



MINUTES

January 29, 2019

Herkimer County Industrial Development Agency Board of Directors Meeting held at the Herkimer County Chamber of Commerce Conference Room, 420 E. German St. Herkimer, NY 13350.

STAFF

JOHN J. PISECK, JR.
Executive Director

STACEY J. HOLLERAN
Office Manager

BOARD OF DIRECTORS

VINCENT J. BONO
Chairman

DAVID M. CHLUS
Vice Chairman

JOHN SCARANO
Secretary

MICHAEL WERENCZAK
Treasurer

CORY ALBRECHT
Director

DANIEL B. REARDON
Director

CATHERINE RICCI
Director

After the Pledge of Allegiance, Chairman V. Jim Bono called the meeting to order at 8:02 AM.

The following members answered the roll call: Vincent (Jim) Bono, John Scarano, Cory Albrecht, Catherine (Cate) Ricci, Daniel Reardon, and Michael Werenczak. Quorum present. David Chlus arrived at 8:04.

Members Absent:

Staff Present: John Piseck, Amanda Wellington, Stacey Holleran

Also Present: James Wallace, John Putnam, Anthony Hallak, Bernard Peplinski, Dan Sargeant, and Peter Manno.

Minutes: The minutes of the following board meetings were offered for review: December 27, 2018 Regular Meeting; December 27, 2018 Public Hearing; January 11, 2019 Special Meeting; and January 22, 2019 Public Hearing. **Catherine (Cate) Ricci moved, seconded by Mike Werenczak, to approve minutes as presented. Motion carried.**

Financial Reports: The following financial reports were offered for review and approval: December Operating Account, Account Balances, PILOTS, and RLF Status. Mr. Piseck met with Tractor Supply and subcontractor, H & M Architects, regarding additional funding needed to complete the electrical upgrades. We have no other resources to give them. **John Scarano moved, seconded by Mike Werenczak, to approve all financial reports as presented. Motion carried.**

Frankfort 5S South BP - Country Mile – Mr. Piseck has been working with all parties to resolve the issues with the roadway. Corrective action will take place in the spring. Fences that were opening up into the road have been changed to open into the property so that the road can be plowed without an issue. Truckers are sleeping in the cul-de-sac, making it hard for the road to be plowed. Working on getting no parking signs posted. Higby Gold is on track to get started this spring.

Manheim Business Park – The January 28th meeting with officials did not go so well. There is some hesitation regarding forming the water districts. This land has no other use for it than to have a processing plant like it is permitted for.

Purchasing Policy – A proposed amendment was provided at the December meeting and also published on the Agency's website for consideration. The Agency's attorney incorporated state mandated changes. **Cory Albrecht moved, seconded by John Scarano, to approve the proposed amendment for purchasing policy. Motion carried.**

Mission Statement Revision – A revised Mission Statement was provided for review and consideration. Mr. Piseck explained the need to enhance the current statement in order to include environmental benefits. **Cate Ricci moved to adopt the following mission statement:**

**THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY
DELIVERS ECONOMIC INCENTIVES TO BUSINESS AND INDUSTRY
TO DIVERSIFY AND STRENGTHEN HERKIMER COUNTY'S TAX
BASE AND ENHANCE COMMUNITY VITALITY BY SUPPORTING JOB
CREATION, BUSINESS AND INDUSTRIAL DEVELOPMENT, AND
COMMUNITY REVITALIZATION. WE STRIVE TO DEVELOP THE
LOCAL ECONOMY IN AN ORGANIZED, SUSTAINABLE AND
ENVIRONMENTALLY BENEFICIAL MANNER.**

Seconded by Dan Reardon, the motion carried.

Private Activity Bond Allocation – Mr. Piseck received notification from NYS Department of Economic Development that pursuant to the Private Activity Bond Allocation Act of 2018 that our initial 2019 allocation is \$2,178,400. This can be used for manufacturing only.

Incentive Proposal "Schuyler" – The formal award for The Regional Council Award - Incentive Proposal was received from Empire State Development for \$120,000 to assist with the purchase of land adjacent to the Schuyler Business Park. A copy was provided to the board members. Mr. Piseck will execute the document and submit the \$250.00 application fee.

Schuyler Business Park Wetlands – The survey that was approved in September 2018 was completed by Emrich Land Surveying for a cost of \$3,000. This was required for the Town to complete the conservation easement.

Capacity of Power Report-V of Frankfort – A copy of a proposal to provide engineering services associated with documenting available electric capacity at the former Union Tool parcel was provided. There are no concerns with water contamination. After discussion it was the consensus to hold off on proceeding at this time with the electric study.

March Board Meeting – Due to scheduling conflicts, the regular board meeting for March will be **Wednesday, March 20, 2019**. Please mark calendars.

Project Updates/Other Business -

- Goals for the year have been provided to everyone
- Mr. Piseck is now a member of the Mohawk Valley EDGE Board
- We have done more with social media and posting more
- March 8th is the Legislature Breakfast that we are sponsoring
- The proposed Nexus Center in Utica will help benefit us here in Herkimer County
- Looking for foresters that could evaluate logging options at the Schuyler BP

Proposed Photovoltaic Policy – A copy of the proposed new Photovoltaic Policy was provided. A public hearing will be set for February 26th, 2019 at 8:00 AM to be held in conjunction with the regular February board meeting.

Mr. Daniel Sargent highlighted some of the great things happening at Herkimer College. A new electrical engineering program laboratory is complete, a new police training program is now available, and enrollment numbers have improved.

Executive Session – Cory Albrecht moved, seconded by Dan Reardon, to enter into executive session at 8:45 AM to discuss current litigation and proposed acquisition. Motion carried. All board members, Bernard Peplinski, Tony Hallak, James Wallace, Jon Putnam, John Piseck, Amanda Wellington, and Stacey Holleran, were invited to stay.

Jon Putnam was excused at 8:58.

John Scarano moved, seconded by Dan Reardon, to end Executive Session at 9:12 AM. Motion carried.

Being no other business, Cate Ricci moved, seconded by Jim Bono to adjourn at 9:12 AM.

Respectfully submitted,



Stacey J. Holleran
Office Manager

**RESOLUTION AMENDING
PURCHASING POLICY AND PROCEDURES
FOR GOODS AND SERVICES OTHER THAN CONSTRUCTION PROJECTS**

WHEREAS, The County of Herkimer Industrial Development Agency is a corporate governmental agency, constituting a public benefit corporation, organized pursuant to Article 18-A of the General Municipal Law of the State of New York, the “New York State Industrial Development Agency Act”; and

WHEREAS, Section 884 of this Act states “the provision of any law relating the requirement of public bidding with the respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act; and

WHEREAS, Section 8 of Chapter 356 of the Laws of 1993, “The New York IDA Reform Act of 1993”, provides that Section 104-b of the General Municipal Law, “Procurement Policies and Procedures”, shall be applicable to purchases by an IDA of goods and services paid for by an IDA for its own use and account;

RESOLVED, that in accordance with this Section 104-b of the General Municipal Law, the County of Herkimer Industrial Development Agency shall adhere to the following policies and procedures for the purchase of goods and services for its own use and account;

GENERAL POLICY

1. Pursuant to Section 103 of the General Municipal Law, all purchases of materials, equipment or supplies that involve an expenditure of over \$20,000 shall be awarded only after public bidding pursuant to law for the soliciting of formal bids, unless purchased under State Contract pursuant to law.
2. Pursuant to Section 103 of the General Municipal Law, all purchases of materials, supplies, equipment and services that are not required by law to be bid shall follow the Guidelines for Quoting.
3. All contracts and purchases shall be awarded or paid in conformance to any applicable By-Laws of the County of Herkimer Industrial Development Agency.

REVIEWING PROCEDURE

1. General. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$10,000 and public works contracts under \$20,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contract; and surplus and second-hand purchases from another governmental entity.
2. Competitive Bidding. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

SECURING GOODS AND SERVICES. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases contracts over \$10,000 and public works contracts over \$20,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to Section 505 of this Part.

GUIDELINES FOR QUOTING

The following guidelines shall be followed for purchases that fall below the \$20,000 bid limit for all purchases of materials, supplies and equipment:

Up to \$2,499	The discretion of the IDA
\$2,500 to \$19,999	Written/Fax Quote requested from more than one vendor
\$20,000 and over	Formal bid

Under no circumstances can a quote that exceeds the bid limit be awarded. All quotes shall be documented and kept on file. Whenever other than the lowest quote is awarded, there must be written documentation of the reason for the award. Written documentation must be kept on file with the quotes.

EXCEPTIONS

1. **EMERGENCY** — An emergency exists wherein the delay caused by soliciting quotes would endanger the health, welfare or property of the Agency. If the situation is determined to be emergency in nature, by two officers of the Agency, then the procurement of goods or services will be at the discretion of an officer or the Administrative Director. Documentation as to the nature of the emergency must be kept on file.
2. **PROFESSIONAL SERVICES & CONSULTANTS** — Contracts, which require professional methods, character, or standards, fall into the Professional Service contract category. Many of these professional services require a state license to practice or may be creative and specialized in nature.

Examples of professionals are:

Accounting
Advertising Agency Promotion
Architectural
Artwork
Computer Software Maintenance Agreements
Consultants
Design Services
Engineering
Instructors/Teachers/Training
Insurance
Legal
Medical/Dental Services

Whereas, the intent of General Municipal Law Section 104 (b) includes hiring of consultants and professionals as outlined above, the following policy shall apply:

In most instances, the Chairman and/or Treasurer of the IDA will enter into an agreement for professional services to be negotiated between the supplier of services and the IDA.

3. **MANDATED SOURCES** — Mandated procurement sources shall be investigated when products offered are requested by the IDA. These sources include Department of Corrections, Industries for the Blind of New York State, and the New York State Industries for the Disabled. These sources are referred to as New York State Preferred Sources.
4. **SOLE SOURCE** — When there is only one possible source from which to procure goods and/or services, thus indicating there is not possibility of competition, the following shall be shown:

- a. unique benefits of item needed;
 - b. no other product/service can compare;
 - c. cost is reasonable as compared to product offered;
 - d. there is no competition available.
5. **TRUE LEASE** — Prices for True Leases will be obtained through the use of price quoting when possible. Evaluation of services and price shall determine successful vendor.
6. **SECOND HAND EQUIPMENT FROM OTHER GOVERNMENTS** — Surplus and second-hand supplies, material or equipment may be purchased without competitive bidding from the federal government, the State of New York or from any other political subdivision, district or public benefit corporation. (Section 103 (b) General Municipal Law)

EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.

1. All Agency documents soliciting bids or proposals for Agency contracts shall contain or make reference to the following provisions:
 - (a) The Agency will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and
 - (b) The Agency shall state, in all solicitations or advertisements for employees, that, in the performance of the Agency contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
2. Any contract awarded by the Agency will include the provisions of Section (A) of this Section in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Agency contract.
3. The provisions of this Section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Agency contract as expressed by its terms.
4. In the implementation of this Section, the Agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with

any such law and if such duplication or conflict exists, the Agency shall waive the applicability of this Section to the extent of such duplication or conflict.

5. The Agency shall ensure that “certified businesses” (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Agency contracts and to identify those Agency contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Agency contracts so as to facilitate the award of a fair share of Agency contracts to such businesses.

The designated Contracting Officer for the Agency is John J. Piseck, Jr.

Revision approved and adopted December 30, 2015

Approved and re-adopted March 8, 2018

Revision approved January 29, 2019