

**R: 2015 - 90**

**RESOLUTION AUTHORIZING THE TOWN OF PHILLIPSBURG TO REQUIRE BIDDERS ON PUBLIC WORKS PROJECTS ESTIMATED TO EQUAL OR EXCEED \$750,000 TO EMPLOY HIGHLY SKILLED WORKERS**

**WHEREAS**, the TOWN OF PHILLIPSBURG, has a compelling interest in guaranteeing that public works projects meet the highest standards of safety and quality; and

**WHEREAS**, the Town has a proprietary interest, as an owner, in the efficient use of resources and the protection of its investment in public works projects; and

**WHEREAS**, the Town has proprietary and governmental interests in high standards and high qualifications; and

**WHEREAS**, the Town believes that its interests are fostered and benefitted by requiring bidders which desire to bid on public works projects estimated to equal or exceed \$750,000 to employ highly skilled workers; and

**WHEREAS**, the State of New Jersey, as set forth in N.J.S.A. 52:39-1, has determined that a highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed project; and

**WHEREAS**, using formally trained trade and craft workers ensures a level of competence, productivity, and worker safety that contributes to the timely completion of a public works project; and

**WHEREAS**, the publication “Apprenticeship Training in New Jersey – Directory of Information and Resources” prepared by the State of New Jersey Department of Labor and Workforce Development Division of Business Services – Office of Workforce Initiatives describes the benefits that apprenticeship programs provide to the public, including, but not limited to:

- Developing and maintaining a highly skilled workforce which has “learned how to learn” and which is well prepared to adapt to an ever changing employment and economic environment that is the hallmark of today’s global economy.
- Increased productivity from apprentices who are more versatile and better able to solve work-related problems than untrained workers.

**WHEREAS**, a requirement for apprenticeship programs that train highly skilled workers and related bidding requirements are reasonably related to the satisfactory performance and completion of public works projects; and

**WHEREAS**, a requirement for apprenticeship programs outlines a set of criteria that a contractor, budding to work on a public works construction project, must meet in order to

be awarded a contract; and

**WHEREAS**, N.J.S.A. 40A:11-2 “Definitions” provides that:

(27) “Lowest responsible bidder or vendor” means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(32) “Responsible” means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

(33) “Responsive” means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request; and

**WHEREAS**, N.J.S.A. 40A:11-13 provides that any specifications for the provision or performance of goods or services shall be drafted in a manner to encourage free, open and competitive bidding and that no specifications may “(a) Require any standard, restriction condition or limitation not directly related to the purpose, function or activity for which the contract is awarded”; and

**WHEREAS**, to meet the purpose of a bidder being responsible, a requirement of a bidder in a qualified apprenticeship program places all bidders on equal footing thereby maintaining a fair and level playing field that does not unnecessarily limit the number or type of bidders on public contracts in as much as all contractors will have a fair and equal chance to bid on Town contracts; and

**WHEREAS**, public works projects with engineering estimates that the total cost of the project to the Town, exclusive of any land acquisition costs, will equal or exceed \$750,000, will benefit from a requirement that a responsible bidder participated in an approved apprenticeship programs and related requirements advance the interests of the Town in ensuring that these public works contracts result in cost efficiency, a skilled labor force, quality, safety and timeliness.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Phillipsburg has determined that:

1. The Town has compelling interest, as an owner, in guaranteeing that public works projects meet the highest standards of safety and quality.
2. The Town has a proprietary interest, as an owner, in the efficient use of resources and the protection of its investments in public works projects.
3. A highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed public works project; ensures that trade and craft workers have been properly trained to adapt to an ever changing employment and economic environment

that is the hallmark of today’s global economy; and increases productivity from apprentices who are more versatile and better able to solve work-related problems than untrained workers.

4. A requirement that a responsible bidder is one who participates in an apprenticeship program is consistent with N.J.S.A. 40A:11-13 in as much as the requirement is directly related to the cost, efficiency, skilled labor force, quality, safety and timeliness of the Town’s public works projects.

5. An apprenticeship program requirement as a requirement of responsible bidder determination is consistent with N.J.S.A. 40A:11-6.1 which requires that public contracts be awarded not to the lowest bidder, but to the “lowest responsible bidder.”

6. A requirement of apprenticeship programs as an element of responsibility places all bidders on equal footing thereby maintaining a fair and level playing field that does not unnecessarily limit the number or type of bidders on public contracts in as much as all contractors will have a fair and equal chance to bid on Town contracts.

7. Requiring apprenticeship programs as an element of responsibility is “*inherently beneficial*” and supports State of New Jersey policy as set forth in N.J.S.A. 34:1A-37 and N.J.S.A. 52:38-1:

- A. The State of New Jersey, as set forth in N.J.S.A. 52:38-1, has determined that a highly skilled workforce ensures lower costs for repairs and maintenance over the lifetime of a completed project and such a requirement is directly related to the contract activity;
- B. The State of New Jersey, as set forth in N.J.S.A. 34:1A-37, as an example, has recognized the inherent good in the encouragement and promotion of apprenticeship agreements and supports apprenticeship programs through programs of the State Department of Labor and Workforce Development and the “Jobs4Jersey” program;

8. Inherently beneficial apprenticeship programs that train highly skilled workers and improve efficiency in government projects are complimentary to the requirements of the Local Public Contracts Law; and

**BE IT FURTHER RESOLVED** “public works project” means any construction, reconstruction, demolition, alteration, custom fabrication, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program.

**BE IT FURTHER RESOLVED** that “apprenticeship program” and “registered apprenticeship” as set forth in N.J.S.A. 52:38-2 means:

- “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.

- “Registered apprenticeship” means apprenticeship in a 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 Office of Apprenticeship of the United States Department of Labor and meeting the standards established by that office.

**BE IT FURTHER RESOLVED** a requirement for apprenticeship programs and related requirements as an element of bidder responsibility shall require bidders to provide evidence that at the time of the bid, the bidder and all of the bidder’s sub-contractors participate in active apprenticeship and training programs approved and registered with the United States Department of Labor’s Bureau of Apprenticeship and Training for each of the trades of work contemplated under the awarded contract.

**BE IT FURTHER RESOLVED** that public works projects with engineering estimates that the total cost of the project, exclusive of any land acquisition costs (should you also exclude engineering, design, and construction management costs – or in the alternative, limit it to the “construction cost” of the project”, will equal or exceed \$750,000 will benefit by a determination that a requirement for apprenticeship programs and related requirements is part of being a responsible bidder.

**BE IT FURTHER RESOLVED** that any bidder for the public works projects as defined herein with engineering estimates that the total cost of the project, exclusive of any land acquisition costs, will equal or exceed \$750,000 who fails to comply with the requirement to participate in an apprenticeship program as described herein shall not be regarded as responsible under the meaning of N.J.S.A. 40A:11-2(32).

**BE IT FURTHER RESOLVED** that if any provision of this resolution is contrary to State or Federal Law, State and/or Federal law shall control, but all other provisions of this resolution shall remain in full force and effect.

**BE IT FURTHER RESOLVED** by the Town Council of the Town of Phillipsburg that the Mayor and Clerk are hereby authorized to execute this resolution requiring bidders on public works projects estimated to equal or exceed \$750,000 to employ highly skilled workers, and are further authorized to execute any and all bids or other documents necessary to effectuate and complete this resolution.

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Victoria Kleiner, Clerk

Dated: \_\_\_\_\_, 2015

DATED:

THE VOTE:

IN FAVOR:

OPPOSED:

ABSTENTIONS:

I hereby certify that the above is a true copy of the Resolution adopted by the Town of Phillipsburg at its regular meeting on May 19, 2015.

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, Secretary/Administrator