

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**  
**Minutes of the 454<sup>th</sup> Meeting**  
**June 21, 2013 – 8:30 am**  
**Agency Office, 4287 Main Street**

The meeting of the above captioned Agency was called to order by Chairman Fredrick A. Vilonen.

PRESENT:	Fredrick A. Vilonen Edward F. Stachura Aaron Stanley Barry A. Weinstein, MD Stuart Shapiro Barbara Nuchereno James Allen, Executive Director Nathan Neill, Esq.
ABSENT:	Carlton N. Brock, Jr.
GUESTS:	AIDA Staff Jonathan Epstein, Buffalo News Jim Fink, Business First Dave Tytka, Uniland Development Kristen Anderson, Asbury Point Terrance Gilbride Esq., Hodgson Russ Sarah Buckley, CWA Daniel O'Neill, Asbury Point Patty Devinney, WNY Labor Federation Andy Reynolds, Coalition for Economic Justice Thomas Frank

Chairman Vilonen reminded everyone that the meeting was being recorded.

**MINUTES**

The minutes of the May 2013 meeting were approved as presented.

**BILLS & COMMUNICATIONS**

There were no Bills & Communications at this meeting.

**TREASURER'S REPORT**

The Treasurer's Report for April 2013 was approved as presented.

**PUBLIC COMMENT**

There was no public comment at this meeting.

## **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Allen informed the board that the Agency continues to work with ECIDA and other the other IDAs in Erie County, on the county-wide eligibility policy.

## **COMMITTEE REPORTS - GOVERNANCE COMMITTEE**

The Governance Committee met on Tuesday, June 18, 2013 to review the proposed Local Labor Policy recently adopted by the Erie County IDA. Based on discussions at the meeting, the Governance made a few minor changes in the draft policy and will recommend approval of the Local Labor Policy.

Upon a motion by Barry Weinstein, seconded by Barbara Nuchereno and unanimously carried, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY ADOPT A LOCAL LABOR POLICY FOR PROJECT APPLICANTS AS A CONDITION OF RECEIVING FINANCIAL ASSISTANCE FROM THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY.

## **UNFINISHED BUSINESS**

### **Moratorium of Senior Housing Policy**

The board discussed a proposed moratorium of the Senior Housing Policy currently in effect. The moratorium would be in effect until January 1, 2014 so that the Agency can undertake a review of the need for senior housing with in the Town of Amherst and whether Agency assistance should continue to be provided.

After a lengthy discussion and upon a motion by Edward Stachura, seconded by Aaron Stanley and votes of no from Barry Weinstein and Barbara Nuchereno, along with aye votes from Fredrick Vilonen and Stuart Shapiro, it was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY APPROVE A MORATORIUM ON THE APPROVAL OF NEW SENIOR HOUSING PROJECTS BY THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY.

## **NEW BUSINESS**

There was no new business at this meeting.

8:47 am – Meeting adjourned.

## **ATTACHMENT TO AIDA APPLICATION FOR FINANCIAL ASSISTANCE**

### **Local Labor Workforce Certification**

Project applicants (the “Company”), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Town of Amherst Industrial Development Agency (the “Agency”), will be required to utilize 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”).

#### Local Labor Defined

Local Labor is defined as individuals residing in Erie County, Niagara County, Chautauqua County, Cattaraugus County, Allegany County, Wyoming County, Genesee County, and Orleans County (collectively, the “Local Labor Area”).

#### Local Labor Requirement

At least 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project 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 90% 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. 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 whereby the manufacturer requires installation by only approved installers;
- (ii) Specialized construction for which Local Labor Area Workers are not available;
- (iii) Documented lack of Workers meeting the Local Labor Area requirement. 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; or
- (iv) Significant cost differentials in bids whereby use of Local Labor significantly increases the cost of the project. A cost differential of 25% is deemed significant.

### 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 that each such Worker is domiciled in. The Report shall be submitted to the Agency 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.

In addition, 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.

### Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) Agency staff, upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice of said Local Labor Requirement violation (the "Notice of Violation") shall be provided to the Company. The Company shall have 10 business days thereafter to either: (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement; (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, or if the Company confirms its inability to meet the Local Labor Requirement then the Agency shall 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. If a Local Labor Waiver Request is submitted and the Agency declines to issue the requested waiver, then the Company shall have 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 shall then 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.

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The foregoing terms have been read, reviewed and understood by the Company and all appropriate personnel. The undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialmen. Furthermore, the undersigned realizes and understands that failure to abide by the terms herein could result in the Agency revoking all or any portion of Financial Assistance, whether already received or to be received by the Company, as it deems reasonable in its sole discretion for any violation hereof.

**NAME OF COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL  
DEVELOPMENT AGENCY APPROVING A MORATORIUM  
ON THE APPROVAL OF NEW SENIOR HOUSING PROJECTS  
BY THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT  
AGENCY

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) has participated with the other industrial development agencies in Erie County in developing a common policy which determines which projects are eligible for assistance by the Agency; and

WHEREAS, the policy currently provides for Agency assistance in connection with senior housing projects within the Town of Amherst provided that the applicant proves, among other things, that there is a need for additional senior housing within the Town of Amherst and that Agency assistance is required to provide for such additional senior housing; and

WHEREAS, the Agency together with the Erie County Industrial Development Agency has funded a study by the University of Buffalo to determine whether in fact there is a need for additional senior housing within Erie County including the Town of Amherst and the study has raised the question as to whether, following the approval by the Agency of a number of senior housing projects within the Town of Amherst, there remains a need for the Agency to continue to provide assistance for the development and construction of new senior housing within the Town of Amherst; and

WHEREAS, the Agency has determined that prior to granting approval for Agency assistance for new senior housing projects within the Town of Amherst, that the Agency should undertake a review of the current vacancy rates, waiting times, anticipated future needs and other factors to determine whether there remains a need for senior housing that requires Agency assistance.

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY AS FOLLOWS:

1. The Agency does hereby adopt the moratorium on the approval of new senior housing projects by the Town of Amherst Industrial Development Agency, which moratorium shall run through January 1, 2014.
2. The Agency shall undertake a review of the need for senior housing within the Town of Amherst and shall solicit input from municipalities, government agencies including senior service providers, operators of existing senior housing projects, developers and the public as to both the need for new senior housing within the Town of Amherst and whether Agency assistance should continue to be provided to senior housing projects within the Town of Amherst.
3. This resolution shall be effective immediately.

ADOPTED: June 21, 2013