

**RESOLUTION ADOPTING TOWN OF MONTGOMERY
INDUSTRIAL DEVELOPMENT AGENCY LOCAL LABOR POLICY**

A regular meeting of Town of Montgomery Industrial Development Agency (the “Agency”) was convened in public session in the Town Hall located at 110 Bracken Road in the Town of Montgomery, Orange County, New York on March 11, 2019 at 5:30 p.m., local time.

The meeting was called to order by the _____ Chair of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Edwin Williams	First Vice Chair
Stephen Rainaldi	Second Vice Chair
Matthew P. Stoddard	Treasurer
Rodney Winchell	Assistant Treasurer
Jeffrey D. Crist	Member/Temporary Chair
John W. Dickson	Member

ABSENT:

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Joseph Joy	Chief Executive Officer
Anthony Zambrotta	Assistant Secretary
Suzanne Hadden	Clerical and Recording Secretary
George W. Cregg, Jr., Esq.	Agency Counsel

The following resolution was offered by _____, seconded by _____, to wit:

Resolution No. 0319-

**RESOLUTION ADOPTING THE TOWN OF MONTGOMERY INDUSTRIAL
DEVELOPMENT AGENCY’S LOCAL LABOR POLICY.**

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 536 of the 1971 Laws of New York, as amended, constituting Section 890-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of commercial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, 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 Town of Montgomery, County of Orange, State of New York; and

WHEREAS, the Agency has determined that construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the Town of Montgomery. The Agency further believes that applicants benefiting from the Agency's financial assistance should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices, including those who have returned from military service, (collectively "construction workers") during the constructions phase of projects approved by the Agency to receive financial assistance in accordance with the Act; and

WHEREAS, the Agency has determined that a Local Labor Policy (the "Policy") which provides guidelines for applicants benefitting from its programs to promote local employment opportunities during all project phases, including the construction phase is necessary to meet the Agency's overall employment opportunities and economic growth for the Town of Montgomery.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency makes the following findings and determinations with respect to the Policy:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The approval of the Policy will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of the Town of Montgomery and Orange County, New York and improve their standard of living; and

(C) It is desirable and in the public interest for the Agency to approve the Policy; and

(D) The adoption by the Agency of the Policy constitutes continuing agency administration and management (not new programs or a major reordering of priorities), and is therefore a "Type II action" under Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations adopted pursuant thereto by the Department of Environment Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations") (the SEQR Act and the Regulations being collectively referred to as "SEQRA") and, according, no further action by the Agency under SEQRA is required.

Section 2. The form, terms and substance of the Policy (Exhibit A) are hereby approved in all respects. The Policy, will now be referred to as the Agency's "Local Labor Policy".

Section 3. The Agency hereby authorizes the Chairman, Vice Chairman or Chief Executive Officer to take all steps necessary to implement the Local Labor Policy.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Edwin Williams	VOTING	_____
Stephen Rainaldi	VOTING	_____
Matthew P. Stoddard	VOTING	_____
Rodney Winchell	VOTING	_____
Jeffrey D. Crist	VOTING	_____
John W. Dickson	VOTING	_____

The resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

I, the undersigned (Assistant) Secretary of the Town of Montgomery Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on March 11, 2019 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 11th day of March, 2019.

(Assistant) Secretary

(SEAL)

EXHIBIT A

---SEE ATTACHED---

LOCAL LABOR POLICY
TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY

The Town of Montgomery 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 Town of Montgomery, 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 Town of Montgomery. 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 Town of Montgomery 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 Town of ~~Montgomery's~~Montgomery'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.

It is, therefore, the policy of the Agency that firms benefiting from its programs shall employ workers from the Town of Montgomery and the "local labor" market during all project phases, including the construction phase. For the purpose of this policy (“Policy”), the "local labor" market for construction workers shall be defined as those individuals living in Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester Counties. 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 by contractor 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 will be engaged to monitor construction work commencing on the date Agency Benefits are granted by resolution of the Agency. Each Applicant will be responsible for the payment of such auditing firm.

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.~~1. Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers;
- ~~2.~~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.~~3. Cost Differentials:
 - ~~a.~~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 sub contract or contract of a particular trade or work

scope by 20%. Every reasonable effort should be made by the Applicant and or the Applicants' contractor to get below the 20% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the ~~Hudson Valley Building and Construction Trades Council and~~ local Contractor Associations;

~~b.~~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 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 Applicants' contractor to get below the 10% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the ~~Hudson Valley Building and Construction Trades Council and~~ local Contractor Associations

4. No 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 third-party monitor and received in advance of work commencing. The request will be reviewed by the third-party 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 third-party monitor shall report each authorized exemption to the Board of Directors at its ~~monthly~~ bi-monthly meeting.

In addition, 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 Town of Montgomery 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 third-party 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.~~1. Contact information for the ~~Applicant's~~Applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the Applicants project;
- ~~2.~~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.~~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.~~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 third-party 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 its third-party monitor.

The third-party 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 its third-party 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.

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.