

**BOROUGH OF PROSPECT PARK  
COUNTY OF PASSAIC**

**ORDINANCE NO 2022-12**

**ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF PROSPECT PARK OF CREATING “THE COMMUNITY PROJECT LABOR AGREEMENTS ACT”**

**WHEREAS**, the Borough of Prospect Park has a compelling interest in assuring that public works projects meet the highest standards of safety, workmanship and quality; and

**WHEREAS**, the Borough of Prospect Park, as an owner, is concerned with the efficient use of its resources and the protection of investment in public works projects; and

**WHEREAS**, the Borough of Prospect Park believes that public works projects represent significant investments of public funds; and

**WHEREAS**, the Borough of Prospect Park believes that public works projects require skilled work, competency, tradesman and craftsman; and

**WHEREAS**, the Borough of Prospect Park believes that the public interest is fostered and benefited by Contractors that employ highly skilled workers; and

**WHEREAS**, as recognized by the Legislature of the State of New Jersey, public works projects completed by highly skilled workers results in lower repair costs and maintenance over the course of completed public works project’s lifetime; and

**WHEREAS**, trade and craft apprenticeship and training programs registered with the United States Department of Labor’s Bureau of Apprenticeship and Training or New Jersey State Apprenticeship Agency or equivalent training programs, provide a means of supplying and ensuring highly skilled workers in a cost-effective manner; and

**WHEREAS**, registered trade and craft apprenticeship programs provide a public benefit in training, developing and maintaining a highly skilled workforce and are complementary to public works projects; and

**WHEREAS**, the Borough of Prospect Park believes that requiring Contractors awarded contracts for public works projects to participate in active apprenticeship and training programs, or agreeing to employ workers of journeyman status to be paid at the journeyman rate, are an effective and suitable methods to ensure the use of highly skilled workers and achieve the highest standards of safety, workmanship and quality of public works projects in a cost effective manner, which will lower repair and maintenance costs over the life of completed public works projects; and

**WHEREAS**, the Borough of Prospect Park seeks to encourage Contractors awarded contracts for public works projects for the Borough of Prospect Park to hire residents of the Borough of Prospect Park and/or the County of Passaic where such Contractors have a need for new employees; and

**WHEREAS**, respective of the Occupational Safety and Health Act of 1970, as amended (OSHA), the Borough of Prospect Park believes safety to be of paramount consideration when public funds are invested in such public works; and,

**WHEREAS**, the Mayor and Council have determined that it is in the best interest of the Borough to provide the guidelines for public works projects to advance the interests of the Borough of Prospect Park including cost, efficiency, quality, time lines, protection of workers, and need for a skilled labor force and safety and to create a Section of the Code of the Borough of Prospect Park, entitled “Community Project Labor Agreements”

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Prospect Park, County of Passaic, State of New Jersey that it hereby amends and creates a Section of the Code of the Borough of Prospect Park entitled, “Community Project Labor Agreements” to state as follows:

**CHAPTER \_\_**

**COMMUNITY PROJECT LABOR AGREEMENTS**

**SECTION 1. Definitions**

In this Chapter, the following words and phrases shall have the meanings stated in this Section unless the context otherwise requires:

Apprentice	It means a worker who participates in a federal or state apprenticeship program or, as an apprentice equivalent, participates in a DOL approved training program, takes a construction apprenticeship test, and receives benefits and pay not less than those received by an apprentice.
Apprenticeship Program	It means an apprenticeship program and registered by the Bureau of Apprenticeship and Training of the U.S. Department of Labor or an apprenticeship equivalent program as that term is used by the State of New Jersey in the Abbot Project Labor Agreement either approved and funded by the New Jersey Department of Labor as of January 1, 2003.
Borough of Prospect Park	It means the Mayor, the Municipal Council, and/or the Business Administrator of the Borough of Prospect Park, or any of their designees.
Journeyman	It means a skilled worker who is a member of a Labor Organization and who has successfully completed an official apprenticeship qualification in a building trade or craft.

Labor Organization	It means an organization which represents, for purposes of collective bargaining, employees involved in the performance of public construction projects, that has the present ability to refer, provide or represent sufficient numbers of qualified employees to perform the contracted work and has an apprenticeship program.
Labor Person Hours	It means the number of hours worked multiplied by the number of employees performing such work.
Project Completion	It means the determination by the Borough of Prospect Park, in whole or in part, is ready for the use intended, which ordinarily shall mean the date on which the project receives its Final Certificate of Occupancy.
Project Labor Agreement (PLA)	It means a contract between a Labor Organization and the Contractor for the construction jobs that contains at a minimum the requirements set forth in this Chapter.
Public Works Project	It means any construction contract entered into by the Borough of Prospect Park wherein public funds are utilized or a construction project subject to the New Jersey Prevailing Wage Act, <i>N.J.S.A. 34:11-56.25 et seq.</i> , the total cost of which is equal to or exceeds five million dollars (\$5,000,000.00), exclusive of any land acquisition costs.
Resident	It means any person who currently lives in the Borough of Prospect Park and/or the County of Passaic and who has lived in the Borough of Prospect Park and/or the County of Passaic for the previous twelve (12) months.
Substantial Completion	It means any construction project that is not completed but is near completion by virtue of the project receiving a Temporary Certificate of Occupancy from the Construction Official of the Borough of Prospect Park or a Certificate of Substantial Completion from the Borough Engineer.
Temporary Certificate of Occupancy	It means a certificate that is issued by the Construction Official of the Borough of Prospect Park when a project has been substantially completed

as determined by the Borough Engineer or other appropriate Borough Official provided that such portion or portions may be occupied safely prior to full completion of the building or structure without endangering health or safety.

19. Total Construction Cost

It means all costs, including infrastructure, excluding only land acquisition costs, incurred to construct a project through the date of completion, that is, the date the Final Certificate of Occupancy is issued.

**SECTION 2. Project Labor Agreements required; General Terms.**

A. All Bid Specifications, Project Manuals, draft and final contracts for Public Works Project as define herein, which are estimated to exceed five million dollars (\$5,000,000.00), exclusive of any land acquisition costs, shall require the execution of a Project Labor Agreement that complies with the requirements of this Article. The Business Administrator may, having taken into consideration the nature, size and complexity of the project, determine that a Project Labor Agreement (PLA) is not required. In all cases where a Project Labor Agreement is utilized, it must advance the interests of the Borough of Prospect Park, including cost, efficiency, quality, time lines, and need for a skilled labor force and safety.

B. All Project Labor Agreements shall contain the following terms:

1. A guarantee that there will be no strikes, lock-outs, or other similar actions;
2. Procedures to insure the effective, immediate, and mutually binding resolutions of jurisdictional and labor disputes arising before the completion of the work;
3. A provision to bind all contractors and subcontractors on the project in all relevant documents;
4. Evidence that each contractor and subcontractor working on the project has a local Federally-registered apprenticeship program;
5. Conformity with all statutes, regulations and Borough of Prospect Park ordinances regarding the implementation of the Borough of Prospect Park's goals for women and Minority-owned businesses;
6. A requirement that contractors make a good faith effort that ten percent percent (10%) of the labor hours required shall be performed by residents of the Borough of Prospect Park and/or the County of Passaic, who are apprentices and graduates of Federally-registered apprenticeship programs. However, if it can be demonstrated that fulfilling this requirement is not possible because there are not enough apprentices or graduates of Federally-registered apprenticeship programs available, the required percentage of apprentices will be decreased accordingly.

7. A requirement that the Contractor and Labor Organizations shall furnish to the Borough of Prospect Park and/or the Business Administrator any and all reports or other documents which the Borough may reasonably request from time to time in order to carry out the purposes of this Ordinance, including but not limited to reports and records to support the work hours stated in the above reports must be maintained for a period of three (3) years after project completion. All records shall be made available to the Borough of Prospect Park upon ten (10) days prior written notice.
8. Site Access. Representatives of the Borough of Prospect Park shall be required to have appropriate access to all work sites in order to monitor compliance.

### **SECTION 3. Remedies**

In the event that either the Contractor and/or the Labor Organization should violate this Ordinance, the Borough of Prospect Park may seek any and all remedies available to it at law or equity. Such remedies include, but are not limited to, compelling the Contractor and/or the Labor Organization to complete a remedial employment action plan, pay liquidated damages or the Borough of Prospect Park may elect to terminate the Public Works Project Contract.

### **SECTION 4. Severability**

If any provision of this Chapter or application thereof to any person or circumstance is judged unconstitutional or otherwise invalid, the invalidity shall not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

### **SECTION 5. Repealer**

All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance shall be repealed to the extent of such conflict or inconsistency.

### **SECTION 6. Effective Date**

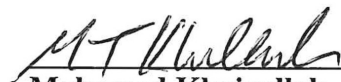
This ordinance shall take effect upon final publication as provided by law.

**Introduction and First Reading:  
May 16, 2022**


COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah			✓			
Artis	✓		✓			
Hussain		✓	✓			
Matari		✓	✓			
Ortiz			✓			
Perez			✓			

**Second Reading and Adoption:  
June 20, 2022**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Shah	✓		✓			
Artis			✓			
Hussain			✓			
Matari		✓	✓			
Ortiz			✓			
Perez			✓			

  
 Mohamed Khairullah,  
 Mayor

**This Ordinance was duly approved and adopted  
 by the Council of the Borough of Prospect Park  
 at a meeting held on June 20, 2022**

  
 Beauty Nadin, CMR  
 Acting Municipal Clerk