

Development Finance Authority of Summit County

Preferred Contractor Policy

1. **Definitions-** For the purposes of this Preferred Contractor Policy (öPolicyö), the following defined terms shall have the meanings set forth below:
 - a. öPolitical Subdivisionö shall have the same meaning as the definition of Political Subdivision set forth in Section 2744.01 of the Ohio Revised Code, exempting therefrom the Development Finance Authority of Summit County (öDFAö), a port authority created under Section 4582.22 of the Ohio Revised Code.
 - b. öPrevailing Wageö shall mean Ohio's Prevailing Wage Law as set forth in Sections 4115.03 through 4115.16 of the Ohio Revised Code and Sections 4101:9-4-01 through 4101:9-4-28 of the Ohio Administrative Code.
 - c. öPublic Projectö shall mean a project that satisfies any of the following:
 - i. Regardless of who owns, or is expected to own, the project, a Political Subdivision (i) is contributing or is expected to contribute funds toward the construction of the project, (ii) is contributing or is expected to contribute funds toward the repayment of debt issued to fund the project, or (iii) is directly repaying, or is expected to repay, any debt issued to fund the project.
 - ii. A Political Subdivision (i) has guaranteed, or is expected to guarantee, the repayment of debt issued to fund the project in the event of a default by another party, or (ii) has pledged, or is expected to pledge, funds towards the repayment of debt issued to fund the project in the event of a default by another party.
 - iii. The project will be (i) used by a Political Subdivision for any purpose for which the Political Subdivision may legally use the project, or (ii) owned, either in title, trust, equity, beneficially, or through dedication, by a Political Subdivision.
 - iv. The project will be constructed by, under the authority of, or by an agent of any Political Subdivision.
 - v. The project is being financed by tax increment financing pursuant to Section 5709.40 of the Ohio Revised Code, whereby a Political Subdivision is, or is expected to be, the owner, either in title, trust, equity beneficially, or through dedication, of the project, regardless of who constructs the project.

- vi. The project (A) is being financed in connection with the DFA Jobs and Investment Bond Fund and (B) satisfies at least one (1) of Sections 1(c)(i) through 1(c)(v) above.
- d. "Private Project" shall mean a project that satisfies any of the following:
- i. The project does not satisfy the terms of any of Sections 1(c)(i) through 1(c)(v) in relation to a Public Project.
 - ii. The project is being financed, by tax increment financing pursuant to Section 5709.41 of the Ohio Revised Code, whereby a Political Subdivision is (A) not constructing the project and (B) is not, and is not expected to be, the owner, either in title, trust, equity, beneficially, or through dedication, of the project.
 - iii. The project is being financed in connection with the DFA's Jobs and Investment Bond Fund but does not satisfy the terms of any of Sections 1(c)(i) through 1(c)(v) in relation to a Public Project.
- e. For the purposes of this Policy, when a project has multiple phases or portions, if any phase or portion of a project satisfies the definition of Public Project, then that phase or portion of the project shall be deemed a Public Project, and any phase or portion of the project to which the definition of Private Project applies shall be deemed a Private Project.
2. **Public Projects-** It shall be the policy of the DFA that a Public Project may not be approved by the Board of the DFA unless the Public Project is constructed by a contractor or contractors who meet the requirements set forth in this Section. Any contract executed by the DFA that pertains to the construction or finance of a Public Project shall incorporate terms ensuring that (a) the DFA is provided certificate(s) and supporting documentation, prior to commencement of the Public Project, that the contractor or contractors selected to construct the Public Project comply with the provisions set forth below, and (b) the contractor shall, upon request and during construction of the Public Project, provide any further assurances, representations, and/or documentation evidencing compliance with the certificate(s) and the requirements contained herein.

During the procurement of contractors for any Public Project, the DFA will ensure that any contractor or contractors submitting a bid to serve as a contractor for the Public Project are aware of the requirements set forth below by including notice of the requirements in any bid solicitations and/or any bid specifications, and shall also include notice that failure to provide the required certificate(s) and supporting documentation shall be grounds for rejection of the bid. Additionally, any Public Project procured by the DFA or its agent shall require each bid

submitted to include the certificate(s) and supporting documentation at the time of submittal.

Any contractor or contractors selected to construct a Public Project shall provide the information below and shall certify, as required above, that the following requirements are met and will continue to be met throughout the term of the Public Project:

- a. The contractor shall identify three (3) public works projects that are each within seventy five percent (75%) of the bid estimate for the Public Project that were successfully completed by the contractor within the last five (5) years.
- b. The contractor shall certify that it will employ supervisory personnel on the Public Project that have five (5) or more years of experience in the specific trade needed for the Public Project.
- c. The contractor shall certify that, in the last five (5) years, it has not been penalized or debarred from any public works project for certified payroll records violations or any violation of the Fair Labor Standards Act.
- d. The contractor shall certify that it has not been debarred from any public works projects for any prevailing wage violations; or been found (after all appeals) to have violated prevailing wage laws more than three (3) times in the last five (5) years.
- e. The contractor shall certify that it is in compliance with Ohio's Drug Free Workplace Program, including but not limited to, maintaining a substance abuse policy that governs its personnel who will work on the Public Project and shall provide evidence of the same.
- f. The contractor shall certify that it has not been debarred from any public contract, federal, state, or local, in the past five (5) years for any reason other than those set forth in items c, d and e above.
- g. The contractor, for a licensed trade contract or fire safety contract shall certify that the contractor is licensed pursuant to Chapter 4740 of the Ohio Revised Code as a heating, ventilating and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, hydronics contractor or certified by the State Fire Marshall pursuant to Section 3737.65 of the Ohio Revised Code, and shall provide evidence of the same.
- h. The contractor shall certify that it has not had any professional license revoked in the past five (5) years in the State of Ohio or in any other state.

- i. The contractor shall certify that it has no final judgments against it that have not been satisfied at the time of certification.
 - j. The contractor shall certify that it has complied with all applicable unemployment and workers compensation laws for the three (3) years preceding the date of its certification.
 - k. The contractor shall certify that it will notify the Income Tax Authority of the city, village, township or joint economic development district where the Public Project is located, prior to beginning work on the Public Project, of any independent contractor(s) or subcontractor(s) and/or IRS Form 1099 employee(s) that will be used on the Public Project.
 - l. The contractor shall certify that it will use construction employees on the Public Project who were trained in a state or federally approved apprenticeship program, or who are currently enrolled in a state or federally approved apprenticeship program, or who have at least four (4) years of experience in their particular trade.
 - m. The contractor shall certify that it and its subcontractors or any other contractor performing work on the Public Project pursuant to a contract with the contractor shall pay the prevailing wage rate and comply with the other provisions set forth in Ohio's Prevailing Wage Law, R.C. 4115.03 through 4115.16, and O.A.C. 4101:9-4-01 through 4101:9-4-28. This includes, but is not limited to, the filing of certified payroll reports.
 - n. The contractor shall certify that it will make its best efforts to secure and utilize construction employees primarily from Summit County and, secondarily, from counties that are contiguous to Summit County. In the event the DFA is financing a Public Project in another county, the contractor shall certify that it will make its best efforts to secure and utilize construction employees primarily from the County in which the Public Project is situated and from contiguous counties.
3. **Private Projects-** It shall be the policy of the DFA that prior to the approval of the Board of the DFA of a Private Project, the President shall have provided to, and the applicant or its agent shall have acknowledged in writing (öAcknowledgementö), receipt of (a) a copy of this Policy and (b) Informational Material regarding the use of local organizations that would comply with the provisions contained in Section 2 pertaining to a Public Project. öInformational Materialö means the set of documents or materials provided to the DFA by the Tri-County Building Trades Council (öBuilding Trades Councilö) from time to time, or, in the event of a Private Project outside of the counties of Summit, Portage or Medina, a local affiliate or organization similar to the Building Trades Council. The Acknowledgement shall further advise the applicant or its agent that (c) upon approval of the Private Project by the Board of the DFA, the DFA will

transmit the bond legislation or authorizing resolution(s) as well as any ancillary and pertinent public information in the possession of the DFA regarding the nature, scope and details of the Private Project to the Building Trades Council and (d) the Building Trades Council may contact the applicant or its agent to discuss the Private Project.

Following approval of the Private Project by the Board of the DFA, the President or any designated member of the DFA's staff shall transmit the bond legislation or authorizing resolution(s) as well as any ancillary and pertinent public information in the possession of the DFA regarding the nature, scope and details of the Private Project to the Building Trades Council.

4. **Applicability-** This Policy shall apply to any Public Project or Private Project being constructed in any County in the State of Ohio, except where prohibited by any applicable law, policy, rule or regulation.