

LOEWKE BRILL **C O N S U L T I N G G R O U P , I N C**

OCIDA

The Accelerator

Attn: Laurie V, Kelly, Vincent

4 Crotty Ln. Suite 100 (formerly London Ave.)

New Windsor, NY 12553

RE: Project Close out for 16-007 Blackhawk Development, LLC

Contact: John Lenio

Blackhawk Development, LLC

CBRE Camelback Rd

Phoenix, AZ 85016

- Exhibit A- Loewke Brill received agreement/application from OCIDA for Blackhawk Development, LLC 10/26/16.
- Exhibit B- On 12/01/16 OCIDA submitted the engagement letter to the applicant.
- Exhibit C- Certificate of completion from GC Since this project was already completed there was no additional local labor documents that were obtained.

There were no local labor inspections performed on this site as the job was completed in 2015

Thank you,

Laura Perri

AGREEMENT

THIS AGREEMENT is entered into as of the day of October, 2016, by and between the Orange County Industrial Development Agency, a Public Benefit Corporation organized under the Laws of the State of New York, with offices at 4 Crotty Lane, New Windsor, New York 12553, hereinafter “the OCIDA” and Loewke Brill Consulting Group, Inc., a New York corporation, with offices at 491 Elmgrove Road, Suite #2, Rochester, New York 14606, hereinafter “LOEWKE.”

WITNESSETH:

WHEREAS, the OCIDA provides tax incentives designed to attract, expand or retain qualified businesses in Orange County thereby increasing economic development and creating employment opportunities for its residents; and

WHEREAS, the OCIDA has instituted a Local Labor Policy that requires recipients of OCIDA benefits to employ local labor during the construction phase of a project; and

WHEREAS, the OCIDA determined that it needed expert technical assistance in monitoring construction projects relative to compliance with its Local Labor Policy; and

WHEREAS, LOEWKE has the knowledge, capability and experience to provide such services to the OCIDA and has submitted a written proposal for providing such services which proposal was approved by the OCIDA Board of Directors; and

WHEREAS, the parties hereto wish to memorialize their understanding as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

SECTION 1: TERMS

- A. The OCIDA agrees to retain the services of LOEWKE to assist the OCIDA in monitoring adherence to the OCIDA’s Local Labor Policy (Exhibit “A”) for construction projects that have received OCIDA benefits.
- B. The OCIDA will assign specific projects on a case by case basis (Exhibit “B”) to LOEWKE and will provide LOEWKE with the necessary project information sufficient for LOEWKE to carry out its responsibilities hereunder.

- C. LOEWKE represents that it has the knowledge and experience to perform the services to be rendered and further represents that it shall use its best efforts to perform said services to the satisfaction of the OCIDA.
- D. LOEWKE will provide appropriate personnel to monitor each assigned project and will be compensated according to the Schedule of Fees submitted by LOEWKE as part of its proposal to OCIDA (Exhibit "C").
- E. OCIDA expects LOEWKE to monitor assigned projects on a monthly basis or more frequently if it is determined that the project is not in compliance with the Local Labor Policy.
- F. LOEWKE agrees to file reports with OCIDA within ten to fourteen (10-14) calendar days of each monthly inspection.
- G. The OCIDA and LOEWKE have the mutual option to terminate this Agreement upon ten (10) days written notice. LOEWKE shall be compensated for all work performed up to and including the specified termination date.
- H. LOEWKE agrees to procure and maintain NYS worker's compensation and NYS disability insurance and comprehensive liability insurance (including contractual and contractor's protective liability coverage) with combined single limits of \$1,000,000 per occurrence for bodily injury and property damage, automobile liability coverage including owned and hired vehicles with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage and professional liability insurance in the amount of \$1,000,000 per claim. LOEWKE shall name the OCIDA as an additional insured on its liability insurance policy and shall provide evidence of coverage to the OCIDA on all policies prior to performance of any services hereunder.
- I. LOEWKE shall defend, indemnify and hold harmless the OCIDA, its directors, officers, employees and agents from and against all claims, damages, losses, costs and expenses, including reasonable attorney's fees, arising out of or in any manner connected with, the performance of the services to the extent caused by LOEWKE's negligence.
- J. OCIDA shall defend, indemnify and hold harmless LOEWKE, its officers, directors, employees, agents and subcontractors (for the purposes of this agreement "subcontractors" shall mean those persons or entities retained by LOEWKE to perform services related to this agreement) from and against all claims, losses, damages, costs and expenses, including reasonable attorney's fees, arising out of or in any manner connected with, the performance of the services to the extent caused by OCIDA's negligence.
- K. LOEWKE understands and agrees that it is acting as an independent contractor of the OCIDA. This agreement and the relationship of the parties shall not be deemed to create or be one of employment, agency, partnership, joint venture or any other association.

SECTION 2. NOTICES.

Notices pursuant to this Agreement shall be given by deposit into the custody of the United States Postal Service, postage paid, addressed as follows:

- (1) OCIDA The Orange County Industrial Development Agency, 4 Crotty Lane, Suite 100, New Windsor, NY 12553

- (2) LOEWKE Loewke Brill Consulting Group, Inc, 491 Elmgrove Road, Suite #2, Rochester, NY 14606

Alternatively, notices may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or five (5) days after the date of deposit of such written notice in the course or transmission in the United States Postal Service.

SECTION 3. GENERAL PROVISIONS.

- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement may not be assigned by LOEWKE without prior written consent of OCIDA.
- C. This Agreement shall be governed by the laws of the State of New York. Any disputes arising hereunder shall be resolved by the Courts of Orange County, New York.
- D. If any provision, or any portion thereof, contained in this Agreement is held invalid, illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the OCIDA has caused this agreement to be signed and executed on its behalf by its Chief Operating Officer and LOEWKE has caused this agreement to be signed and executed on its behalf by its Principal, both in duplicate, on the day and year first above written.

Orange County IDA

Loewke Brill Consulting Group, Inc.

By: Laurie Villasuso
Chief Operating Officer

By:

Exhibit "A"

Orange County Industrial Development Agency Local Labor Policy

The Orange County 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 Orange County. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in Orange County. When the IDA 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 in Orange County. The IDA believes that companies benefiting from its incentive 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 IDA can generate significant benefits to advance the County's general prosperity. It is, therefore, the policy of the IDA that firms benefiting from its programs shall employ workers in Orange County during all project phases, including the construction phase.

For the purposes of this 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. Applicants receiving IDA benefits shall utilize at least 85% local labor for their approved projects. However, the IDA recognizes that the use of local labor 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;
- 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) Significant cost differentials in bid prices whereby the use of local labor significantly increases the cost of the project. A cost differential of 10% is deemed significant. Every effort should be made by the contractor or applicant to get below the 10% cost differential including, but not limited to, meeting with local construction trade organizations and local contractor associations;
- 4) No local labor is available for the project; and
- 5) The contractor requires the use of key or core persons such as supervisors, foremen, or construction workers having special skills.

The request to secure an exemption for use of non-local labor must be received in writing from the applicant. The request will be reviewed by the Executive Director who shall have the authority to approve or disapprove the request. The Executive Director shall report each authorized exemption to the Board of Directors at its monthly meeting.

In addition, applicants receiving IDA benefits and Contractors on the project shall make every effort to utilize vendors, material suppliers, subcontractors and professional services from Orange County and the surrounding counties. Applicants and contractors shall be required to keep records of those local vendors, material suppliers, contractors and professional services who they have solicited and with whom they have contracted with or awarded.

It is the goal of the County of Orange and the IDA to promote the use of local veterans on projects receiving IDA benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on IDA projects there is opportunity for veterans to gain both short term and long term careers in the construction industry.

Once approved for IDA benefits, all applicants will be required to provide to the IDA's Executive Director 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 application and 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 for all contractors and their 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 Orange County IDA projects are subject to local monitoring by the IDA. The Construction Manager, acting as agent for the applicant, on the project shall keep a log book on site detailing the number of workers on the job for each trade and the counties in which they reside which shall be subject to periodic inspection by the monitoring entity. The monitor shall issue a report to the Executive Director relative to compliance with this labor policy who shall share such information with 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 Board of Directors which may, in its discretion, take action to revoke IDA benefits.

The applicant of an IDA approved project shall be required to maintain a 4' x 8' bulletin board on the project site containing the following information:

- 1) Contact information of the applicant;
- 2) Summary of the IDA benefits received; and
- 3) Contractors' names and contact information.

The bulletin board shall be located in an area that is accessible to onsite workers and visitors.

Exhibit "B"

Project Name: Blackhawk Development LLC.

1. **Project Location and Description.**

Hudson Valley Crossing Dr.
Town of Hamptonburgh

A conversion of existing but dormant coal-powered electric generating plant to natural gas powered electric generating plant

2. **Project Contact Information.**

Michael J. Metz, LEED® AP, Vice President
Krusinski Construction
2107 Swift Dr.
Oakbrook, IL 60523
630 573-7700
630 573 7780 (fax)
<http://www.krusinski.com>

3. **Construction Cost Estimate**

Total Capital Investment of \$85,200,000.

4. **Construction Worker Estimate**

Temporary Construction Jobs: 216

Exhibit "C"

Schedule of Fees

LOEWKE BRILL

CONSULTING GROUP, INC

SUMMARY:

Further fee break down of original proposal dated May 6, 2016, as requested by OCIDA Director, Ms. Villasuso.

Loewke Brill has assessed a fee base structure for each approved project based on potential project size per inspection to include one time fees.

Fee based structure based on size of each approved project per inspection.

Per Project/per Inspection fee:

○ <5 Million	\$ 315.00
○ >5 Million <15 Million	\$ 540.00
○ >15 Million <25 Million	\$ 900.00

Additional fees:

○ Project Set Up/per project	\$ 1,050.00
○ Monthly Reporting	\$ 1,400.00
○ Waiver fee: per waiver	\$ 230.00
○ Annual Reporting	\$ 270.00
○ Project Close out/per project	\$ 575.00
○ Signage:	
Initial Art work Set Up fee	\$ 250.00
Signage per unit	\$ 40.00

Note: You could have the potential to exceed the proposal by the number of additional inspections requested on a project.



December 01, 2016

BOARD OF DIRECTORS

Mr. John Lenio
Blackhawk Development LLC.
 CBRE Camelback Rd.
 Phoenix, AZ 85016

Robert T. Armistead
 - CHAIRMAN

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 - VICE CHAIRMAN

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Operations STAFF

Laurie Villasuso
 - CHIEF OPERATING OFFICER &
 EXECUTIVE VICE PRESIDENT

Joel Kleiman
 - CHIEF FINANCIAL OFFICER

Kevin T. Dowd
 - ATTORNEY

RE: Blackhawk Development LLC,
 Town of Hamptonburgh
 OCIDA Local Labor Policy Monitoring Firm

Dear Mr. Lenio:

The Orange County Industrial Development Agency has engaged the services of the Loewke Brill Consulting Group, Inc. of Rochester, NY to provide it with the technical assistance in monitoring compliance with the OCIDA's Local Labor Policy for construction projects that have received OCIDA benefits. In a few short days, you will be receiving an introductory communication from a representative of Loewke Brill requesting preparatory information and documents regarding your construction project in Town of Hamptonburgh, NY. Thereafter, in the coming weeks, a representative of Loewke Brill will visit the site and will want to meet with members of your construction team and review records of the workers who are or have been involved in the construction of the facility. Loewke Brill will then prepare a report for the OCIDA regarding its evaluation of your compliance with the Local Labor Policy.

The OCIDA expects your company's complete cooperation with Loewke Brill. In addition, the OCIDA expects that you will notify your general contractor that it must cooperate fully with Loewke Brill as well.

On behalf of the OCIDA, I thank you in advance for your anticipated cooperation. If you have any questions, please don't hesitate to reach out to Kelly Reilly at (845) 220-2208 or email kreilly@theaccelerator.business.

Very truly yours,

 A handwritten signature in black ink, appearing to read 'Laurie Villasuso'.

Laurie Villasuso
 Chief Operating Officer &
 Executive Vice President

EXHIBIT **C**

Town of Hamptonburgh
19 Bull Road
Campbell Hall, NY 10916



Donald Mekuik
Code Enforcement Officer
(845) 427-2424 Ext. 2

Certificate Of Compliance Town of Hamptonburgh Orange County, New York

This Certifies that:
Blackhawk Development, LLC

the premises located at:
10 Hudson Crossing

**have been inspected and are hereby
approved for occupancy as:**
Factory

Permit Number: 5905-15
BUILDING SHELL ONLY

Factory F-1, IIB Construction of 340,782 sq.ft.

Consisting of: Production area, offices, loading docks, storage space, required sprinkler system.

Accessory A-2, Occupant Load 212
Accessory A-3, Occupant Load 190

SBL: 1-1-25

Issued on the Date of:
07/30/2015

With a Completion Date of:
07/28/2016



Authorized Signature



Date