction within their jurisdiction, particularly if the construction includes some type of investment by local government such as land, improvements, concessionary loans, tax abatements or payment in lieu of tax agreements, etc. These ordinances can achieve a number of objectives:

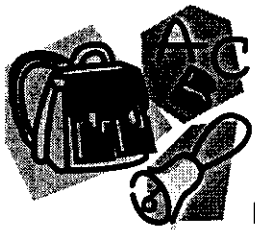
- 1) Set hiring and contracting targets;
- 2) Require reporting to local entity; and
- 3) Establish penalties for not meeting targets.

Detailed under tab E are examples of provisions that can be included in an ordinance. The examples are drawn from an example recently completed in Paterson, NJ.

## Other Actions

- In New Jersey, many mayors and council people also serve in the state legislature. These individuals can use their positions and the committees upon which they sit to push for performance on jobs and contracting under the PLA. Legislative Committee assignments of elected officials from Abbott Districts are attached.
- The SCC must make public the results or information gathered from monitoring minority and women employment, including progression from apprentice status to journey worker status on PLA governed projects. Mayors and council members can request this information on workers from their districts on a regular or standing basis.
- The SCC through the Department of Labor has established a series of training programs or consortia to prepare individuals to apply to construction trades. Mayors and council people can request information on the number of local residents who completed training or are receiving training in these programs and the number of program graduates that are placed as apprentices with the trade unions and on school construction projects or other projects covered by a PLA.

## **Action for School Boards and Superintendents!**



Many superintendents and school districts are unaware of Project Labor Agreements and the role that these documents will play in the construction of their schools. This is largely because the state has primary responsibility for school construction in the Abbott school districts and input from the local district is limited to the production and approval of long-range facilities plans. There are, however, a number of areas where school boards have an important role:

- Superintendents can hold public hearings on the hiring and business development aspects of school construction.
- School boards participate in meetings with the Project Management Firms (PMF) and design firms during the design process. At these early meetings, school board personnel can indicate their interest in the design of the school, in how the schools are built, and who will build them.
- Similarly, school board members or staff participate in pre-bid conferences with potential contractors. The employment and contracting provisions of the PLA can be emphasized in these meetings as well as in pre-construction meetings with contractors and subcontractors.
- **Most importantly, however, school district input is required on the performance evaluation for contractors. Contractors should be aware that the school board will have this responsibility and intends to pay particular attention to the ability of the contractor to achieve the hiring and contracting goals indicated in the PLA.**
- School boards (through their affirmative action office?) should request reports on compliance, sanctions and corrective actions by the PMF and the SCC in order to effectively evaluate the contractors.

- School board members should testify before appropriate committees on their findings with respect to contractors, the SCC and the PMF.

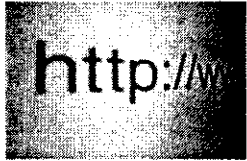
### Action for Community Groups!



Local training consortia are required to include community-based organizations (CBOs) and faith-based institutions as members. In this role, these groups work with their county Building Trades Councils to develop supplemental agreements to the PLA to better reflect local concerns.

- Establish a local community interest group that will identify and agree upon the community needs to be addressed within supplemental agreements to the PLA for schools construction in their community.
- Establish a local monitoring committee that will undertake informal monitoring and review of data presented by the SCC. They can compile monitoring information provided by the state and create a 'by the numbers' chart to show performance on hiring and contracting. Alternative reporting strategies can be suggested if the current information is not meaningful or sufficiently timely to make a difference.
- The local monitoring committee should be involved in the development of the monitoring process of the SCC (or whoever the compliance entity will be) to ensure that the community needs for a timely process is addressed.
- CBOs can establish a relationship with the local press to create an ongoing local story about the economic development outcomes of this historic expenditure.
- CBOs can ensure that local and state elected officials are informed about the monitoring activity and provide talking points on areas of concern.
- CBOs can encourage statewide elected officials to hold hearings on the degree to which the goals of the PLA have been achieved including impact on communities.
- CBOs, school districts, and local government officials should plan and prepare their constituencies for the report by the Commissioner of Labor which must occur before the end of the year, and probably will occur in December 2003.





## National and State Resources

The following organizations/agencies can be very helpful in providing information and various resources to communities that are engaged in: community education, constituency-building and other means of facilitating a process by which the greater public (i.e. local businesses/contractors, school districts, residents, stakeholders) are participatory in the Abbott Implementation process.

### Federal Legislative Resources

#### United States Senate

Honorable Jon Corzine  
One Gateway Center, 11<sup>th</sup> Floor  
Newark, New Jersey 07102  
(973) 645-3030  
(973) 645-0502 (fax)  
[www.corzine.senate.gov](http://www.corzine.senate.gov)

Honorable Frank R. Lautenberg  
One Gateway Center, 1<sup>st</sup> Floor  
Newark, New Jersey 07102  
(973) 639-8700  
[www.lautenberg.senate.gov](http://www.lautenberg.senate.gov)

#### United States House of Representatives

Honorable Donald M. Payne  
10<sup>th</sup> Congressional District  
50 Walnut Street, Suite 1016  
Newark, New Jersey 07102  
(973) 645-3213

### Other Federal Resources

#### United States Department of Education

Rod Paige, Secretary  
400 Maryland Avenue, SW  
Washington, DC 20202  
(800) 872-5327  
[customerservice@inet.ed.gov](mailto:customerservice@inet.ed.gov)

#### United States Department of Commerce

Don Evans, Secretary  
1401 Constitution Avenue, NW  
Washington, DC 20230  
[info@doc.gov](mailto:info@doc.gov)

#### United States Department of Labor

Elaine L. Chao, Secretary  
Frances Perkins Building  
200 Constitution Avenue, NW  
Washington, DC 20210  
(866) 487-2365

**United States Department of Housing and Urban Development**

Alphonso Jackson, Acting Secretary  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410  
(202) 708-1112

**United States Small Business Administration**

Hector V. Barreto, Administrator  
409 3<sup>rd</sup> Street, SW  
Suite 7600  
Washington, DC 20416  
(202) 205-6740

**Other National Resources**

**Center for Community Change**

1000 Wisconsin Avenue, NW  
Washington, D.C. 20007  
(202) 342-0519  
[www.communitychange.org](http://www.communitychange.org)

**Education Law Center**

60 Park Place, Suite 300  
Newark, New Jersey 07102  
(973) 624-1815  
(973) 624-7339 (Fax)  
[www.edlawcenter.org](http://www.edlawcenter.org)

**National Economic Development and Law Center**

2201 Broadway, Suite 815  
Oakland, California 94612  
(510) 251-2600  
[www.nedlc.org](http://www.nedlc.org)

**State Resources**

**Office of the Governor**

Honorable James E. McGreevey, Governor  
P.O. Box 001  
Trenton, New Jersey 08625-0001  
(609) 292-6000

**New Jersey State Legislature**

Honorable Ronald L. Rice, Senator  
District 28  
1044 South Orange Avenue  
Newark, New Jersey 07106  
(973) 371-5665

Honorable Craig A. Stanley, Assemblyman  
1200 Clinton Avenue  
Irvington, New Jersey 07111  
(973) 399-1000

Honorable Donald K. Tucker  
329 South Orange Avenue  
Newark, New Jersey 07102  
(973) 733-8740

### **State Departments**

#### **New Jersey Commerce and Economic Growth Commission**

William Watley, Secretary  
20 West State Street, 4<sup>th</sup> Floor  
P.O. Box 820  
Trenton, New Jersey 08625-0820  
(609) 777-0885  
[www.state.nj.us/commerce](http://www.state.nj.us/commerce)

#### **New Jersey Department of Education**

PO Box 500  
Trenton, New Jersey 08625  
(609) 292-4469  
[www.state.nj.us/education](http://www.state.nj.us/education)

#### **New Jersey Department of Labor**

Trenton, New Jersey 08625  
[www.state.nj.us/labor](http://www.state.nj.us/labor)

#### **New Jersey Economic Development Authority**

PO Box 990  
Trenton, New Jersey 08625-0990  
(609) 292-1800  
[www.njeda.com](http://www.njeda.com)

### **Other Pertinent Resources**

#### **New Jersey Institute for Social Justice**

60 Park Place, Suite 511  
Newark, New Jersey 07102  
(973) 624-9400  
(973) 624-0704 (Fax)  
[www.njisi.org](http://www.njisi.org)

#### **New Jersey Schools Construction Corporation**

One West State Street  
P.O. Box 991  
Trenton, New Jersey 08625-0991  
[www.njscc.com](http://www.njscc.com)

#### **New Jersey Small Business Development Center**

49 Bleeker Street  
Newark, New Jersey 07102  
(973) 353-1927  
[www.njsbdc.com](http://www.njsbdc.com)

## County of Essex

Honorable Joseph N. DiVincenzo, Jr.  
County Executive  
Hall of Records  
465 Dr. Martin Luther King, Jr. Boulevard  
Newark, New Jersey 07102  
(973) 621-4400  
(973) 621-6343 (fax)

### **Members of the Board of Chosen Freeholders**

Honorable Johnny Jones, President  
Honorable Patricia Seabold, Vice President  
Honorable Blonnie R. Watson  
Honorable Albertus Jenkins  
Honorable Jesus A. Padilla, District One  
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Honorable James R. Paganelli, District Four  
Honorable Ralph R. Caputo, District Five

**Hall of Records**  
**465 Dr. Martin Luther King Boulevard**  
**Room 558**  
**Newark, New Jersey 07102**  
**(973) 621-4492**  
**(973) 621-5596 (fax)**

### **Essex County Building and Construction Trades Commission**

1500 Broad Street  
Bloomfield, NJ 07003  
(201) 265-1700

### **Essex County Workforce Investment Board**

55 Liberty Street  
Newark, New Jersey 07102  
(973) 733-5383

## Irvington Township Governmental Resources

### **Mayor**

Honorable Wayne Smith  
Municipal Building  
One Civic Square  
Irvington, New Jersey 07111  
(973) 399-6639  
(973) 399-7321 (fax)  
[www.irvington.net](http://www.irvington.net)

***Business Administrator***

Wayne Bradley, P.P., A.I.C.P.  
Municipal Building  
One Civic Square  
Irvington, New Jersey 07111  
(973) 399-6621  
(973) 399-6766 (fax)  
[www.irvington.net](http://www.irvington.net)

***Office of the Urban Enterprise Zone***

Robin R.C.W. Johnson, Esq., Urban Enterprise Zone Coordinator  
Municipal Building  
One Civic Square  
Irvington, New Jersey 07111  
(973) 399-5636  
(973) 399-5638 (fax)  
[www.irvington.net](http://www.irvington.net)

***Department of Community Development and Planning***

Hamlet E. Gore, Director  
Municipal Building  
One Civic Square  
Irvington, New Jersey 07111  
(973) 399-6657  
(973) 399-0827 (fax)  
[www.irvington.net](http://www.irvington.net)

***Irvington Neighborhood Improvement Corporation***

Dianthe D. Martinez, Executive Director  
346 16<sup>th</sup> Avenue  
Irvington, New Jersey 07111  
(973) 416-0909

***Irvington Urban Enterprise Zone Development Corporation***

Rev. Rudy Carlton, Chairman  
Nawab Agha, Vice Chairman  
Municipal Building  
BeLara J. Bryant, Secretary  
Jack Miller, Treasurer  
Honorable Wayne Smith, Mayor  
Honorable Lebby C. Jones  
Robin R.C.W. Johnson, Esq., Executive Director  
**Municipal Building**  
**One Civic Square, Room 210**  
**Irvington, New Jersey 07111**  
**(973) 399-5636**  
**(973) 399-5638 (fax)**

***Municipal Council***

Honorable John Sowell, President  
Councilman – West Ward  
Honorable Andrea C. McElroy, 1<sup>st</sup> Vice President  
Councilwoman At-Large  
Honorable D. Bilal Beasley, 2<sup>nd</sup> Vice-President  
Councilman At-Large  
Honorable Leby C. Jones  
Councilwoman At-Large  
Honorable David Lyons  
Councilman – North Ward  
Honorable Sandra R. Jones  
Councilwoman – South Ward  
Honorable Fred M. Bost  
Councilman – East Ward

**Municipal Building  
One Civic Square  
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(973) 399-6797**

**Irvington Public Schools Resources**

***Superintendent***

Dr. Ernest Smith  
1150 Springfield Avenue  
Irvington, New Jersey 07111  
(973) 399-6800  
(973) 372-3724  
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Carol Hardy, *Vice President*  
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Quinzell R. McKenzie  
**1150 Springfield Avenue  
Irvington, New Jersey 07111  
(973) 399-6800**

## APPENDIX A

### The Construction Industry

Many people have a limited understanding about the construction industry and how it works. For most of us, workers appear on a construction site, build the building and then disappear once a structure is completed. Several organizations are involved in making this happen. This example focuses on the construction of schools in the thirty Abbott Districts, but it could also apply to other public sector construction.

#### Key Parties:

**School Construction Corporation (a subsidiary of the Economic Development Authority):** Acts as Owner. Establishes the terms of the construction project. Pays for the project. Through a public bid process, selects General Contractor to build the project.

**General Contractor and Subcontractors:** Bids for the project, purchase raw materials and hires the workers to construct the project. Responsible for meeting all of the terms of the construction contract. Subcontractors are selected by the general contractor.

**Project Management Firm:** Oversees construction to ensure that the project is being completed on schedule, is on budget and is in compliance with any other requirements. For school construction, the Project Management Firm is hired by the School Construction Corporation.

**School District:** User of the finished project.

**Labor Unions:** Provide labor, including both apprentices and journey workers, for the project.

**Local Government:** May assist with assembly of land and other resources. Can pass ordinances to govern construction in their jurisdiction.

#### How a construction project works:

The School Construction Corporation and Project Management Firm solicit bids to construct a school. General contractors create teams including subcontractors to bid on the project. The bid must be presented in a manner that is consistent with the terms established by the School Construction Corporation. The Project Labor Agreement is one of these terms that forms part of the bid document. Under the PLA, the successful bidder and subcontractors will agree to use a union workforce (except for specific exemptions), to use apprentices and to target employment of women, minorities and disadvantaged individuals. The union(s) in the appropriate region will refer workers to the job-site as requested by the contractors utilizing their hiring hall process. If there are low numbers of minorities on the job-site the Contractor will not be in compliance with the PLA. The contractor can pressure the union to take in more members so that the contract terms can be met.

It is important to note that construction union members work on a regional basis. Therefore, it is possible that local residents who have joined the construction trades may be working on construction projects outside of their specific neighborhood or town.

**How local organizations can help to translate this construction activity into jobs and contracting opportunities:**

Community organizations can help by ensuring that there is an adequate supply of individuals that are prepared to join the unions and can ensure that contractors are aware that their compliance requirements will be taken seriously. Community groups can become familiar with the apprenticeship system used by the construction trade unions and hold workshops for people interested in different apprentice programs. Community groups can ensure that individuals have a clear understanding of the requirements of employment in the construction trades.

The School Construction Corporation must have adequate monitoring mechanisms to ensure that local organizations receive high quality information on a timely basis. Meet with the SCC to make them aware of your interest and concerns and work with them to develop a process that meets the community's information needs. Keep in mind that alternative forms of monitoring can also be developed as detailed in this booklet.

In addition, the legislation allowing PLAs to be used for large-scale construction will be subject to local ordinances. In this regard, local governments can develop ordinances to require hiring targets and contracting targets. An example of an ordinance that includes the type of hiring provisions designed to bring minorities, women and economically disadvantaged individuals into union membership is included in this booklet.

## Appendix B



### PROJECT LABOR AGREEMENTS AND SCHOOL CONSTRUCTION: NEW JERSEY'S RECENTLY ENACTED LEGISLATION

On July 30, 2002, Governor McGreevey signed legislation [N.J. Statute 52:38] that authorizes, but does not require, the use of Project Labor Agreements (PLAs) on major public works projects. This memorandum summarizes the key points of the legislation which will be critical in light of the anticipated use of PLAs on most significant public construction projects, most notably the Abbott school construction.

**What are PLAs?** PLAs are agreements that govern the terms and specifics of employment for a specific project. They are entered into by a public entity (or by a contractor acting at a public entity's direction) and one or more labor unions. While correctly viewed as promoting union hiring, non-union workers and non-union contractors may participate on a PLA-governed project under certain conditions. Regardless of affiliation, all workers under a PLA must be paid prevailing wage.

#### **Key points in the legislation:**

##### General Terms and Circumstances in Which a PLA Is Permissible:

- PLAs are authorized only if total cost of project exceeds \$5 million [Section 2]
- a public entity "may include a PLA in a public works project" if it promotes labor stability and "advanc[es] the interests of the public entity in cost, efficiency, skilled labor force, quality, safety, and timeliness." [Section 3]
- if a public entity wishes to use a PLA, it can do so by (1) directly negotiating a PLA with labor unions, or (2) by making entry into a PLA a condition of an award to a general contractor. [Section 3]
- "public entity" definition is inclusive, so incorporates authorities such as the Economic Development Authority (EDA) and subdivisions of the state, such as municipalities. [Section 2]
- The public entity may request the Commissioner of Labor to facilitate negotiation of the PLA and can provide a written advisory statement as to whether the PLA conforms with statutory requirements [Section 3].

### Terms That Must Be Included in PLA

- A PLA must contain guarantees against strikes and lock-outs, and binding procedures for resolving jurisdictional and labor disputes [Section 5];
- A PLA must be binding on all contractors and subcontractors, but “may include” (1) provisions that permit non-union contractors to participate and (2) provisions that allow such non-union contractors to retain a percentage of their current (non-union) workforce [Section 5];
- Every contractor and subcontractor on a PLA-governed project must have a registered apprenticeship program [Section 2 and 5]

### Community Hiring and Contracting Provisions:

- Legislative Finding: “Project Labor Agreements make it possible to provide the State with assurances that public works projects are completed with a diverse workforce” (Section 1(k));
- A PLA must “fully conform to all statutes, regulations, executive orders, and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses,” and the obligation to comply with these requirements must be set forth expressly in the PLA [Section 5(f)];
- A PLA “must include a publicly available plan regarding the shares of employment and apprenticeship positions” for minority group members and women as set forth in statutes, regulations, orders, and local ordinances; apparently, the shares are to be mutually agreed upon by the labor unions and the public entity, and must equal or exceed preexisting requirements [Section 5(g)];
- A PLA “must require” the contract to provide “whatever resources may be needed” to prepare for apprenticeship the number of women and minorities set forth in the publicly available plan (above) [Section 5(h)];

### Monitoring and Reporting:

- A PLA “must require” public monitoring on minority and women employment (including the progression into journeyworker status) and ensure maintenance of publicly available records regarding monitoring;
- The Commissioner of Labor “shall make an annual report” on the overall effectiveness of PLAs in meeting the legislation’s purposes, including specifically on the information obtained regarding minority and women employment on PLA-governed projects [Section 6]. The first report shall be made on or before December 31, 2003.

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Prepared by the:  
New Jersey Institute for Social Justice  
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10/17/02

## CHAPTER 44

AN ACT concerning project labor agreements with labor organizations in connection with public works contracts.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:38-1 Findings, declarations relative to project labor agreements.

1. The Legislature finds and declares:

a. The United States Supreme Court held in *Building & Const. Trades Council of Metropolitan Dist. v. Associated Builders & Contractors of Massachusetts/Rhode Island, Inc.*, 507 U.S. 218 (1993) that state and local governments, when acting as market participants, are permitted under the National Labor Relations Act (29 U.S.C. s. 151 et seq.) to enforce bid specifications requiring contractors to abide by project labor agreements with labor organizations for construction projects owned by those state and local governments;

b. The Supreme Court commented in that case that when a State or local governmental agency utilizes bid specifications containing a project labor agreement for a construction project owned by the agency, the agency "does not regulate the workings of market forces" in violation of National Labor Relations Act pre-emption of such regulation, but is acting as a market participant and "exemplifies" the workings of market forces, and therefore is not prevented from doing so by the National Labor Relations Act;

c. New Jersey has a compelling interest in carrying out public works projects at the lowest reasonable cost and the highest degree of quality;

d. New Jersey has a compelling interest in having labor disputes in connection with public works projects resolved without the disruptions of strikes, lock-outs, or slowdowns;

e. Project labor agreements make possible legally enforceable guarantees that projects will be carried out in an orderly and timely manner, without strikes, lock-outs, or slowdowns;

f. Project labor agreements also make it possible to provide for peaceful, orderly, and mutually binding procedures for resolving labor issues;

g. The State also has a compelling interest in guaranteeing that public works projects meet the highest standards of safety and quality;

h. A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of the completed project;

i. Project labor agreements make it possible to provide the State with a guarantee that public works projects are completed with highly skilled workers;

j. Project labor agreements allow public agencies to more accurately predict the actual cost of projects;

k. Project labor agreements make it possible to provide the State with assurances that public works projects are completed with a diverse workforce;

l. Project labor agreements facilitate the efficient integration of work schedules among different trades on project sites;

m. Project labor agreements also promote harmonious and productive work environments in public works projects;

n. New Jersey can best accomplish these goals by encouraging, for suitable public works projects, project labor agreements between public works contractors and subcontractors and labor organizations concerning important issues of employment, including work hours, starting times, overtime rates, and procedures for resolving disputes; and

o. Project labor agreements, therefore, give the State an effective means to advance the interests of efficiency, quality, and timeliness of suitable public works projects.

C.52:38-2 Definitions relative to project labor agreements.

2. For the purposes of this act:

"Apprenticeship program" means a registered apprenticeship program providing to each trainee combined classroom and on-the-job training under the direct and close 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.

"Labor organization" means, with respect to a contracted work on a public works project, an

organization which represents, for purposes of collective bargaining, employees involved in the performance of public works contracts and eligible to be paid prevailing wages under the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.) and has the present ability to refer, provide or represent sufficient numbers of qualified employees to perform the contracted work, in a manner consistent with the provisions of this act and any plan mutually agreed upon by the labor organization and the public entity pursuant to subsection g. of section 5 of this act.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project.

"Public entity" means the State, any of its political subdivisions, any authority created by the Legislature and any instrumentality or agency of the State or of any of its political subdivisions.

"Public works project" means any public works project for the construction, reconstruction, demolition or renovation of buildings at the public expense, other than pumping stations or water or sewage treatment plants, for which:

(1) It is required by law that workers be paid the prevailing wage determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act", P.L.1963, c.150 (C.34:11-56.25 et seq.); and

(2) The public entity estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed \$5 million.

C.52:38-3 Public entity to include project labor agreements in certain public works projects.

3. A public entity may include a project labor agreement in a public works project on a project-by-project basis, if the public entity determines, taking into consideration the size, complexity and cost of the public works project, that, with respect to that project the project labor agreement will meet the requirements of section 5 of this act, including promoting labor stability and advancing the interests of the public entity in cost, efficiency, skilled labor force, quality, safety and timeliness. If the public entity determines that a project labor agreement will meet those requirements with respect to a particular public works project, the public entity shall either: directly negotiate in good faith a project labor agreement with one or more labor organizations; or condition the award of a contract to a construction manager upon a requirement that the construction manager negotiate in good faith a project labor agreement with one or more labor organizations. Upon the request of the public entity, the Commissioner of Labor shall assist in facilitating the negotiation of the project labor agreement. The decision by the public entity to require the inclusion of a project labor agreement requirement shall not be deemed to unduly restrict competition if the public entity finds that the project labor agreement is reasonably related to the satisfactory performance and completion of the public works project, and any bidder for the public works project refusing to agree to abide by the conditions of the project labor agreement or the requirement to negotiate a project labor agreement shall not be regarded as a responsible bidder. Upon the request of the public entity, the Commissioner of Labor shall review the finalized project labor agreement and provide to the public entity, not more than 30 calendar days after the agreement is submitted to the commissioner by the public entity, a written advisory statement regarding whether the project labor agreement conforms with the provisions of this act.

C.52:38-4 Project labor agreement binding.

4. Any project labor agreement negotiated pursuant to this act between the public entity or its representative or a construction manager and one or more labor organizations shall be binding on all contractors and subcontractors working on the public works project and may include provisions that permit contractors and subcontractors working on the public works project to retain a percentage of their current workforce, and provisions that the successful bidder and any subcontractor of the bidder need not be a party to a labor agreement with the labor organizations other than for the public works project covered by the project labor agreement.

C.52:38-5 Requirements for project labor agreement.

5. Each project labor agreement executed pursuant to the provisions of this act shall:

- a. Advance the interests of the public entity, including the interests in cost, efficiency, quality, timeliness, skilled labor force, and safety;
- b. Contain guarantees against strikes, lock-outs, or other similar actions;
- c. Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional and labor disputes arising before the completion of the work;
- d. Be made binding on all contractors and subcontractors on the public works project through the inclusion of appropriate bid specifications in all relevant bid documents;
- e. Require that each contractor and subcontractor working on the public works project have an apprenticeship program;
- f. Fully conform to all statutes, regulations, executive orders and applicable local ordinances regarding the implementation of set-aside goals for women and minority owned businesses, the obligation to comply with which shall be expressly provided in the project labor agreement;
- g. Include a publicly available plan regarding the shares of employment and apprenticeship positions in the public works project for minority group members and women which is in full conformance with the requirements of all applicable statutes, regulations, executive orders and local ordinances and is mutually agreed upon by the participating labor organizations and the public entity which will own the facilities which are built, altered or repaired under the public works project, provided that any shares mutually agreed upon pursuant to this subsection shall equal or exceed the requirements of other statutes, regulations, executive orders or local ordinances;
- h. Require the contract for the public works project to provide whatever resources may be needed to prepare for apprenticeship a number of women and minority members sufficient to enable compliance with the plan agreed upon pursuant to subsection g. of this section and provide that the use of those resources be administered jointly by the participating labor organizations and the public entity or community-based organizations selected by the public entity; and
- i. Require the public body to monitor, or arrange to have a State agency monitor, the amount and share of work done on the project by minority group members and women and the progression of minority group members and women into apprentice and journey worker positions and require the public body to make public, or have the State agency make public, all records of monitoring conducted pursuant to this subsection.

C.52:38-Annual report to Governor, Legislature.

6. The Commissioner of Labor shall make an annual report to the Governor and the Legislature on the effectiveness of all project labor agreements entered into pursuant to this act in advancing the purposes of this act and in meeting the requirements of this act, including any recommendations deemed necessary by the commissioner to better effectuate those purposes. The report shall include a reporting, review and analysis of the information obtained from the monitoring conducted pursuant to subsection i. of section 5 of this act, an analysis of the effectiveness of the project labor agreements in meeting the objectives of section 5 of this act, and a comparison of the performance of public works projects with project labor agreements to the performance of public works projects without project labor agreements.

The first report shall be made on or before December 31, 2003, and subsequent reports shall be made on December 31 of each year thereafter. The report issued on December 31, 2006 shall include an analysis of the overall effectiveness of the implementation of the act from the time of its enactment and any recommendations regarding legislation to make changes in the act deemed necessary by the commissioner to better effectuate those purposes.

7. This act shall take effect immediately.

Approved July 25, 2002.

# Ordinance of the City of Paterson, N.J.

No. 5 1st Reading No. 03-031

Date JUNE 24, 2003

No. 4 Public Hearing  
(2nd Rdg. & Final Passage)

Date to Mayor JUNE 30, 2003

Date Returned JULY 1, 2003

Division

Date Submitted to Council JUNE 10, 2003

Factual Contents Certified to By

TITLE:  
AN ORDINANCE AUTHORIZING AND REGULATING  
PUBLIC CONSTRUCTION CONTRACTS WITH  
THE CITY OF PATERSON  
(Law.CD.Ordinance.Public Construction Contracts.5.27.03)

Approved As To Form and Legality  
on Basis of Facts Set Forth

CORPORATION COUNSEL

COUNCILPERSON KENNETH MORRIS Introduced the Following Ordinance:

WHEREAS, the City of Paterson has a compelling interest in ensuring that Public Construction Contracts are undertaken at the lowest reasonable costs and with the highest degree of quality; and

WHEREAS, the employment of apprentices in such contracts can lower costs while providing valuable and rewarding work opportunities for new workers; and

WHEREAS, a highly skilled workforce ensures the efficient, economical and safe completion of Public Construction Contracts; and

WHEREAS, a highly skilled workforce also ensures lower costs for repairs and maintenance over the lifetime of a completed project; and

WHEREAS, the City of Paterson seeks to ensure that job opportunities generated by Public Construction Contracts are also utilized to help low-income, minority and women workers gain access to careers in the construction trades; and

WHEREAS, the City of Paterson seeks to promote meaningful job training opportunities for members of its community; and

WHEREAS, the City of Paterson seeks to ensure that Public Construction Contracts are completed with a diverse workforce; and

WHEREAS, the benefits received by contractors performing City work regulated by this Ordinance will create opportunities to employ substantial numbers of apprentices, thus ensuring that these public projects will expand access to living-wage careers in the construction trades for a new generation of workers; and

WHEREAS, Union-affiliated apprenticeship programs offer access to larger numbers of long-term living-wage careers in the construction trades than non-affiliated programs.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL of the City of Paterson as follows:

## SECTION I:

A. **Definitions:** For purposes of this Ordinance, the following terms shall have the following meanings:

1. *City of Paterson* or *City* shall mean the City of Paterson and all Public Agencies and Authorities created, controlled or directed by the City of Paterson.

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2. **Public Construction Contract** shall mean any contract for the construction, reconstruction, demolition or renovation of buildings or property at the public expense for which:

a. It is required by law that workers be paid the prevailing wage determined by the Commissioner of Labor pursuant to the provisions of the New Jersey Prevailing Wage Act, P.L. 1963, c 150 (N.J.S.A. 34:11-56.26 et seq.); and

b. The City of Paterson estimates that the total cost of the contract, exclusive of any land acquisition cost, will equal or exceed One Million Dollars (\$1,000,000.00), and providing part or all of said funding is supplied by or through the City of Paterson.

3. **Appropriate Labor Organization** shall mean an organization representing, for collective bargaining purposes, journey level workers and apprentices in one or more crafts or trades and which:

a. Operates an apprenticeship training program in an appropriate craft or trade that is registered with the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training;

b. Has entered into a labor agreement with an employer or multi-employers in the building and construction industry in New Jersey;

c. Has represented journey level workers, mechanics and apprentices employed on Public Construction Contracts; and

d. Possesses the ability to refer, provide or represent qualified and journey level workers in the crafts or trades required by the Public Construction Contract in sufficient numbers to perform the contracted work involved in that contract.

**SECTION II.**

A. **Mandatory Apprenticeship for Public Construction Contracts.** All requests for proposals and specifications for Public Construction Contracts, and all such contracts, shall require that 20% of the building trade labor hours required under each such contract shall be performed by a person or persons enrolled in a local Federally registered apprenticeship program or who are Apprenticeship Equivalents as that term is used by the State of New Jersey in the Abbott Project Labor Agreement (2003) (words were deleted here). In addition, fifty percent (50%) of all such apprentices shall be first-year apprentices who shall have completed a pre-apprenticeship training program, (words were deleted here) either approved and funded by the New Jersey Department of Labor as of January 1, 2003, or approved by the Paterson Community Apprenticeship Initiative (PCAI), through processes developed pursuant to Section III of this Ordinance.

B. **Contractors and Subcontractors.** All Public Construction Contracts must require that the contractor and subcontractors hire workers in Federally registered apprenticeship programs to comply with this Ordinance. All requests for proposals and all specifications relating to Public Construction Contracts subject to this Ordinance shall contain such requirements.

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C. **Labor Hours.** All requests for proposals and all specifications for Public Construction Contracts, and all such contracts, shall require that twenty percent (20%) of the labor hours required under such contracts in all trades and at all levels shall be performed by workers who have participated in a Federal or State approved *(words were deleted here)* apprenticeship program or who are Apprenticeship Equivalents as that term is used by the Department of Labor of the State of New Jersey. Apprenticeship Equivalents shall be utilized to the extent permitted by the regulations and guidelines of the Department of Labor of the State of New Jersey and they shall be paid prevailing apprentice wages and shall have identical benefits pending their admission as full apprentices. In addition, 50% of all said apprentices shall be first-year apprentices and shall be drawn from PCAI approved pre-apprenticeship programs.

D. **Special Circumstances.** In the event that a condition exists whereby there are not sufficient available applicants to satisfy the labor force requirements of this Ordinance, then the affected contractor or subcontractor shall be required to supply funding equal to the cost of training an equivalent number of pre-apprentices in a PCAI approved pre-apprenticeship program. Such contractor or subcontractor must provide proof to the PCAI that a good-faith effort has been made to comply with the conditions of this ordinance.

**SECTION III**

A. **Paterson Community Apprenticeship Initiative.** The City of Paterson hereby establishes the Paterson Community Apprenticeship Initiative (PCAI), to ensure the ongoing training of pre-apprentices qualified to apply for Federally registered apprenticeship programs and to provide the support services such pre-apprentices need to pursue successful careers in the construction trades.

B. **Advisory Board.** The PCAI shall be governed by an Advisory Board of nine (9) members, comprising the Chairman of the Municipal Council's Community Development Committee, one member appointed by the Municipal Council President, one member appointed by the Municipal Council as a body, two members appointed by the Mayor of the City of Paterson, one member appointed by the Paterson Board of Education, one member appointed by the Paterson Housing Authority, and two members selected by representatives of the Passaic County Building Trades Council and the Carpenters Union.

C. **Referral Source.** The PCAI shall select one or more pre-apprenticeship programs to serve as the designated pre-apprentice referral source for purposes of this Ordinance.

D. **Operation and Curriculum.** The PCAI shall supervise the development and operation of the approved pre-apprenticeship programs and shall retain authority to review and approve their curriculum and procedures for recruiting and selecting participants. The PCAI shall ensure that all approved pre-apprenticeship programs are operated in such a manner that successful graduates of the pre-apprenticeship programs will be equipped and eligible for entry into the apprenticeship programs of the Passaic County Building Trades Council and the Carpenters Union.

E. **Preparatory Services.** The PCAI shall ensure that the selected pre-apprenticeship programs provide all necessary preparatory services for enrolled pre-apprentices, including

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assistance with GED preparation, obtaining drivers' licenses where appropriate, mentoring and other supportive services for pre-apprentices.

**F. Training and Monitoring.** The PCAI shall administer the training and monitor the funding utilized to provide the pre-apprenticeship programs approved hereunder.

**G. Duty to Enforce.** The PCAI shall coordinate, monitor and enforce the requirements of this Ordinance so as to ensure that the apprentices are being utilized by the contractors and subcontractors in Public Construction Contracts as required by this Ordinance.

**SECTION IV.**

**A. Funding for Pre-Apprenticeship Programs.** All Public Construction Contracts shall include a requirement that the contractor and all subcontractors performing work pursuant to such contracts contribute to the PCAI a certain sum per worker hour projected to be worked on the project. The PCAI is hereby authorized to adopt this fee consistent with the laws of the State of New Jersey and the Code of the City of Paterson. This contractor contribution rate shall be calculated according to a formula to be determined by the PCAI that takes into account the cost of operating a pre-apprenticeship program such that there will be adequate funding to ensure the graduation of workers sufficient to perform twenty percent (20%) of the work hours projected for each Public Construction Contract, and also to provide adequate funding to cover the costs of monitoring compliance with the provisions of this Ordinance. The imposition of such fee, however, shall require approval by Resolution of the Municipal Council of the City of Paterson.

**SECTION V.**

**A. Inclusion of Minorities and Women.** Public Construction Contracts shall require that twenty percent (20%) of the labor force be composed of women and minority group members, as that term is defined by N.J.S.A. 40A:11-41. All requests for proposals and specifications for Public Construction Contracts shall set forth this requirement.

**SECTION VI.**

**A. Monitoring and Enforcement.** Each proposed contractor and subcontractor subject to the provisions of this Ordinance shall submit to the City of Paterson a completed certified Declaration of Compliance form as part of its proposal in response to a request for proposals and in order to meet the City specifications. The completed Declaration of Compliance form shall be made part of the executed contract and shall be in a form approved by the City.

**B. Contractors and Subcontractors.** All contractors in Public Construction Contracts shall require that their subcontractors comply with the provisions of this Ordinance. Language indicating the subcontractor's agreement to comply shall be included in the contract between the contractor and subcontractor. Copies of such agreements shall be submitted to the City for approval.

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1. **Reports.** All contractors and subcontractors shall report to the PCAI and the City by March 31, June 30, September 30, and December 31 of each year and shall provide the following information certified and notarized:
  - a. The workforce employed during that quarter on Public Construction Contracts;
  - b. The value of contracts and subcontracts covered by this Ordinance;
  - c. The name, address, date of hire, occupation classification, apprenticeship status, rate of pay and benefits provided to each of the employees of the contractor and subcontractor; and
  - d. The number and percentage of hours worked by apprentices on said contracts.
2. **Records.** Contractors and subcontractors shall maintain certified payroll records for all employees and shall preserve them for a period of three (3) years after completion of the Public Construction Contract, making such records available within ten days of a written request authorized by this Ordinance.
3. **Site and Records Access.** All contractors and subcontractors subject to this Ordinance shall permit appropriate access for representatives of the City and the PCAI to all worksites and to all applicable records of the contractor or subcontractor in order to monitor compliance with the provisions of this Ordinance.
- C. **City Council Hearings.** The Municipal Council of the City of Paterson may hold public hearings at times to be determined by the Council with respect to the implementation of this Ordinance.
  1. **PCAI Reports.** Prior to any such hearing, the PCAI shall provide relevant reporting information to the City Council, including the following items:
    - a. The number of apprentices who worked on Public Construction Contracts during the reporting period;
    - b. The number of individuals trained and approved by pre-apprenticeship programs who became apprentices during the reporting period;
    - c. The number and percentage of women and minority group members who were employed in Public Construction Contracts during the reporting period; and
    - d. Detailed reports disclosing any violations found and sanctions imposed.
- D. **City Remedies.** In the event the City determines that any contractor or subcontractor has failed to comply with the provisions of this Ordinance, it shall have available all legal remedies.
  1. **Options.** Such Remedies shall include, but not be limited to, all remedies available at law or in equity and all such remedies included in the specifications or contract, which may provide for:

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- a. Suspending or terminating the contract;
- b. Completing the contract and requiring the contractor or subcontractor to pay all damages and costs in utilizing a substitute contractor or subcontractor;
- c. Debarring the contractor or subcontractor from eligibility for future City contracts;
- d. Requiring the refunding of payments made by the City to the contractor or subcontractor prior to the suspension or termination; and
- e. Assessing a daily fine and other penalties payable to the City of Paterson. A schedule of fines and penalties necessary to enforce this Ordinance shall be recommended by the PCAL and enacted by Ordinance of the City Council. The City shall withhold funds from any final payment due to covered contractors in an amount sufficient to cover unpaid fees or potential penalties for shortfalls regarding the apprenticeship requirements of this Ordinance. Such fines and penalties shall be not less than three percent (3%) nor more than ten percent (10%) of the total price of the contract in question.

2. **Notice and Hearing.** In the event the City has good cause to believe that any contractor or subcontractor has failed to comply with the provisions of this Ordinance, said contractor or subcontractor shall be given written notice and afforded an opportunity for a hearing before the Municipal Council before the imposition of the sanctions set forth in this Section.

**SECTION VII:**

All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

**SECTION VIII:**

If any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

**SECTION IX:**

The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Paterson Code.

**AN ORDINANCE AUTHORIZING AND REGULATING  
PUBLIC CONSTRUCTION CONTRACTS WITH  
THE CITY OF PATERSON**

(Law.CD.Ordinance.Public Construction Contracts.5.27.03)

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**SECTION X:**

This Ordinance shall take effect upon passage, approval and publication as required by law.

**SECTION XI:**

The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this Ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repeals of existing provisions.

*(Draft prepared-Paul J. Foran-Asst. Corp. Counsel-5-25-03-r-6-8-03)  
PLD-CD-Public Contracts Ordinance-KM-PJF-5-25-03-r-6-9-03-PJF*

SECONDED BY COUNCILPERSON . . . JERRY LUIS ROSADO . . . . .

*Do Not Use Space Below This Line*

RECORD OF COUNCIL VOTE ON FINAL PASSAGE	AYE	NAY	ABSTAIN	ABSENT
1. AMES-GARNES, VERADENE	X			
2. DAVIS, ANTHONY	X			
3. DIXON, JESSIE M.				X
4. GOOW, ASLON	X			
5. MCKOY, WILLIAM C.	X			
6. MORRIS, KENNETH	X			
7. FOONEY, THOMAS C.	X			
8. ROSADO, JERRY LUIS	X			
9. TORRES, JUAN	X			

Adopted on first reading at a meeting of the Council of the City of Paterson, N.J., on JUNE 10, 2003 . . . . . Adopted on second and final reading after hearing on JUNE 24, 2003

Approved/Rejected By: [Signature] Reconsidered By Council:  Over Ride Vote:  Aye:  Nay:   
 Date: JUNE 24, 2003  
 Council President: WILLIAM C. MCKOY City Clerk: JANE S. WILLIAMS-WARRIN