

County of Putnam County
Local Law #10 of 2014
(Passed at September 2, 2014 Regular Meeting)

APPROVAL/AMEND LOCAL LAW #9 OF 2012 / IN RELATION TO REQUIREMENT OF PROVIDING AN APPRENTICESHIP TRAINING PROGRAM AND HAVING APPROPRIATE APPRENTICESHIP AGREEMENTS IN PLACE BY CONTRACTORS/ SUBCONTRACTORS TO PUTNAM COUNTY PROJECT LABOR AGREEMENTS IN CONNECTION WITH THE PURCHASE OF CONSTRUCTION GOODS AND SERVICES FOR MAJOR CONSTRUCTION PROJECTS

WHEREAS, by Resolution #39 of 1998, the Legislature of Putnam County authorized enactment of Local Law #7 of 1998, known as the "Putnam County Project Labor Agreement Law," and by Resolution #162 of 2012, the Legislature of Putnam County authorized enactment of Local Law #9 of 2012, amending Local Law #7 of 1998, which legislation is in relation to consideration and utilization of Project Labor Agreements, when appropriate, in connection with the purchase of construction goods and services for major construction projects in Putnam County; and

WHEREAS, Putnam County wishes to further amend the Project Labor Agreement contained in Local Law #9 of 2012; now therefore be it

BE IT ENACTED by the Legislature of the County of Putnam, New York as follows:

LOCAL LAW #9 of 2012 is hereby amended to read as follows:

Section 1. Legislative Intent and Objectives:

1. The Legislature of the County of Putnam, together with the County Executive, hereby determines that, where appropriate, the consideration and utilization of Project Labor Agreements in connection with the planning, preparation and execution of Major Construction Projects in the County will serve to promote the intents and purposes of competitive bidding statutes, including the prevention of favoritism, improvidence, extravagance, fraud and corruption in the awarding of public contracts, assures the prudent use of public monies and facilitates the obtaining of high quality goods and services at the lowest possible price. It is the objective of the Local Law, formally known as the "Putnam County Project Labor Agreement Law," as amended, to ensure that a Project Labor Agreement is used by the County of Putnam in connection with a Major Construction Project only if it is demonstrated that the use of the Project Labor Agreement in any given Major Construction Project is in furtherance of such intents and purposes.

2. The use of Project Labor Agreements will be considered only in connection with Major Construction Projects. For the purposes of this Local Law, as amended, a "Major Construction Project" shall be construed to mean any project: (i) where the total estimated construction cost exceeds the sum of one million dollars (\$1,000,000); or (ii) the estimated time of completion exceeds thirty-six months; or (iii) where time is of the essence in completing the project due to the constraints of any mandated schedule contained in a judgment, order or consent decree of any court of any state or federal agency having jurisdiction.

3. When considering utilizing a Project Labor Agreement in any Major Construction Project, the heads of all departments and offices of the County of Putnam engaged or involved in the planning, preparation and execution of any Major Construction Project shall consider the purposes of the competitive bidding statutes, namely, the prevention of favoritism, improvidence, extravagance, fraud and corruption in the awarding of public contracts and obtaining high quality goods and services at the lowest possible price, and such heads of all departments and offices of the County of Putnam shall consider, examine and determine whether the use of a Project Labor Agreement in any given Major Construction Project is in the best interest of the County of Putnam.

4. In determining whether the use of a Project Labor Agreement is in the best interests of the County of Putnam, the heads of all departments and offices of the County of Putnam engaged or involved in the planning, preparation and execution of any Major Construction Project shall consider the intents and purposes of competitive bidding statutes as set forth in subdivision one of this Section.

5. The decision by the County of Putnam to utilize Public Labor Agreements in connection with the planning, preparation and execution of Major Construction Projects will be made on a case-by-case basis and not on a *pro forma* basis.

6. In addition to, but not in limitation of, the foregoing requirements, Contractors and Subcontractors to a Project Labor Agreement in any Major Construction Project shall provide trade-specific apprenticeship programs, through supervised training and education, and have in place, prior to entering into any Project Labor Agreement, apprenticeship agreements, appropriate for the type and scope of the work to be performed, that have been registered with and approved by the State Commissioner of Labor, pursuant to Article 23 of the New York Labor Law.

Section 2. Impact Analysis of Project Labor Agreements:

The heads of all departments and offices of the County of Putnam engaged or involved in the planning, preparation and execution of any Major Construction Project seeking to justify the use of a Project Labor Agreement on a given Major Construction Project must conduct an analysis and direct the preparation of a feasibility/due diligence report substantiating any projected economic savings and demonstrating that the use of a Project Labor Agreement will promote the objective of completing the project at the lowest reasonable cost. Such an analysis and preparation of the feasibility/due diligence report must be completed prior to the inclusion of a Project Labor Agreement provision in any bid specification. A predetermination shall be made in advance of directing the required analysis and preparation of the feasibility/due diligence report by the heads of all departments and offices of the County of Putnam engaged or involved in the planning, preparation and execution of any Major Construction Project to determine the appropriateness of utilizing a Project Labor Agreement in any given Major Construction Project. No Project Labor Agreement shall discriminate against union or non-union contractors or employees. In demonstrating that the use of a Project Labor Agreement will result in the completion of the project at the lowest reasonable cost, the analysis should address such factors as: the percentage of union and non-union contractors expected to bid on the project; an analysis of local collective bargaining agreements to determine their number and diversity and whether a Project Labor Agreement will result in significant cost savings by harmonizing their divergent provisions; the likelihood of interrupted revenues and/or whether labor unrest will occur on the project and the

economic impact that any delays resulting from such unrest will have on the project or the facilities being improved thereby; an analysis of the size and likely duration of the project to determine whether a Project Labor Agreement will be beneficial by providing continuity in the terms and conditions that will govern a project through its completion; document how the Project Labor Agreement will achieve significant, verifiable economic savings due to the coordination of various craft schedules and other terms and conditions by using a uniform agreement rather than various local union agreements; describe how the Project Labor Agreement will alter provisions in existing collective bargaining agreements relating to, among other things: wages, including provisions relating to overtime and shift differentials; work rules and practices; and productivity, safety, efficiency and dispute resolution; identify potential cost savings and flexibility due to alternative dispute resolution procedures in response to job site problems, jurisdictional disputes and workers compensation claims; and consider the likelihood of immediate and efficient access to skilled journey level workers and the opportunity for apprentice recruitment and training.

The terms of any Project Labor Agreement negotiated pursuant to the Putnam County Labor Agreement Law, as amended, shall comply with all applicable federal, state and local laws and regulations which require equal employment opportunities.

Section 3. Project Labor Agreement Implementation and Content:

Upon a determination by the County of Putnam to utilize a Project Labor Agreement in connection with a specific Major Construction Project, the County Executive, or his/her duly appointed representative(s), shall be directly involved in negotiating the terms of the Project Labor Agreement. Upon a determination by the County of Putnam to utilize a Project Labor Agreement in connection with any specific Major Construction Project, the unions affiliated with the Putnam County Building and Construction Trades Council shall designate a board composed of not less than five nor more than seven members who shall act as the exclusive bargaining agent and representative for tradespeople employed for the project for the purpose of negotiating the terms of a Project Labor Agreement. Any Project Labor Agreement negotiated pursuant to the terms of this Local Law, as amended, shall require that the parties shall not discriminate against any employee or applicant on the basis of age, race, creed, color, national origin, sex, disability (excluding a bona fide occupational qualification), genetic predisposition or carrier status, or marital status and shall require the parties to operate in full compliance with all applicable federal, state and local laws and regulations which require equal employment opportunities. The Project Labor Agreement, when duly approved, shall be included in the bid specification for the project. The form of any Project Labor Agreement to be entered into by the County of Putnam in connection with any Major Construction Project shall be subject to the approval of the County Attorney. Nothing contained in the Local Law, as amended, shall be construed to authorize or permit the inclusion of any term or condition in any Project Labor Agreement or in any bid specification issued by the County of Putnam which would unduly restrict competition, unlawfully discriminate or otherwise impair the ability of all contractors to participate and submit bids in connection with a proposed public work project, in strict accordance with the requirements of Section 103 of the New York State General Municipal Law. All successful bidders shall become signatories to the respective Major Construction Project's Project Labor Agreement.

Upon a determination by the County of Putnam to utilize a Project Labor Agreement in connection with any specific Major Construction Project, Contractors' and Subcontractors' apprenticeship agreements shall follow the standards set forth by Article 23 of the New York Labor Law.

Section 4. Effective Date:

This Local Law shall take effect immediately.