

NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 9th day of June, 2021 duly adopted a resolution, an abstract of which is as follows:

**RESOLUTION NO. 394 JUNE 9, 2021
ADOPTING LOCAL LAW NO. 4 OF 2021 AMENDING THE CODE OF THE TOWN OF BABYLON,
CHAPTER 89 (BUILDING CONSTRUCTION), ARTICLE II (GENERAL AND ADMINISTRATIVE
PROVISIONS), SECTION 89-13.1 (APPRENTICESHIP TRAINING PROGRAM COMPLIANCE
REQUIRED)**

WHEREAS, work in the construction industry presents many inherent dangers, and therefore requires a highly skilled labor force properly trained in safety techniques; and

WHEREAS, Section 89-13.1 of the Code of the Town of Babylon (hereinafter, “Section 89-13.1” and the “Town Code”) (added December 18th, 2012) Sets forth requirements for safe and Code complaint construction by, among other things, requiring in certain circumstances that apprenticeship agreements appropriate for the type and scope of work to be performed be in place; and

WHEREAS, notwithstanding the foregoing, many municipalities with apprenticeship agreement requirements have seen said requirements successfully challenged, and since the above described 2012 resolution date, the construction industry has undergone many changes that impact safety issues, including, without limitation, changes to standard labor training requirements, the pipeline of property trained and qualified workers, and requirements for graduation for apprenticeship training programs; and

WHEREAS, in order to bring the Town Code into compliance with current industry standards (including with respect to graduation from apprenticeship training programs), to fully codify existing Town policies, and to respond to relevant court decisions ruling against municipal apprenticeship agreement requirements, it has been determined that relevant Town Code provisions should be amended; and

THE TOWN BOARD having held a public hearing on the 12th day of May, 2021 at 3:30 p.m. at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst, New York to consider adopting Local Law No. 4 amending the Code of the Town of Babylon, Chapter 89 (Building Construction), Article II (General and Administrative Provisions), Section 89-13.1 (Apprenticeship Training Program Compliance Required), and due deliberation having been had, HEREBY ADOPTS Local Law No. 4 Amending the Code of the Town of Babylon, Chapter 89 (Building Construction), Article II (General and Administrative Provisions), Section 89-13.1 (Apprenticeship Training Program Compliance Required), as follows:

Section 1. **AMEND** as follows:

CHAPTER 89
BUILDING CONSTRUCTION
.....
ARTICLE II
.....
GENERAL AND ADMINISTRATIVE PROVISIONS
.....

§ 89-13.1 Apprenticeship training program compliance required.

A. For the purpose of this section, the following terms shall have the meanings indicated:

- (1) A “construction contract” shall mean any contract with a value in excess of \$250,000 to which the Town of Babylon is a party or for work to be performed on Town of Babylon-owned property that concerns the construction, reconstruction, improvements, rehabilitation, maintenance, furnishing, equipping of or otherwise providing for any building, facility or physical structure of any kind; and
- (2) A “Certificate of Completion” shall mean a certificate issued by the New York State Department of Labor which recognizes a person’s successful completion, within the 12 month period immediately preceding the date of the construction contract award, of a qualified apprenticeship and the training program registered approved by Commissioner of the New York State Department of Labor in accordance with the New York Labor Law and 12 NYCRR §600. et seq., and any amendments thereto.

B. Prior to awarding a construction contract, each of the general contractor, subcontractor, or applicant (as the case may be, and hereinafter the “ Contractor”) shall provide (i) a list of all trades or classifications of workers it anticipates engaging on the construction project given the type and scope of work to be performed and (ii) documentation to show that it has apprenticeship agreements appropriate for said type and scope of work to be performed which have been registered with, and approved by, the New York State Commissioner of Labor in accordance with Article 23 of the New York Labor Law, and at least one (1) Certificate of Completion from each apprenticeship training program with which it has an apprenticeship agreement. The Contractor must also submit then current New York State Department of Labor approved Form AT-401 certificates or similar certificates demonstrating that there is at least one (1) apprentice currently enrolled in each apprenticeship training program for the type and scope of work to be performed on the construction contract, and if the Contractor is to be a signatory to a sponsored apprenticeship training program, it must submit to the Town a letter from the sponsor of the apprenticeship training program(s), verifying of the Contractor’s signatory status as a participating entity approved by the Commissioner of the New York State Department of Labor to employ New York State registered apprentices.

C. The determination of compliance with this section shall be made and certified by the Commissioner of General Services. An aggrieved party may appeal such determination in an Article 78 proceeding to the Supreme Court, Suffolk County, filed within thirty (30) days of filing of the determination by the Commissioner with the Town Clerk or mailing of such determination to the Contractor, whichever is later.

D. This section shall not apply:

- 1) Where the requirements of a construction contract that is essential to the Town can only be fulfilled by a sole source, and such sole source is unwilling to comply with the requirements of this section; or
- 2) Where federal funding prohibits the Town from imposing the requirements of this section.



Section 2. Severability.

If any clause, sentence, paragraph, subdivision, section, or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgement shall not affect, impair or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date.

This local law shall take effect immediately upon filing in the Office of the Secretary of the State of New York.

Dated: June 9, 2021, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
GERALDINE COMPITELLO, TOWN CLERK