

## Job Summary

**Order Number:**

NY1160030

**Date Job Order Received:**

02/10/2016

**Number of Openings:**

3

**Company Name:**

Erway's Landscaping and Pond Design

**Job Title:**

Landscaping Laborer

**Minimum Experience Required:**

No experience requirement provided.

**Job Description:**

Landscaping Laborer - 3 fulltime, temporary, seasonal (H-2B) jobs available 4/25/16-12/15/16. Employer: Erway's Landscaping and Pond Design, 4202 Willow Road, Wilson, NY 14172. Duties: Workers for this position will be required to perform a series of tasks and duties that are associated with landscaping and property enhancement. Work includes manual digging, removal of trees, shrubs and other vegetation as well as general property clean-up. It also includes planting of trees, shrubs and other ornamental vegetation. You will be required to dig, rake and move soil and heavy rocks associated with the above. You will also be required to move and place rocks and other stone features in connection with the landscaping work. Work will be performed in all weather conditions ranging from hot and dry to cold and wet. Weather in Western NY varies dramatically from season to season. Some of the work will involve safe and effective operation of small tractors or skid steers as well as hand held power devices such as trimmer, pruners and other landscaping implements. Workers for this position must have reliable and consistent transportation to travel to the pick-up location and must be able to work in an independent and skillful manner. Workers must also be professional in appearance and conduct when on job sites and when interacting with employer's customers. All workers in this position will be drug tested post hire at employer expense. Due to the inherent danger of the work involved, as a safety matter worker must be able to understand instructions given in English. Must be able to lift 80 pounds and work in all weather conditions. Requires a class D (operator's) driver's license. Employer will provide transportation to and from worksites in Erie and Niagara counties, from designated location: 4202 Willow Road, Wilson, NY 14172. No education or experience required. Work Hours: Mon-Fri, 8am-5pm, 40 hours/week at \$13.43/hour. No OT. A single workweek will be used to compute wages due. Workers will be paid weekly on Friday. All deductions from the worker's paycheck required by law will be made. Employer provided housing available at no cost to the worker. Employer will provide workers at no charge all tools, supplies, and equipment required to perform the job. The employer guarantees to offer work for hours equal to at least three-fourths of the workdays in each 12-week period of the total employment period. H-2B workers will be reimbursed in the first workweek for all visa, visa processing, border crossing, and other related fees, including those mandated by the government (excluding passport fees). Transportation (including meals and, to the extent necessary, lodging) to the place of employment will be provided, or its cost to workers reimbursed, if the worker completes half the employment period. Return transportation will be provided if the worker completes the employment period or is dismissed early by the employer. Daily subsistence rates are \$11.86/day without receipts or up to \$46/day with receipts. Interested candidates

may contact the Lockport Worksource One Center, 272 S. Transit St., Lockport, NY 14094. Or by phone 716-433-6766. Reference job order NY1160030. Interested candidates may also mail Erway's Landscaping and Pond Design, attention David Erway, Jr. (owner), 4202 Willow Road, Wilson, NY 14172. Or by email: [daviderway1980@gmail.com](mailto:daviderway1980@gmail.com). Or by telephone: 716-696-2050. Or by fax: 716-751-9602. Reference job order number NY1160030.

**Job Location:**

4202 Willow Road  
Wilson, New York

**Pay:**

\$13.43 - \$13.43 Hourly

**Benefits:**

No benefits mentioned.

**Hours per Week:**

40

**Duration:**

Full Time, Temporary

**Work Days:**

Monday thru Friday

**Shift:**

First (Day)

**Public Transportation:**

Information not provided.

**Minimum Education Required:**

Less Than High School

**Driver Licenses, Including Endorsements:**

Class D (Operator)

**How to Apply:**

To apply, contact the employer by mail, by telephone, by fax, or by email:

Erway Jr., David  
4202 Willow Rd.  
Wilson, NY 14172  
Phone: Erway Jr., David (716) 696-2050  
Fax: Erway Jr., David (716) 751-9602  
Email: [daviderway1980@gmail.com](mailto:daviderway1980@gmail.com)

**New York State Department of Labor  
Form FL515 Attachment  
Terms and Conditions/Clarifications and Assurances/  
Additional Information for the H-2B Program**

**Employer Obligations**

The employer's job order will offer to U.S. workers (this means anyone, including foreign-born residents, residing within the U.S. and/or its' territories) no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2B workers. Job offers may not impose on U.S. workers any restrictions or obligations that will not be imposed on the employer's H-2B workers. This does not relieve the employer from providing to H-2B workers at least the minimum benefits, wages, and working conditions which must be offered to U.S. workers consistent with H-2B regulations.

The employer must provide to an H-2B worker outside of the U.S. no later than the time at which the worker applies for the visa, or to a worker in corresponding employment no later than on the day work commences, a copy of the job order, in a language understood by the worker, including any subsequent approved modifications.

During the period of employment specified on the *Application for Temporary Employment Certification*, the employer must comply with all applicable Federal, State and local employment-related laws and regulations, including health and safety laws. This includes compliance with 18 U.S.C. 1592(a), with respect to prohibitions against employers, the employer's agents or their attorneys knowingly holding, destroying or confiscating workers' passports, visas, or other immigration documents.

**Recruitment Activities**

Employers must conduct recruitment of U.S. workers to ensure that there are not qualified U.S. workers who will be available for the positions listed in the *Application for Temporary Employment Certification*. U.S. applicants can be rejected **only** for lawful job-related reasons.

Unless otherwise instructed by the Certifying Officer (CO), the employer must conduct the recruitment described in 655.42 through 655.46 within 14 calendar days from the date the Notice of Acceptance is issued. All employer-conducted recruitment must be completed before the employer submits the recruitment report as required in 655.48.

Employers must continue to accept referrals and applications of all U.S. applicants interested in the position until 21 days before the date of need.

Employers that wish to require interviews must conduct those interviews by phone or provide a procedure for the interviews to be conducted in the location where the worker is being recruited so that the worker incurs little or no cost. Employers cannot provide potential H-2B workers with more favorable treatment with respect to the requirement for, and conduct of, interviews.

The employer must consider all U.S. applicants for the job opportunity. The employer must accept and hire any applicants who are qualified and who will be available.

The employer may be instructed by the CO to conduct additional reasonable recruitment. Such recruitment may be required at the discretion of the CO where the CO has determined that there is a likelihood that U.S. workers who are qualified and will be available for the work, including but not limited to where the job opportunity is located in an Area of Substantial Unemployment.

### **Wage Rates, Special Pay Information, and Deductions**

The offered wage in the job order equals or exceeds the highest of the prevailing wage or Federal minimum wage, State minimum wage, or local minimum wage. The employer must pay at least the offered wage, free and clear, during the entire period of the contract.

\*A single workweek will be used to compute wages due.

All deductions from the worker's paycheck required by law will be made. No deductions will be made which reduce a worker's wages below the required rate. In New York State, the only deductions that can be taken from worker pay are:

1. Those required by law, such as Social Security, income tax, and garnishment of wages; and
2. Those that benefit workers and are authorized in writing, such as life insurance, or a savings account.

**Any other deductions are illegal.**

The employer guarantees to offer the worker employment for a total number of work hours equal to at least  $\frac{3}{4}$  ("three-fourths guarantee") of the workdays in each 12-week period (each 6-week period if the period of employment covered by the job order is less than 120 days) beginning with the first workday after the arrival of the worker at the place of employment or the advertised first date of need, whichever is later, and ending on the expiration date specified in the job order or in its extensions, if any. In the event the worker begins working later than the specified beginning date the guarantee period begins with the first workday after the arrival of the worker at the place of employment, and continues until the last day during which the job order and all extensions thereof are in effect. The 12-week periods (or 6-week periods, as appropriate) to which the guarantee applies are based upon the workweek used by the employer for pay purposes. The first 12-week period (or 6-week period, as appropriate) also includes any partial workweek, if the first workday after the worker's arrival at the place of employment is not the beginning of the employer's workweek, with the guaranteed number of hours increased on a pro rata basis (thus, the first period may include up to 12 weeks and 6 days (or 6 weeks and 6 days, as appropriate)). The final 12-week period (or 6-week period, as appropriate) includes any time remaining after the last full 12-week period (or 6-week period) ends, and thus may be as short as 1 day, with the guaranteed number of hours decreased on a pro rata basis.

If, before the expiration date specified in the job order, the services of the worker are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God, or similar unforeseeable man-made catastrophic event (such as an oil spill or controlled flooding) that is wholly outside the employer's control that makes the fulfillment of the job order impossible, the employer may terminate the job order with the approval of the CO. In the event of such termination of a job order, the employer must fulfill a three-fourths guarantee, as described above, for the time that has elapsed from the start date listed in the job order or the first workday after the arrival of the worker at the place of employment, whichever is later, to the time of its termination. The employer must make efforts to transfer the H-2B worker or worker in corresponding employment to other comparable employment acceptable to the worker and consistent with the Immigration and Nationality Act, as applicable. If a transfer is not affected, the employer must return the worker, at the employer's expense, to the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the worker's next certified H-2B employer, whichever the worker prefers.

On or before each payday the employer will provide to each worker in one or more written statements the following information: (1) the worker's total earnings for each workweek in the pay period; (2) the worker's hourly rate and/or piece rate of pay; (3) for each workweek in the pay period the hours of employment offered to the worker (showing offers in accordance with the three-fourths guarantee, separate from any hours offered over and above the guarantee); (4) for each workweek in the pay period the hours actually worked by the worker; (5) an itemization of all deductions made from or additions made to the worker's

wages; (6) if piece rates are used, the units produced daily; (7) the beginning and ending dates of the pay period; and (8) the employer's name, address and FEIN.

**Transportation, Subsistence, and Fees**

Employer agrees to reimburse inbound transportation and subsistence expenses (\$11.86 per day minimum, without receipts, to a maximum of \$46.00 per day, with receipts) from the place from which the worker has come to work for the employer, whether in the U.S. or abroad, to the place of employment if the worker completes 50 percent of the period of employment covered by the job order (not counting any extensions). The employer may arrange and pay for the transportation and subsistence directly, advance at a minimum the most economical and reasonable common carrier cost of the transportation and subsistence to the worker before the worker's departure, or pay the worker for the reasonable costs incurred by the worker.

If the worker completes the period of employment covered by the job order (not counting any extensions), or if the worker is dismissed from employment for any reason by the employer before the end of the period, and the worker has no immediate subsequent H-2B employment, the employer must provide or pay at the time of departure for the worker's cost of return transportation and daily subsistence from the place of employment to the place from which the worker, disregarding intervening employment, departed to work for the employer. If the worker has contracted with a subsequent employer that has not agreed in the job order to provide or pay for the worker's transportation from the employer's worksite to such subsequent employer's worksite, the employer must provide or pay for that transportation and subsistence. If the worker has contracted with a subsequent employer that has agreed in the job order to provide or pay for the worker's transportation from the employer's worksite to such subsequent employer's worksite, the subsequent employer must provide or pay for such expenses.

The amount of the transportation payment must be no less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved.

If applicable, employer will provide transportation, at no cost to the worker, to the actual work site and return at the end of the day.

H-2B workers will be reimbursed in the first workweek for all visa, visa processing, border crossing, and other related fees, including those mandated by the government (excluding passport fees).

**Tools and Equipment**

The employer will provide workers at no charge all tools, supplies, and equipment required to perform the job.

Employer Signature  Date 2-6-16