

Local Construction Labor Policy

The Agency (the “Agency”) has adopted a Local Construction Labor Policy, effective April 1, 2022, as follows:

A project applicant (the “Company”), as a condition to receiving Financial Assistance (such as, and including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond financing) from the County of Rockland Industrial Development Agency (“Agency”), will be required to utilize qualified Local Labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the “Project Site”).

Local Labor Defined

Local Labor is defined as individuals residing in the following Counties: Rockland, Orange, Westchester, Putnam, Ulster, Sullivan, and Dutchess (collectively, the “Local Labor Area”).

Local Labor Requirement

At least 80% of the total number of employees working at the Project Site, excluding construction project management, of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project Site must reside within the Local Labor Area. Companies do not have to be local companies as defined herein but must employ local Workers residing within the Local Labor Area to qualify under the 80% Local Labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project Site. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”) based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; or (iii) documented lack of Workers meeting the Local Labor Area requirement.

The Agency may require an outside consultant of its choosing be hired by the Company to assist in reviewing any waiver requests that may be submitted. The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request.

Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required to file or cause to be filed a Local Labor Utilization Report (the "Report") on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker, the city, town, or village and associated zip code in which each such Worker is domiciled. The Report shall be submitted to the Agency, or its designated agents as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following quarterly dates of January 1, April 1, July 1, and October 1 and each quarterly date thereafter through the construction completion date.

The Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and records of the Company and to perform spot checks of all Workers at the Project Site to verify compliance with the Local Labor Requirement throughout the construction period.

Compliance with this Policy requires that an 80% threshold be met in each of the Local Labor Utilization Reports and each time the Agency, or its designated agents, examines the Company's applicable books and records as well as during any spot checks which may be performed. Averaging of the 80% threshold throughout any part of the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities of the Project Site is insufficient for compliance with this Policy.

Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice delivered personally or by reliable overnight delivery service (i.e. Federal Express) of said Local Labor Requirement violation (the "Notice of Violation") shall be provided to the Company.

Within ten (10) business days after the delivery of a Notice of Violation, the Company shall:

- (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement; or
- (ii) submit the Local Labor Waiver Request as described above; or
- (iii) confirm in writing its inability to meet the Local Labor Requirement.

If the Company does not respond to the Agency's Notice of Violation within ten (10) business days thereafter, or if the Company confirms its inability to meet the Local Labor Requirement, then at the next meeting of the Agency Board (whether a regular meeting or a special meeting), a question shall be placed before the Agency Board for the immediate termination of any and all Financial Assistance being provided to the project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the project. Prior to such Board meeting, a certified letter shall be sent to the Company setting forth the date, time and place of such meeting.

If a Local Labor Waiver Request is submitted and the Agency declines to issue the requested waiver, increased inspections and spot checks by the Agency or its designated agents shall commence at the Agency's discretion and at the expense of the Company and further, the Company shall have ten (10) business days after receipt of the notice of the waiver request denial to provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement.

If the Agency does not receive such confirmation, the Agency Board shall at its next meeting (whether a regular meeting or a special meeting) immediately terminate any and all Financial Assistance being provided to the project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the project. Prior to such Board meeting, a certified letter shall be sent to the Company setting forth the date, time and place of such meeting.

Escrow

The Agency, in the review or enforcement of its Labor Policy, may refer such matter to such consultants/professionals as it deems necessary to enable it to review or enforce the Labor Policy. The fees for such services shall be paid by the Company.

At the time of submission of any application, the Agency may require the establishment of an escrow account from which withdrawals shall be made to reimburse the Agency for the costs of professional review services in connection with the Labor Policy.

The sum deposited shall be held by the Agency in a separate account for the benefit of the Company and will be disbursed by the Agency for payment of consultant/professional fees in accordance with the usual requirements of the Agency for the payment of bills.

If such account is not replenished within 30 days after the Company is notified of the requirement for such additional deposit, the Agency may take appropriate action under applicable law and exercise its remedies under the underlying Agency documents, including but not limited to recapture.

After all pertinent charges have been paid, the Agency shall refund to the Company any funds remaining on deposit.

Project Compliance

This Local Construction Labor Policy shall take effect with respect to each project beginning on the day the Agency takes initial official action with respect to a project (such as the adoption by the Agency of an Inducement Resolution). Failure of a Company to comply with the Local Construction Labor Policy on and after such date may result in the Project's ineligibility for Agency benefits, and may be subject to the Project being denied Agency benefits, being subject to rescission of further Agency benefits, or being required to return of all or a portion of Agency benefits previously received.

Miscellaneous

This Labor Policy shall not apply if the Project is subject to prevailing wage requirements pursuant to NYS Labor Law section 224-a, as amended.

This Labor Policy may be amended by the Agency from time to time in a manner that is in accordance with applicable laws, rules, and regulations, as modified or amended by local, state and/or federal law.

Consented and agreed to by:

[Name of Applicant]

Name:

Title: