

Niagara County Industrial Development Agency

Niagara County Center for Economic Development • 6311 Inducon Corporate Drive, Ste. 1 • Sanborn, NY 14132

NCIDA/NCDC/NADC GOVERNANCE COMMITTEE AGENDA

Date: Wednesday, May 11, 2022

Time: 8:00 a.m.

Place: Niagara County Center for Economic Development

6311 Inducon Corporate Drive

Sanborn, NY 14132

NCIDA Governance Committee Members:

_____ Jerald Wolfgang, Chairperson

_____ Clifford Scott

_____ Robert B. Cliffe

Copies to:

_____ Mark Onesi

_____ Kevin McCabe

_____ William L. Ross

_____ Scott Bridges

_____ Jason Krempa

_____ Susan Langdon, Executive Director

_____ Andrea Klyczek, Assistant Director

_____ Michael S. Dudley, Finance Manager

_____ Caroline Caruso, Accounting Associate

_____ Susan Barone, Project Manager

_____ Mark J. Gabriele, Agency Counsel

_____ Julie Lamoreaux, Administrative Assistant

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- 1.0 Meeting Called to Order – *J. Wolfgang***
 - 2.0 Roll Call – *Julie Lamoreaux***
 - 3.0 Approval of Meeting Minutes – *J. Wolfgang***
 - 3.1 March 9, 2022**
 - 4.0 Solar Project Policy – *M. Gabriele***
 - 5.0 Local Labor Policy – *M. Gabriele***
 - 6.0 Any Other Matters the Committee Wishes to Discuss**
 - 7.0 Adjournment – *K. McCabe***

NCIDA/NCDC/NADC GOVERNANCE COMMITTEE AGENDA

Date: Wednesday, March 9, 2022
Time: 8:45 a.m.
Place: Niagara County Center for Economic Development
6311 Inducon Corporate Drive
Sanborn, NY 14132

NCIDA Governance Committee Members:

Jerald Wolfgang, Chairperson	Present
Clifford Scott, Member	Present – Arrived at 8:46 a.m.
Robert B. Cliffe, Member	Present

Copies to:

Mark Onesi
Kevin McCabe
William L. Ross
Scott Bridges
Jason Krempa

Staff Present:

Susan Langdon, Executive Director
Andrea Klyczek, Assistant Director
Michael S. Dudley, Finance Manager
Caroline Caruso, Accounting Associate
Susan Barone, Project Manager
Mark J. Gabriele, Agency Counsel
Julie Lamoreaux, Administrative Assistant

1.0 Meeting Called to Order

Mr. Wolfgang called the meeting to order at 8:45 a.m.

2.0 Roll Call

Ms. Lamoreaux called the roll; a quorum was established.

3.0 Approval of Meeting Minutes

3.1 March 10, 2021

Mr. Wolfgang stated that he had reviewed the meeting minutes and he made a motion for approval; Mr. Cliffe seconded he motion. The motion passed.

4.0 Summary of Annual Board Evaluations

Mr. Gabriele explained that under the Public Authorities Accountability Act (PAAA), the Board of Directors of the Agency are required to complete a self-evaluation each year. Questionnaires were sent to all board members and then summarized. The Board Evaluations are filled out anonymously as required by PAAA. A summary of the evaluations was in the agenda packet for the Board Members' review.

Mr. Gabriele stated that there was one evaluation that said "somewhat disagree" in the response column, which must be addressed. The item was "The Board meets to review and approve all documents and reports prior to the public release and is confident that the information being presented is accurate and complete." As a response, Mr. Gabriele stated the Agency does provide these documents for review at least by the Friday before the Wednesday Board Meeting. Ms. Langdon stated that the staff does, and will continue to try to get things to the Board sooner.

Mr. Gabriele informed the Board that the State law requires the Agency to disclose the information within 48 hours of the Board meeting. He informed the Board that they are free to contact him, or Agency staff to clarify any upcoming projects or issues before the Board Meetings.

5.0 Reaffirm Governance Charter

Mr. Gabriele stated that the Charter has not been revised or amended and the Board is required to reaffirm it on an annual basis at the March Annual Board meeting per the Public Authorities Accountability Act.

Mr. Wolfgang motioned to reaffirm the Governance Charter; Mr. Scott seconded the motion. The motion passed.

6.0 Policy Discussion

Mr. Gabriele brought up the subject of solar policy to discuss board members' opinion, since the projects can be very controversial. The State has taken the action to dictate the terms for solar projects, including pilot guidelines, and sales tax abatement on the State's portion of the sales taxable investment. The Board must decide whether the Agency should provide additional tax benefits to solar projects.

The committee discussed and decided this would be discussed at the regular Board meeting.

7.0 Any Other Matters the Committee Wishes to Discuss

There were no other matters for discussion at this time.

8.0 Adjournment

Hearing no other comments, Mr. Wolfgang made a motion to adjourn the meeting, Mr. seconded he motion. The meeting adjourned at 9:15 a.m.

Respectfully Submitted:

Reviewed By:

Julie Lamoreaux
Administrative Assistant

Susan C. Langdon
Executive Director

SOLAR PROJECT POLICY

WHEREAS, the Niagara County Industrial Development Agency (“Agency”) encourages clean energy projects in Niagara County that are located on capped landfills, remediated brownfield sites or sites enrolled in the New York State Brownfield Cleanup Program, and the Agency may confer on those projects, financial assistance in the form of a sales and use tax exemption: and

WHEREAS, due to the potential effect solar projects have on the cities, villages and towns located in Niagara County, the Agency will not accept a solar project application without the written consent of the host municipality where the project is located: and

WHEREAS, if the Agency receives written consent from the host municipality requesting that the Agency consider financial assistance to a solar project located on or within one-half mile of a capped landfill, remediated brownfield site or a site accepted in the New York State Brownfield Cleanup Program, the Agency would thereafter entertain such a project application; and

WHEREAS, the Agency desires to encourage the development of solar projects on sites located on or within one-half mile of a capped landfill, a remediated brownfields site or a site accepted into the New York State Brownfield Cleanup Program; now, therefore

THE AGENCY HEREBY RESOLVES AS FOLLOWS:

1. The Agency will not accept an application for a solar project without express written consent from the host community where the project is to be located requesting that the Agency consider financial assistance to the project.
2. The Agency will only entertain solar projects located on or within one-half mile of capped landfills, remediated brownfield sites or sites enrolled in the New York State Brownfield Cleanup Program. The Agency will verify that the project is located in an approved area.
3. The Agency will not enter into a Payment-in-lieu-of Tax agreement on solar projects. The financial assistance provided by the Agency will be limited to sales and use tax exemptions related to the construction of the solar project.

LOCAL LABOR POLICY

Project applicants (the “Company”), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement) from the Niagara County Industrial Development Agency (the “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”).

Local Labor Defined

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

Local Labor Requirement

The Company will have 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project permanently reside within the Local Labor Area. The general contractor, subcontractor, or subcontractor to the subcontractor do not have to be local companies as defined herein, but must employ 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 or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; (iii) lack of Workers that would allow the Company to meet the Local Labor Area requirement; and (iv) where use of Local Labor Area Workers increases the cost of any construction trade by an amount in excess of twenty percent (20%). In respect to section (iv) Local Labor Area bidders shall have been given the opportunity to match the lower cost bid, provided that the timing and delivery of services shall not have an impact on the Project. The Agency’s Executive Director, in consultation with Agency Counsel, shall evaluate each Local Labor Waiver Request and make a determination related thereto based upon information 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 and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency or its designated agents on or by the next following semi-annual dates of January 1 and July 1, and for each period 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. The Company shall insure that the Agency shall have access to the records of the contractor, subcontractor and subcontractor to the subcontractor as it relates to Workers on the Project. If Agency determines that the local labor requirement has fallen below 90% for a given period, the Agency will work with the Company to determine the cause of the shortfall and to increase Local Labor Area Workers to the required level by the end of the Project construction. If the Agency determines that the Local Labor Area requirement at the end of the Project construction is less than 90%, the Agency may 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.