

2023 LOCAL LABOR POLICY
CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Section 1: Purpose and Authority

The City of Newburgh Industrial Development Agency (the “Agency”) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of, the residents of the City of Newburgh, Orange County, New York. The Agency offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the Agency approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the City of Newburgh specifically and in Orange County generally. The Agency believes that companies benefiting from its financial assistance programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices (hereinafter “construction workers”), including those who have returned from military service, during the construction phase of projects. In this way, the Agency can generate significant benefits to advance the City of Newburgh 's general prosperity. It is also the goal of the Agency to promote the use of local veterans on projects receiving Agency benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on Agency projects, there are opportunities for veterans to gain both short-term and long-term careers in the construction industry.

Section 2: General Provisions

It is, therefore, the policy of the Agency that firms benefiting from its programs shall employ workers from the City of Newburgh and the “local labor” market for (i) the site preparation and construction phases of the project, (ii) the installation of the internal furnishings and equipment outfitting if, and to the extent, that the Agency granted benefits regarding such internal furnishings and equipment outfitting of the constructed facility (*e.g.*, sales tax benefits on such furnishings and/or equipment), and (iii) all renovations and additions if, and to the extent, that the Agency granted benefits for such renovations and additions.

For the purpose of this policy (“Policy”), the “local labor” market for construction workers shall be defined as those individuals living in City of Newburgh or in the following Counties: Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester. The Agency encourages each applicant receiving financial assistance to utilize labor from the City of Newburgh and/or Orange County to the extent possible. Each applicant (“Applicant”) receiving Agency financial assistance (collectively, “Agency Benefits”) shall ensure that contractor(s) and developer(s) engage or hire at least 85% from the “local labor” market for their approved projects. The 85% shall be borne by

each primary contractor including their subcontractors and in total at the time of completion of the project. The contractor/developer is mandated to keep daily log sheets of all field workers, commencing on the date of application. Any work performed after application shall be included in the determination of overall compliance with the 85% hiring requirements of this Policy. A third-party auditing firm (the “Agency Project Monitor” or the “Monitor”) will be engaged to monitor construction work commencing on the date Agency Benefits are granted by resolution of the Agency. Monitoring on site by the third-party auditing firm may be performed with or without prior notice to the Applicant to ensure accuracy of the monitoring information and reporting. Each Applicant will be responsible for the payment of such auditing firm.

Section 3: Exemptions

The Agency recognizes, however, that the use of local labor may not be possible for several reasons, and the Applicant may request an exemption on a particular contract or trade scope for the following reasons:

1. Warranty issues
 - a. In the case a specialized manufacturing warranty is required by the applicant in which no local labor can manufacture an “all equal” product
 - b. In the case an installation warranty is required by the applicant in which no local labor can install an “all equal” product
2. Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work;
3. Cost Differentials:
 - a. For projects whose project cost are equal to or in excess \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 30%. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 30% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors cannot get below the 30% cost differential, the applicant must give the otherwise preferred local bidder one final chance to get below the 30% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.
 - b. For projects whose project cost is less than \$15,000,000, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the subcontract or contract of a particular trade or work scope by 15% or more. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 15% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the local Contractor Associations. If the applicant or applicants' contractors cannot get below the 15% cost differential, the applicant must give the otherwise preferred local

bidder one final chance to get below the 15% cost differential. This effort must be documented and presented to the Agency's third-party local labor monitoring firm.

4. No local labor is available for the project; and
5. The contractor requires key or core persons such as supervisors, foreman or "construction workers" having special skills that are not available in the "local labor" market.

The request to secure an exemption for the use of non-local labor must be received from the Applicant on the exemption form provided by the Agency or the Monitor and received in advance of work commencing. The request will be reviewed by the Monitor and forwarded to the Agency, at which time the Agency's Audit Committee shall have the authority to approve or disapprove the exemption. The Monitor shall report each authorized exemption to the Board of Directors at its' bi-monthly meeting.

Section 4: Certified Payroll Records and Monitoring Requirement

A certified payroll requirement improves record keeping and accountability about job descriptions, hours worked and wages earned on an IDA Project site. Accordingly, the designated construction manager for the IDA Project, acting as agent for the applicant, on the IDA Project shall: (i) provide to the duly designated Monitor within 30 days of the end of the month being reported a certified monthly payroll report of all construction workers working on the IDA Project site, which include names, days/hours worked, and rate of pay, and worker classification, and (ii) annually certify to the Agency that the IDA Project is in compliance with state laws related to environmental quality, worker safety and protection, and wages and hours.

The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits

Section 5: Project Information

Applicants receiving Agency financial assistance, as well as contractor(s)/developer(s) on the project, shall make every effort to utilize vendors, material suppliers, subcontractors and professional services from the City of Newburgh and the surrounding counties identified above. Applicant(s), contractor(s) and developer(s) shall be required to keep records of those local vendor(s), material supplier(s), contractor(s) and professional services whom they have solicited and with whom they have contracted with or made awards to. This shall be stored in a binder on the project site during construction and shall be easily available for review by an authorized

representative of the Agency, such as the Agency's Monitor. Such binder shall also include any documents for solicitation and the final contracts. Once approved for Agency Benefits, all Applicants will be required to provide to the Agency's staff the following information:

1. Contact information for the Applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the Applicant's project;
2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions;
3. The names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of NYS Workers' Compensation Insurance, NYS Disability Insurance, General Liability Insurance and proof of current OSHA training certification from all contractors' employees performing work on the site; and
4. A Construction Completion Report listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project.

All Agency projects are subject to local monitoring by the Agency and the Monitor. The Applicant and/or construction manager or general contractor acting as agent for the Applicant on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA Certifications. Reports will be on forms provided by the Agency or weekly payroll reports which contain the same information as required on the Agency issued form. The Applicant(s), contractor(s) and developer(s) are subject to periodic inspection or monitoring by the Agency or the Monitor.

Section 6: Bulletin Board

The Agency will use a third-party firm(s) to monitor and audit compliance with this Policy, the cost of which shall be paid for by the Applicant at closing in advance of future audits and held in a non-interest bearing escrow account by the Agency until all such audits are completed. The Applicant of an Agency approved project, unless otherwise agreed by the Agency, shall be required to maintain a 4' X 8' bulletin board on the project site. The bulletin board shall be located in an area that is accessible to onsite workers and visitor, which should be clear and legible at least 10 feet from said bulletin board, and contain the following information:

1. Contact information for the Applicant;
2. Summary of the Agency Benefits received;
3. Contractor's name(s) and contact information;
4. Copies of proof of exemption (if any) from this Policy;

5. Copies of any warnings or violations (if any) of this Policy; and
6. Copy of this Policy executed by the Applicant.

Section 7: Compliance

The Monitor shall issue a report to the Agency immediately when an Applicant or Applicants' contractor (or developer) is not in compliance of this Policy. Agency staff shall advise the Audit Committee and/or Agency Board on non-compliance by email or at the next scheduled meeting. If a violation of this Policy has occurred, Agency staff shall notify the Applicant and contractor in writing of noncompliance and give Applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the Agency and/or the Monitor shall notify the Applicant that the project is in violation of this Policy and is subject to Agency Board action which may result in the revocation, termination and/or recapture of any or all Agency Benefits conferred by the Agency as provided in the project closing documents.

ATTACHMENTS

- | | |
|-----------|---|
| Exhibit A | Certificates of Authorization and Insurance Requirements Policy |
| Exhibit B | Mandated safety Training and Drug Screening Policy |
| Exhibit C | Certified payroll Records and Monitoring Requirements Policy |
| Exhibit D | Apprenticeship Program Policy |

Exhibit A

CERTIFICATES OF AUTHORIZATION AND INSURANCE REQUIREMENTS POLICY CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. In order to adequately protect the IDA from claims, all applicants are required to provide to the IDA's Executive Director or a duly appointed IDA monitor ("Monitor") with the names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of State of New York Workers' Compensation Insurance, State of New York Disability Insurance, and General Liability Insurance of all contractors working on the Project. All applicants have a continuing obligation to provide this information to the IDA during the course of Project construction. The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit B

MANDATED SAFETY TRAINING AND DRUG SCREENING POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. Promoting safe and healthful working conditions on IDA Project sites is always in the best interest of the residents of the City of Newburgh. To foster a culture of safety on all IDA Project sites, all applicants are required to provide the following to the IDA's Executive Director or a duly appointed IDA monitor ("Monitor"):

- Proof of current OSHA 30 training certification (completed within the last five years and renewed every 5 years) for all construction workers performing work on the Project site.
- Proof of a four (4) hour scaffold course for all construction workers utilizing a scaffold on the IDA Project site.
- Proof that all construction workers working on the IDA Project site passed a drug screening test prior to their hiring.

The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit C

CERTIFIED PAYROLL RECORDS AND MONITORING REQUIREMENTS POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Newburgh. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. A certified payroll requirement improves record keeping and accountability about job descriptions, hours worked and wages earned on an IDA Project site. Accordingly, the designated construction manager for the IDA Project, acting as agent for the applicant, on the IDA Project shall: (i) provide a duly designated IDA Project monitor (“monitor”) with a certified, monthly payroll of all construction workers working on the IDA Project site, which include names, days/hours worked, and rate of pay, and worker classification and (ii) annually certify that the IDA Project is in material compliance with state laws related to environmental quality, worker safety and protection, and wages and hours. The Monitor shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.

Exhibit D

APPRENTICESHIP PROGRAM POLICY

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

The City of Newburgh Industrial Development Agency (IDA) was created for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of the City of Newburgh. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant. The IDA believes in promoting a skilled workforce by way of encouraging apprenticeship programs. To that end, all IDA project sub-contractors (expressly excepting the prime or general contractor) must be enrolled in a New York State certified apprenticeship program (“Certified Contractor”). Further to that end, each subcontractor will have a graduation success rate between 60-75%. However, the IDA recognizes that the use of a Certified Contractor may not be possible for the following reasons:

- 1) Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers; unless local labor cannot be trained or certified in a timely manner;
- 2) Specialized construction is required and no Certified Contractor in the Orange County/Mid-Hudson Region has the required skills, certifications or training to perform the work;
- 3) Cost Differential: a. For projects whose project cost exceeds \$15 million, significant cost differentials in bid prices whereby the use of a Certified Contractor significantly increases the sub-contract or contract of a particular trade or work scope by at least 20%. Every reasonable effort should be made by the applicant and or the applicant’s contractor to get below the 20% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the Laborers Local 17, Ironworkers Local No. 417 and other local Contractor Associations; b. For projects whose project cost is less than \$15 million significant cost differentials in bid prices whereby the use of the Certified Contractor significantly increases the sub-contract or contract of a particular trade or work scope by 10% or more. Every reasonable effort should be made by the applicant and or the applicant’s contractor to get below the 10% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as Laborers Local 17, Ironworkers Local No. 417 and other local Contractor Associations;
- 4) No Certified Contractor is available for the project;
- 5) Compliance with the policy hinders the applicant’s ability to comply with the Agency’s local labor policy; and

6) Any reason which the Board of Directors of the IDA determines, in its sole and absolute discretion, is in the best interest of the City of Newburgh and its residents.

The request to secure an exemption for use of a Certified Contractor must be received in writing from the applicant detailing one or more of the reasons referenced above. The request will be reviewed by the Executive Director who shall refer the request to the IDA Board of Directors, which will approve or disapprove the request. A duly designated IDA monitor (“Monitor”) shall issue a report to the Executive Director relative to compliance with this policy who shall share such information with the IDA Board of Directors. All applicants have a duty to cooperate with the Monitor. All costs of the Monitor shall be the obligation of the applicant. To foster pre-apprenticeship programs, the IDA shall also dedicate \$50,000 to fund pre-apprenticeship programs operating in the City of Newburgh and Orange County which provide disadvantaged individuals training and exposure to various trades (“pre-apprenticeship programs”). Beginning on the effective date of this policy, the IDA shall also set aside 10% of each Agency fee received for such designated pre-apprenticeship programs (“pre-apprenticeship fund”). The IDA shall remit the pre-apprenticeship fund proceeds to its designated pre-apprenticeship programs in its discretion. The pre-apprenticeship programs receiving such funds shall be designated annually by the IDA Board of Directors. If a violation of the policy has occurred, the Executive Director shall notify the applicant in writing and give such applicant a warning of such violation. In the event there is a subsequent violation of the policy, the Executive Director shall bring such information to the IDA Board of Directors which may, in its discretion, take action to revoke or recapture IDA benefits.