



Erie County Industrial Development Agency  
 Meeting of the Membership  
 December 16, 2020  
 at 12:00 p.m.

**Via Conference Call and Meeting is being Livestreamed**

**1.0 Call to Order**

- 1.1 Call to Order Meeting of the Membership
- 1.2 Welcome New Board Member – Paul Vukelic – President & COO Try-It Distribution

**2.0 Approval of Minutes:**

- 2.1 Approval of Minutes of November 18, 2020, 2020 Meeting of the Membership (Action Item) (Pages 2-8)

**3.0 Reports / Action Items / Information Items:**

- 3.1 Financial Report (Informational) (Pages 9-12)
- 3.2 2020 Tax Incentive Induced/Closing Schedule/ Estimated Real Property Tax Impact (Informational) (Pages 13-15)
- 3.3 Approval of COVID-19 Disaster Emergency Grant Applications (Action Item) (Separate Attachment)
- 3.4 Approval of UDAG Funding Contract for Water Tower Project at Angola Ag Park Site (Action Item) (Pages 16-24)
- 3.5 Policy Committee Update (Informational)

**4.0 Inducement Resolution:**

	<b>ECIDA</b>	<b>Private</b>	<b>Municipality</b>
	<b>Incentives</b>	<b>Investment</b>	
4.1 Life Technologies Corp/Thermo Fisher – West Expansion (Action Item) Pages 25-86)	\$2,413,500	\$90,000,000	Grand Island

**5.0 Amendatory Inducement Resolution:**

- 5.1 Rosina – Protein Operation Expansion (Action Item) (Pages 87-116)

**6.0 Special Resolution:**

- 6.1 Niagara Wind LLC and Erie Wind LLC Mortgage approval (Action Item) (Pages 117-121)

**7.0 Compliance:**

- 7.1 Zaepfel Development/Whyte Will Tzetzso/First Source (Action Item) (Pages 122-127)

**8.0 Management Team Reports:**

- 8.1 COVID-19 Response Update (Informational)

**9.0 Adjournment - Next Meeting January 27, 2021 @ 12:00 p.m.**

**MINUTES OF THE MEETING  
OF THE  
MEMBERSHIP OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
(ECIDA or AGENCY)**

**DATE AND PLACE:** November 18, 2020, held via telephone conference. Governor Cuomo's Executive Order 202.1, as amended from time to time, issued in response to the Coronavirus (COVID-19) crisis, suspended Article 7 of the Public Officers Law to the extent necessary to permit any public body to take actions without permitting in public in-person access to such meetings and authorized such meetings to be held remotely by conference call or other similar service, provided the public has the ability to view or listen to such proceedings and that the meeting is recorded and transcribed.

**LIVE STREAMED:** This meeting is being live-streamed and made accessible on the ECIDA's website at [www.ecidany.com](http://www.ecidany.com).

**PRESENT:** Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Bryon W. Brown, Hon. Joseph Emminger, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, Kenneth A. Schoetz and Art Wingerter

**EXCUSED:** Denise Abbott, James Doherty, Dottie Gallagher, Hon. Howard Johnson, Brenda W. McDuffie, and Renee Wilson

**OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Karen M. Fiala, Vice President/Secretary; Atiqah Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer; Beth O'Keefe, Business Development Officer; Grant Lesswing, Business Development Officer; Brian Krygier, Systems Analyst; Carrie Hocieniec, Administrative Coordinator; Lori Szewczyk, Director of Grants; Robbie Ann McPherson, and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Andrew Federick, Erie County Senior Economic Development Specialist; Deputy County Executive Maria Whyte; Leo Schultz on behalf of Tight Holdings; Dean Burrows on behalf of Gear Motions; Gregory Zaepfel on behalf of Zaepfel Development and Jonathan Schechter on behalf of Gross Shuman

There being a quorum present at 12:02 p.m., the Meeting of the Board of Directors of the Erie County Industrial Development Agency was called to order by Mr. Lipsitz who presided over the meeting in the absence of Chair McDuffie.

## MINUTES

The minutes of the October 28, 2020 meeting of the members were presented. Sister Denise moved and Rev. Blue seconded, to approve of the minutes. Mr. Lipsitz called for the vote and the minutes were unanimously approved.

## REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic presented the October 2020 financial report, noting that the balance sheet shows that the Agency finished the month with total assets of \$27.7 million, a small decrease from \$28.1 million at the end of September. This includes over \$7.3 million of unrestricted cash available for Agency operations. Net assets at the end of October remained over \$21 million. The monthly income statement shows net loss from operations of \$128,000. Operating revenue was below monthly budget by \$246,000, due mainly to administrative fee receipts of \$24,000 in October. Operating expenses were \$200,000, under budget by \$31,000. After depreciation, there was a net loss of \$139,000 for the month. The year-to-date income statement showing operating revenue of nearly \$2.0 million, \$361,000 below budget for the year and expenses of \$2.2 million, \$213,000 below budget. Combined with special project grants, the operational side/top half of the income statement shows a net loss of \$225,000 through October. After factoring in strategic initiatives and depreciation, there is currently an overall net loss of \$1.6 million for the year. Mr. Lipsitz directed that the report be received and filed.

2020 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. Fiala presented this report. Mr. Lipsitz directed that the report be received and filed.

Approval of COVID-19 Disaster Emergency Grant Application. Mr. Cappellino reviewed applications for the ECIDA Disaster Emergency Grants, both approved to date, and applications to be considered by the members today. Mr. Cappellino noted that the grant review committee has approved all applications for consideration for the members today. Mr. Wingerter moved and Mr. Emminger seconded to approve the seventeen (17) grant applications. Mr. Lipsitz called for the vote and the following seventeen (17) grant applications were unanimously approved:

1. 110 Moreland Street, Inc.
2. 716 Limousine LLC
3. Babz BBQ
4. Bikeorbar LLC
5. Buffalo & Erie County Naval & Military Park
6. Buffalo Girlchoir
7. Buffalo Pediatric Associates, LLC
8. C&R Housing
9. Computers for Children (aka Mission Ignite)
10. Dasa Properties LLC
11. Gerard Place Housing Development Fund Company
12. Great Expectations Child Care Center, Inc.
13. La Casa De Nacho Inc.
14. Little Spanish Garden LLC

15. Nurse Practitioner Adult Health P.C.
16. Schutte-Buffalo Hammermill
17. Weaver Metal & Roofing, Inc.

Policy Committee Update. Mr. Lipsitz noted that the Policy Committee approved both applications presented for consideration of the members at today's meeting. Ms. Whyte provided members with an update on the status of the MWBE policy initiative as discussed and considered by the Policy Committee at its most recently held meeting. Mr. Lipsitz directed that the report be received and filed.

## INDUCEMENT RESOLUTION

Tight Holdings LLC/Mean Guppy, 2505 Main Street, Buffalo, New York

Ms. Fiala reviewed the adaptive reuse of the former Ken-Ton Fabricators building on Main Street in the City of Buffalo. The facility is 26,000 sq. ft., over 100 years old and has been vacant for approximately 8 years. Mean Guppy will relocate its offices currently leased from 43 North on Ellicott Street and Washington Street. Five non-revenue producing apartments will be used by engineers coming from outside the area. In addition, a café/dining area is planned. The apartments will alleviate the company having to house people in other apartment buildings throughout the City. The project will retain the 34 existing jobs. No new jobs are being proposed and layoffs due to pandemic are not anticipated.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the conclusion of the termination of the PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$1,882,750 (which represents the product of 85% multiplied by \$2,215,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 34 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance; and
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.

- (v) Unpaid Real Property Tax Policy Commitment -- that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Mr. Brown moved and Mr. Pridgen seconded to approve the Project. Mr. Poloncarz spoke in favor of the Project. Mr. Lipsitz then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF TIGHT HOLDINGS LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Tonawanda Pirson, LLC/Gear Motions, North Youngman Commerce Park, Pirson Parkway, Tonawanda, New York

Ms. Fiala reviewed the proposed project involving the construction of an approximately 56,000 sq. ft. manufacturing facility that will be leased to Gear Motions. The company will be combining both the Niagara Street and Military Road operations into one facility within the industrial park.

Mr. Cappellino mentioned Mr. Emminger, Supervisor of the Town of Tonawanda, had reached out to staff noting substantial subdivision and site plan issues remain unresolved. Mr. Cappellino said he spoke with the developer regarding same and in response thereto, the developer has submitted a letter to the Agency containing the tenant's request that the project not be tabled for consideration by the Agency.

General discussed ensued between Mr. Emminger and the developer. Mr. Poloncarz stated the Agency's general proposition that it wants to work with all applicants but typically does not approve of a project unless underlying Town issues are satisfied or resolved.

Mr. Emminger then moved to table the application for consideration until next month.

Mr. Poloncarz stated his support for the project and queried if the Agency could approve the project contingent upon ultimate approval by the Town.

Mr. Kulpa asked Mr. Burrows, from Gear Motions, to confirm if having the endorsement of the Policy Committee, plus allowing the Agency time to permit the Town and the developer to resolve issues, alleviates the company's concerns. Mr. Burrows stated that he is not privy to the Town and developer issues, noted that COVID has delayed the company's action for most of this year, and that the company needs to plan now for this expansion as it is continually getting offers from other counties and states to relocate, but that an employee owned entity, it desires to stay in Erie County. However, Mr. Burrows stated that if this project approval keeps moving out, then we cannot plan for our financial future, so if the parties can work together, I would appreciate for approval now, which will give us time to plan because we need to be in the building by October 2021.

The motion to table this matter until next month was then seconded by Ms. Benczkowski.

Mr. Poloncarz again queried if members would be receptive to a contingent resolution. Mr. Murray then suggested that the Agency could resolve to induce the project, but add contingency language as follows:

“notwithstanding anything contained within this resolution to the contrary, the Agency's authorization and approvals with respect to the Project are contingent up the Town, and any of its related departments, issuing any and all required approvals with respect to the Project and such confirmation of same being provided to the Agency.”

Mr. Lipsitz then asked Mr. Emminger if the proposed contingency language was acceptable and if so, if he would withdraw his motion to table based on Mr. Murray's suggested “contingent” resolution language.

Mr. Emminger then withdrew his motion.

Based on the foregoing, Mr. Cappellino then stated that, as a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the termination PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$3,654,184 (which represents the product of 85% multiplied by \$4,299,040, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment – that there are at least 35 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline FTE”): and
- The number of current FTE employees in the then current year at the Facility: and
  - That within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 37 FTE employees [representing the sum of (i) 35 Baseline FTE employees and (ii) 2 FTE employees, being the product of 85% and 2 (representing the 2 new FTE employee positions proposed to be created by the Company as stated in its Application). In an effort to confirm and verify the Company’s employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency’s “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency’s Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency’s Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency’s Unpaid Real Property Tax Policy.

Mr. Emminger moved and Mr. Blue seconded to approve the Project provided that the contingency language, as provided for herein, be so included. Mr. Lipsitz then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF TONAWANDA PIRSON LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF

THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

## **MANAGEMENT TEAM REPORT**

COVID-19 Response Update. Mr. Cappellino updated members on ECIDA/RDC COVID-19 response.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting of the Agency at 12:56 p.m.

Dated: November 18, 2020

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Karen M. Fiala, Secretary



**Erie County Industrial Development Agency**  
**Financial Statements**  
As of November 30, 2020

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Balance Sheet**  
November 30, 2020

	<b>November 2020</b>	<b>October 2020</b>	<b>December 2019</b>
<b>ASSETS:</b>			
Cash *	\$ 7,685,428	\$ 7,370,239	\$ 7,576,519
Restricted Cash & Investments *	17,388,598	16,888,689	19,385,789
Due from Affiliates	557,777	524,194	553,651
Due from Buffalo Urban Development Corp.	157,003	153,036	114,751
Other Receivables	43,073	60,314	144,311
Total Current Assets	<u>25,831,879</u>	<u>24,996,472</u>	<u>27,775,021</u>
Grants Receivable	831,498	831,498	331,434
Venture Capital Investments, net of reserves	610,011	610,011	634,061
Capital Assets	1,239,841	1,250,674	1,358,104
Total Long-Term Assets	<u>2,681,350</u>	<u>2,692,184</u>	<u>2,323,599</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 28,513,229</u></u>	<u><u>\$ 27,688,656</u></u>	<u><u>\$ 30,098,620</u></u>
 <b>LIABILITIES &amp; NET ASSETS</b>			
Accounts Payable & Accrued Exp.	\$ 210,910	\$ 193,964	\$ 390,971
Deferred Revenues	826,905	826,905	243,708
Other Payables	-	-	56,294
Funds Held on Behalf of Others	6,151,215	5,650,952	6,785,657
Total Liabilities	<u>7,189,031</u>	<u>6,671,821</u>	<u>7,476,629</u>
Net Assets	<u>21,324,199</u>	<u>21,016,835</u>	<u>22,621,991</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><u>\$ 28,513,229</u></u>	<u><u>\$ 27,688,656</u></u>	<u><u>\$ 30,098,620</u></u>

\* Cash and restricted cash is invested in checking accounts at M&T Bank. The maximum FDIC insured amount = \$250,000 with the remainder of the cash balance collateralized with government obligations by the financial institution.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Income Statement**

Month of November 2020

	<b>Actual vs. Budget</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>REVENUES:</b>			
Administrative Fees	\$ 364,257	\$ 158,333	\$ 205,924
Affiliate Management Fees	41,500	43,375	(1,875)
Interest Income - Cash & Investments	1,114	8,750	(7,636)
Rental Income	19,877	34,375	(14,498)
Other Income	-	1,333	(1,333)
<b>Total Revenues</b>	<b>426,748</b>	<b>246,167</b>	<b>180,581</b>
<b>EXPENSES:</b>			
Salaries & Benefits	\$ 146,765	\$ 170,137	\$ (23,373)
General Office Expenses	20,085	21,542	(1,457)
Building Operating Costs	16,691	19,380	(2,689)
Professional Services	2,080	8,042	(5,962)
Public Hearings & Marketing	13,057	6,250	6,807
Travel, Mileage & Meeting Expenses	552	5,250	(4,698)
Other Expenses	132	833	(701)
<b>Total Expenses</b>	<b>199,362</b>	<b>231,434</b>	<b>(32,072)</b>
<b>SPECIAL PROJECT GRANTS:</b>			
Revenues	\$ 100,000	\$ 13,350	\$ 86,650
Expenses	(9,188)	(10,417)	1,228
	<b>90,812</b>	<b>2,933</b>	<b>87,878</b>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>			
	<b>318,197</b>	<b>17,666</b>	<b>300,531</b>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>			
Zero Net Energy costs (Z7+)	-	(52,160)	52,160
Angola Ag Park Grant	-	(100,000)	100,000
Other Strategic Initiatives	-	(5,000)	5,000
	<b>-</b>	<b>(157,160)</b>	<b>157,160</b>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>			
	<b>318,197</b>	<b>(139,494)</b>	<b>457,691</b>
Depreciation	(10,833)	(10,833)	0
<b>NET INCOME/(LOSS):</b>	<b>\$ 307,364</b>	<b>\$ (150,327)</b>	<b>\$ 457,691</b>

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")**

**Income Statement**

Year to Date: November 30, 2020

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
<b>REVENUES:</b>						
Administrative Fees	\$ 1,616,561	\$ 1,741,667	\$ (125,106)	\$ 1,616,561	\$ 1,351,019	\$ 265,542
Affiliate Management Fees	467,000	477,125	(10,125)	467,000	443,150	23,850
Interest Income - Cash & Investments	35,584	96,250	(60,666)	35,584	97,810	(62,226)
Rental Income	268,495	233,125	35,370	268,495	226,397	42,098
Other Income	24,272	29,667	(5,394)	24,272	18,029	6,243
Interest Income - Loans	-	-	-	-	21	(21)
<b>Total Revenues</b>	<b>2,411,912</b>	<b>2,577,833</b>	<b>(165,922)</b>	<b>2,411,912</b>	<b>2,136,425</b>	<b>275,486</b>
<b>EXPENSES:</b>						
Salaries & Benefits	1,815,201	1,944,003	(128,801)	1,815,201	1,827,665	(12,464)
General Office Expenses	206,714	236,958	(30,245)	206,714	225,442	(18,728)
Building Operating Costs	202,978	213,180	(10,202)	202,978	205,917	(2,938)
Professional Services	63,853	90,667	(26,813)	63,853	83,082	(19,229)
Public Hearings & Marketing	65,983	68,750	(2,767)	65,983	52,071	13,912
Travel, Mileage & Meeting Expenses	18,459	57,750	(39,291)	18,459	51,876	(33,417)
Other Expenses	4,154	9,167	(5,013)	4,154	4,925	(771)
<b>Total Expenses</b>	<b>2,377,342</b>	<b>2,620,474</b>	<b>(243,132)</b>	<b>2,377,342</b>	<b>2,450,977</b>	<b>(73,635)</b>
<b>SPECIAL PROJECT GRANTS:</b>						
Revenues	109,937	146,850	(36,913)	109,937	462,473	(352,535)
Expenses	(51,589)	(114,583)	62,994	(51,589)	(429,008)	377,419
	<b>58,348</b>	<b>32,267</b>	<b>26,082</b>	<b>58,348</b>	<b>33,464</b>	<b>24,884</b>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>						
	<b>\$ 92,918</b>	<b>\$ (10,374)</b>	<b>\$ 103,292</b>	<b>\$ 92,918</b>	<b>\$ (281,087)</b>	<b>\$ 374,005</b>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>						
Zero Net Energy costs (Z7+)	\$ -	\$ (625,917)	\$ 625,917	\$ -	\$ (535)	\$ 535
Bethlehem Steel Industrial Park Grant	(165,000)	(200,000)	35,000	(165,000)	(220,000)	55,000
Angola Ag Park Grant	(860,494)	(100,000)	(760,494)	(860,494)	-	(860,494)
Bethlehem Steel Industrial Park Grant Reimb	-	-	-	-	1,390,000	(1,390,000)
Buffalo Building Reuse Project (BUDC)	(100,000)	(100,000)	-	(100,000)	(100,000)	-
Canadian Lead Generation (IBN)	(72,000)	(72,000)	-	(72,000)	(72,000)	-
Gain/(Loss) on Venture Investments	(24,050)	-	(24,050)	(24,050)	31,915	(55,965)
Other Strategic Initiatives	(50,000)	(160,000)	110,000	(50,000)	(105,000)	55,000
	<b>(1,271,544)</b>	<b>(1,257,917)</b>	<b>(13,627)</b>	<b>(1,271,544)</b>	<b>924,380</b>	<b>(2,195,923)</b>
<b>NET INCOME/(LOSS) BEFORE DEPREC:</b>						
	<b>(1,178,626)</b>	<b>(1,268,291)</b>	<b>89,665</b>	<b>(1,178,626)</b>	<b>643,292</b>	<b>(1,821,918)</b>
Depreciation	(119,167)	(119,167)	0	(119,167)	(118,800)	(367)
<b>NET INCOME/(LOSS):</b>						
	<b>\$ (1,297,792)</b>	<b>\$ (1,387,457)</b>	<b>\$ 89,665</b>	<b>\$ (1,297,792)</b>	<b>\$ 524,492</b>	<b>\$ (1,822,285)</b>



**Tax Incentives Closings - 2020**

Project Name	Project Amount at Closing	FT Jobs at App	Projected Year 2 FT Jobs	PT Jobs at App	Projected Year 2 PT Jobs	Project City	Induced Date	Est. Project Completion Date
Jemal's Seneca, LLC	\$ 45,000,000	0	5	0	0	Buffalo	3/25/2020	4/3/2020
Moog, Inc.	\$ 44,300,000	288	357	0	0	Elma	3/22/2017	12/31/2020
Iskalo 6700 Transit Road	\$ 32,300,000	0	90	0	0	Cheektowaga	5/27/2020	
Time Release Properties/Time Release Sciences	\$ 27,398,234	103	123	0	0	Lackawanna	8/28/2019	12/31/2022
570 Associates VI, LLC	\$ 20,745,000	0	124	0	0	Cheektowaga	2/22/2017	12/31/2020
McKesson Corporation	\$ 18,200,000	62	75	0	0	Cheektowaga	3/27/2019	6/30/2020
Niagara Wind, LLC	\$ 17,171,429	3	3	0	0	Lackawanna	11/20/2019	
Steuben Foods, Inc.	\$ 16,457,951	564	582	19	19	Elma	3/27/2019	3/31/2020
637 Linwood, LLC/1275 Delaware, LLC	\$ 12,402,877	0	10	0	0	Buffalo	3/25/2020	12/31/2021
Buffalo High Technology Centre, Inc.	\$ 7,877,447	0	4	0	0	Buffalo	7/24/2019	12/31/2020
Nash Lofts/Michigan Broadway	\$ 6,767,172	3	6	0	2	Buffalo	8/22/2018	12/31/2021
Ebenezer Railcar Services, Inc	\$ 6,000,000	84	97	0	0	West Seneca	7/25/2018	12/31/2020
Erie Wind, LLC	\$ 4,292,858	3	3	0	0	Lackawanna	11/20/2019	
Roar Logistics	\$ 3,425,000	43	57	0	0	Buffalo	6/27/2018	11/1/2020
Hertel Pacific, LLC/Cypress North	\$ 999,568	16	18	1	1	Buffalo	8/28/2019	12/31/2020
	\$ 263,337,536	1,169	1,554	20	22			
15 Projects Closed								
385 FT Projected New Jobs								
2 PT Projected New Jobs								





# Memo:

December 2020

**UDAG (Urban Development Action Grant) Fund** – the UDAG fund was capitalized primarily from reflow associated with ECIDA’s original UDAG grant for the purchase and redevelopment of the former Westinghouse facility in Elma, presently owned by Steuben Foods.

The monies repaid (reflow) from the Steuben project in the form of rent and ultimately the purchase of the facility plus the sale of venture investments (primarily from Synacor and Gemcor) comprise the bulk of the UDAG fund. These were all one-time events, presently there is no appreciable annual reflow into the UDAG fund.

UDAG reflow funds are generally restricted by federal regulation, but can be used for certain purposes, including potential land acquisition and infrastructure costs for the redevelopment of the Bethlehem Steel site and the Angola Agricultural Park Project.

## Sources and Uses

Current UDAG Fund balance of approx. \$ 11.1 million

## Previously Encumbered Funding

Bethlehem Steel Phase 1 (carry costs balance)	\$ .40 million
Bethlehem Steel Phase 2 (acquisition & carry costs)	\$ 1.75 million
Angola Ag Park (carry costs)	\$ .30 million

## Annual Budget Items

Venture Capital Fund	\$ 1.0 million
Impact Project Fund	\$ 1.0 million
Misc. (BUDC, IBN * annual cost)	\$ .2 million

**Total UDAG Unencumbered Funds \$ 6.45 million**

\*Angola Ag Park Water Tower Requested Funds \$ 1.25 million

**Projected UDAG Fund Balance with Water Tower Allocation \$ 5.2 million**



**Reflow**

ESD Grant Beth Steel Phase 2 Acquisition (reimbursement)      \$ 1.5 million

**Total UDAG Fund Balance with Reflow**      **\$ 6.7 million**

**Potential Reflow**

Land Sales Beth Steel (50% of sale - \$50,000/acre)      \$ 6.0 million

Land Sales Angola Ag Park (50% of sale - \$30,000/acre)      \$ 3.0 million

Net Zero Energy (lease after expenses)      \$ TBD

Venture Investment Profit      \$ TBD

**Other Potential Uses**

Net Zero Energy Building      \$ 2.0 million



MEMORANDUM  
December 16, 2020

To: Members of the Board of Directors of the Erie County Industrial Development Agency and the Buffalo and Erie County Industrial Land Development Corporation

From: John Cappellino

Re: Angola Ag. Park – Town of Evans Water Tower Project Informational Briefing

**Background:**

The Town of Evans is currently in the final stages of design and interagency review for a new 1 million-gallon water tower, pump station and additional water mains. The total estimated capital cost of the project is \$5.53M.

The Evans water system is currently under a lease management agreement with the Erie County Water Authority (ECWA). The Town currently needs a new water tower due to a lack of sufficient storage capacity and flow in the existing water distribution system. This has resulted in an inability to meet average local demands and provide the necessary pressure for adequate fire protection in the Town. This issue has also placed the Town in violation of the “Ten States Recommended Standards for Water Works”, which in turn has led the Erie County Department of Health to enact a moratorium on any new water line extensions, including new commercial and residential service connections, until sufficient progress is made on the construction of the water tower.

Based on current water demand and forecasted growth the proposed 1 million-gallon tank will provide sufficient capacity for the existing water demands of the Town. The current planning for the development of the Agri-Business Park would include redevelopment of the 240-acre site of the former Angola Airport. An abundant supply of water and adequate pressure are key to Agricultural related operations. It is estimated that the new Agri-Business Park development could add up to 500,000 gallons of additional demand to the eastern zone of the Evans water system.

To address the potential new demand the Town has agreed to solicit alternate bids for a 1.5 million-gallon tank. The additional costs for the larger tank needed to ensure an adequate water supply for the development of the Agri-Business Park is estimated to be \$1,250,000.

Having thoroughly analyzed numerous potential locations for the water tower, there is a mutual agreement among engineers from the Town and ECWA that the future Agri-Business Park is the most ideal site. As part of the overall master planning for the site we are working to identify the best placement of the tower within the Park, as well as subdivision and acquisition of land by the Town. Locating the new water tower toward the back of the property would minimize the impact on future developable parcels and provide the additional benefit of installing water supply lines which would be able to service the park development. There would be additional costs to run the water supply lines to the back of the property as part of the water tower project, but it would eliminate the need and cost of running the lines later to service the Agri-Business Park. (see attached map)

**Requested Actions ECIDA:**

Seeking approval to enter into a funding agreement with the ILDC to provide up to \$1,250,000 of UDAG funds for the additional construction costs associated with a 1.5 million gallon water tank to be constructed on the Angola Agri-Business Park by the Town of Evans and the adoption of a Negative Declaration in accordance with SEQRA

**Requested Actions ILDC:**

Seeking approval to enter into a funding agreement with the ECIDA of up to \$1,250,000 of UDAG funds for the additional construction costs associated with a 1.5 million gallon water tank to be constructed on the Angola Agri-Business Park by the Town of Evans, the adoption of a Negative Declaration in accordance with SEQRA, approval to enter into Sale Agreement with the Town of Evans for up to a 1.85 acre parcel for the water tower to be constructed and located on and approval to enter into an easement agreement to provide access to the future water tower site.



## ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### RESOLUTION

A regular meeting of the Erie County Industrial Development Agency was convened on December 16, 2020, at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”): (i) TO ENTER INTO A FUNDING AGREEMENT FOR ECONOMIC DEVELOPMENT PURPOSES WITH THE BUFFALO AND ERIE COUNTY INDUSTRIAL LAND DEVELOPMENT CORPORATION TO GRANT \$1,250,000 FROM THE AGENCY’S U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT URBAN DEVELOPMENT ACTION GRANT (“UDAG”) REFLOW FUND; AND (ii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT

WHEREAS, the Agency maintains an Urban Development Action Grant Reflow Fund (the “UDAG Fund”), said UDAG Fund having been established based on rental payments derived from a project funded by an Agency UDAG grant, where after UDAG Fund proceeds have been invested within the Agency’s venture capital investment program which has resulted in certain cash distributions back to the UDAG Fund thereby expanding the size of the UDAG Fund; and

WHEREAS, the Buffalo and Erie County Industrial Land Development Corporation (the “ILDC”), an affiliate of the Agency, is authorized and empowered by Section 1411 of the Not-for-Profit Corporation Law of the State of New York, as amended, to relieve and reduce unemployment, promote and provide for additional and maximum employment, better and maintain job opportunities in Erie County and to lessen the burdens of government and act in the public interest; and

WHEREAS, the ILDC has acquired approximately 240 acres of real property at 1526 Eden Evans Center Road, Evans, New York (the “Real Property”) for purposes of establishing an agribusiness focused industrial park that will attract private sector investment in food processing and manufacturing and for the purpose of providing a market for farmers’ agricultural products in an effort to create local and regional employment opportunities to help alleviate rural poverty (the “Agri-Business Park Project”); and

WHEREAS, the Town of Evans (the “Town”) is currently in the final stages of design and interagency review for a new 1 million-gallon water tower, pump station and additional water mains having a total estimated capital cost of approximately \$5,530,000 (the “Evans Water System Project”); and

WHEREAS, the Agri-Business Park Project will add up to 500,000 gallons of projected additional water demand to the proposed Evans Water System Project; and

WHEREAS, to address the potential new water demand of the Agri-Business Park Project, the Town has agreed to solicit alternate bids for a 1.5 million-gallon water tower (the “Revised Evans Water System Project”); and

WHEREAS, there is a mutual agreement among engineers from the Town and Erie County Water Authority that the Real Property associated with the future Agri-Business Park Project is the most ideal site upon which to construct the Revised Evans Water System Project; and

WHEREAS, in an effort to facilitate construction of the Revised Evans Water System Project for the benefit of the residents of the Town of Evans and future tenants of the Agri-Business Park, the Town has requested that the ILDC contribute \$1,250,000 in funding to offset the increased costs associated with the Revised Evans Water System Project; and

WHEREAS, the ILDC does not have a sufficient amount of cash in its general fund to cover the additional funding associated with the Revised Evans Water Systems Project; and

WHEREAS, the Agency desires to assist the ILDC in its efforts to construct the Revised Evans Water Systems Project for purposes of establishing critical infrastructure to support the Agri-Business Park Project by granting UDAG Funds to the ILDC in the amount of \$1,250,000 to enable the ILDC to contribute to the funding of the Revised Evans Water Systems Project; and

WHEREAS, it is considered to be in the best interest of the Agency, Erie County, and the community in particular that UDAG Funds in the total amount of \$1,250,000, as described above, be granted to and utilized by the ILDC for purposes of facilitating the construction of the Revised Evans Water System Project; and

WHEREAS, the Agency desires to negotiate and execute a grant disbursement agreement (the “GDA”) with the ILDC in the amount of \$1,250,000 for purposes as described herein, thereby promoting and facilitating the future redevelopment of the Agri-Business Park Project and the future creation of new jobs and new investment; and

WHEREAS, on October 7, 2020, in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 NYCRR Part 617 (collectively referred to as the “State Environmental Quality Review Act” and/or “SEQR”), the Town Board of the Town of Evans (the “Town Board”) confirmed that the Revised Evans Water System Project was an Unlisted Action as said term is defined in SEQR, and issued a negative declaration (the “Original Negative Declaration”) under SEQR, with respect to the Revised Evans Water System Project; and

WHEREAS, thereafter, the Town Board slightly revised its plans and drawings with respect to the Revised Evans Water System Project, undertook additional coordinated review with respect to the Project, and provided a Full Environmental Assessment Form to the Agency; and

WHEREAS, the Agency did not object to the Town Board's request to be Lead Agency, as defined under SEQR; and

WHEREAS, on December 2, 2020, the Town Board revised its Original Negative Declaration by providing additional reasoned elaboration for the determination of significance it made on October 7, 2020, and ratified and reaffirmed the Original Negative Declaration for the Revised Evans Water System Project (the "Negative Declaration"); and

WHEREAS, funding ILDC activities as described herein is an eligible UDAG expenditure under Section 105(a)(2) of the Housing and Community Development Act of 1974.

**NOW, THEREFORE, BE IT RESOLVED BY THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. Based upon a thorough and complete review of the Revised Evans Water System Project and its accompanying materials and information, the Full Environmental Assessment Form, and the Town Board's proceedings and its Negative Declaration issued pursuant to SEQR, the Agency hereby:

(i) consents to and affirms the status of the Town of Board as "Lead Agency" within the meaning of and for all purposes of complying with SEQR and determines that the proceedings undertaken by the Town Board under SEQR with respect to the undertaking of the Revised Evans Water System Project satisfy the requirements of SEQR;

(ii) affirms that the Project involves an "Unlisted Action" as that term is defined under SEQR;

(iii) reviews, considers, confirms, ratifies, and adopts such proceedings by the Town Board, including the "Negative Declaration";

(iv) determines that the Revised Evans Water System Project will impact a limited area resulting in minimal vegetation removal, that no significant geological features will be impacted because none exist on site, that there are no surface water impacts, that no significant adverse impacts to groundwater are anticipated, that there are no floodplains on site so no floodplains will be impacted, that impacts on air will be limited to construction related impacts that will be short in time and controlled through the use of appropriate construction best practices, that there will be no impacts on threatened or endangered species,

that approximately 0.05 acres of agricultural land will be impacted such that there will be no significant adverse impacts on agricultural resources, that the Revised Evans Water System Project will be muted in color to blend into the landscape and thus designed to fit aesthetically into the landscape, that there are no historical and/or archeological resources at the site, that there are no critical environmental areas on site, that no impacts on traffic or transportation will occur, that there will be no adverse impacts to energy usage, that impacts on noise and odor will be minimal and limited in duration to the construction phase, that there will be no impact on human health, that the development is outlined within and consistent with the Town's Comprehensive Plan and consistent with the Town's community character, that there are not any changes in two or more elements of the environment, no one of which has a significant impact on the environment but when considered together result in a substantial adverse impact, nor will there be two or more related actions undertaken, funded or approved producing significant cumulative impacts, and as such, the Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment, that the Project will not have a "significant effect on the environment" as such quoted terms are defined in SEQR, and that no "environmental impact statement" as such quoted term is defined in SEQR need be prepared for this action; and

(v) determines that all of the provisions of SEQR that are required to be complied with as a condition precedent with respect to the Revised Evans Water System Project, and the participation by the Agency in assisting in the funding of the Revised Evans Water System Project, have been satisfied. This determination constitutes a "negative declaration" (as such quoted terms are defined under SEQR) for purposes of SEQR.

Section 2. The Agency hereby approves and authorizes the funding of the Revised Evans Water System Project and the granting of the UDAG Funds to carry out the activities as described herein, in the amount of \$1,250,000.

Section 3. The Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver the GDA consistent with the terms as provided for within this resolution and any related documents and the officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of this resolution.

Section 4. This resolution shall take effect immediately.

Dated: December 16, 2020



**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

- MEETING:** December 8, 2020, at Erie County Industrial Development Agency (the “ECIDA” or “Agency”), meeting held via phone conference. Governor Cuomo’s Executive Order 202.1, as amended from time to time, issued in response to the Coronavirus (COVID-19) crisis, suspended Article 7 of the Public Officers Law to the extent necessary to permit any public body to take actions without permitting in public in-person access to such meetings and authorized such meetings to be held remotely by conference call or other similar service, provided the public has the ability to view or listen to such proceedings and that the meeting is recorded and transcribed.
- LIVE STREAMED:** This meeting is being live-audio streamed and made accessible on the Agency’s website at [www.ecidany.com](http://www.ecidany.com).
- PRESENT:** Denise Abbott; April Baskin; Rev. Mark Blue; Johanna Coleman; Colleen DiPirro; Hon. William Krebs; Richard Lipsitz; Brenda W. McDuffie; Glenn Nellis; Laura Smith; Lavon Stephens and Maria Whyte
- EXCUSED:** Bryon W. Brown; Richard Cummings and David State
- OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Karen M. Fiala, Vice President/Secretary; Grant Lesswing, Business Development Officer; Brian Krygier, Systems Analyst; Carrie Hocieniec, Administrative Coordinator; Robbie Ann McPherson, Director of Marketing and Communications; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Andrew Federick, Erie County Senior Economic Development Specialist; Alex Carducci on behalf of the City of Buffalo; Joseph Emminger on behalf of the Town of Tonawanda; Shannon Beiter and Gregory Zaepfel on behalf of Zaepfel Development; and Sara Sperrazza, Scott VeRost and Steve Schrader on behalf of Thermo Fisher

There being a quorum present at 12:33 p.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the November 5, 2020 Policy Committee meeting and November 9, 2020 Special Policy Committee meeting were presented. Upon motion made by Ms. McDuffie and

seconded by Ms. DiPirro, the aforementioned Policy Committee meeting minutes were then unanimously approved.

**PROJECT MATRIX**

Mr. Cappellino reviewed the Agency’s Project Matrix. Mr. Lipsitz directed that the report be received and filed.

At this point in time Ms. Whyte joined the meeting.

**PROJECT PRESENTATIONS**

Life Technologies Corporation-West Expansion (subsidiary of Thermo Fisher Scientific, Inc.), 3175 Staley Road, Grand Island, New York. Ms. Fiala presented this proposed sales tax and real property tax abatement benefits project involving the expansion of the current facility which is approximately 300,000 sq. ft. and to increase the Company’s footprint by 50,000 sq. ft. The new facility will be utilized for the production of liquid animal origin free (AOF) products along with the purchase of approximately \$25M of manufacturing equipment. The company will also be making improvements to 12,000 sq. ft. of existing space.

Ms. Smith expressed her support of the project.

Ms. DiPirro expressed support for the project.

Ms. McDuffie expressed support for the project.

Ms. Fiala stated that in exchange for providing the sales and use tax and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$90,000,000 85% = \$76,500,000
Employment	Coincides with 10-year PILOT	Maintain base: 818 Create 85% of Projected Projected = 60 85% = 51 Recapture Employment: 869
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-year PILOT	Adherence to policy

Unpaid Tax	Coincides with 10-year PILOT	Adherence to policy
Recapture Period	Coincides with 10-year PILOT	Recapture of state and local sales tax, real property taxes

Ms. McDuffie moved and Ms. Smith seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

At this point in time, Ms. Coleman joined the meeting.

### **COMPLIANCE**

Zaepfel Development/Wythe Will Tzetzso/First Source. Mr. Cappellino reviewed the history and status of this ECIDA PILOT project, noting that the tenant occupying the facility has terminated its business operations, that the Company is no longer able to meet its original pledge of retaining and creating 246 jobs, that it has found a new tenant to occupy the facility that will retain and create 22 jobs, and the Company, based upon the pledge of 22 jobs, would have originally qualified for a 7-year PILOT, instead of a 10-year PILOT, and that the Company has asked that in lieu of terminating the 10-year PILOT, that the Agency amend the PILOT to be a 7-year term, consistent with the term of a PILOT Agreement that the Company would otherwise have been eligible for had it only proposed to create 22 jobs in the first instance. General discussion ensued.

Ms. Smith moved, and Ms. McDuffie seconded, to amend the 10 year PILOT to a 7 year PILOT, provided that the Company make a payment of \$42,988 to the taxing jurisdictions, being an amount equal to the benefit difference between the 10-year and 7-year PILOT schedules for the 2020 County and Town, and the 2019-2020 School District tax years.

### **MWBE UPDATE**

Ms. Whyte provided members with an update on the MWBE ad-hoc working committee.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 1:10 p.m.

Dated: December 8, 2020

\_\_\_\_\_  
Karen M. Fiala, Secretary

**Life Technologies Corporation- West Expansion  
\$90,000,000  
INDUCEMENT RESOLUTION**

<b>ELIGIBILITY</b>
<ul style="list-style-type: none"> <li>• NAICS Section - 3254</li> </ul>
<b>COMPANY INCENTIVES</b>
<ul style="list-style-type: none"> <li>• Approximately \$2,187,500 in sales tax savings</li> <li>• Approximately \$226,000 in real property tax savings</li> </ul>
<b>EMPLOYMENT</b>
<ul style="list-style-type: none"> <li>• Current Jobs - 818</li> <li>• Projected New Jobs - 60</li> <li>• Total Jobs After Project Completion: 878</li> <li>• Annual payroll: \$52,400,000</li> <li>• Estimated salary of jobs to be created: \$45,875</li> <li>• Estimated salary of jobs to be retained: \$59,940</li> </ul>
<b>PROJECT HISTORY</b>
<ul style="list-style-type: none"> <li>• 11/24/2020 - Public hearing held.</li> <li>• 12/16/2020 - Resolution presented to Board to ratify and confirm Town's SEQRA declaration</li> <li>• 12/16/2020 - Lease/Leaseback Inducement Resolution presented to the Board of Directors</li> </ul>
<b>COMPANY HISTORY</b>
1972 - \$1,000,000 1975 - \$600,000 1976 - \$300,000 1988 - \$4,500,000 1990 - \$492,000 1995 - \$3,675,000 2002 - \$10,042,000 2005 - \$4,910,000 2008 - \$2,500,000 2009 - \$8,000,000

Project Title: Life Technologies Corporation-West Expansion  
(subsidiary of Thermo Fisher Scientific, Inc.)

Project Address: 3175 Staley Road  
Grand Island, New York 14072  
(Grand Island Central School District)

**Agency Request**

A sales tax and real property tax exemption in connection with the construction of a 50,000 sq. ft. addition to the company's existing facility.

New Building Addition	\$36,200,000
Renovations	\$ 7,200,000
Manufacturing Equipment	\$25,000,000
Non-Manufacturing Equipment	\$ 500,000
Soft Costs/Other	\$21,100,000
Total Project Cost	\$90,000,000
85%	\$76,500,000

**Company Description**

Life Technologies, formerly known as Grand Island Biological was established in 1962 in Grand Island. Over the decades the company has undergone ownership changes including in November, 2008 when Life Technologies was created from the merger of Invitrogen Corporation and Applied Biosystems, Inc. In 2014, the acquisition of Life Technologies by Thermo Fisher Scientific, Inc. was completed, with Life Technologies Corporation remaining as a corporation and becoming part of the Life Sciences Solutions Group of Thermo Fisher Scientific.

The company is one of the premier global suppliers of cell culture products. These products are used for a wide variety of applications in basic and applied life sciences research and in medical, diagnostic, therapeutic, and large scale industrial biotechnology applications.

52% of the company's sales are to customers located outside of New York State and 45% outside the United States.

**Project Description**

Life Technologies' current facility in Grand Island is approximately 300,000 sq. ft. The proposed expansion project would increase the company's footprint by 50,000 sq. ft. The new facility will be utilized for the production of liquid animal origin free (AOF) products.

Along with the purchase of approximately \$25M of manufacturing equipment, the company will also be making improvements to 12,000 sq. ft. of existing space.

### New Tax Revenue Estimated

Current Yearly Taxes	Estimated New Assessed Value	Additional County Revenue over 10-year abatement period	Additional Local Revenue over 10-year abatement period	New Yearly Taxes Upon Expiration of Abatement Period
\$0	\$1,000,000	\$11,700	\$48,000	\$28,600
Combined Tax Rate: \$28.16				

### Draft Recapture Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total project amount = \$90,000,000 85% = \$76,500,000
Employment	Coincides with 10-year PILOT	Maintain base:818 Create 85% of Projected Projected =60 85% = 51 Recapture Employment = 869
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-year PILOT	Adherence to Policy
Unpaid Tax	Coincides with 10-year PILOT	Adherence to Policy
Recapture Period	Coincides with 10-year PILOT	Real Property Taxes and State and Local Sales Taxes

Recapture applies to:  
State and Local Sales Taxes  
Real Property Tax

### Recapture

Pursuant to New York State General Municipal Law, the agency shall modify, recover, recapture or terminate any financial assistance taken by the company that is in violation of the GML.

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 818 FTE and created an additional 60 FTE jobs, iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

## ADDENDUM TO PROJECT LOG

### Life Technologies, Corporation – West Expansion

Evaluative Criteria	Notes
Wage Rate (above median wage for area)	Erie County median worker income: \$33,350 Company estimated average salary of jobs to be retained: \$59,940 Company estimated average salary of jobs to be created: \$45,875
Regional Wealth Creation (% sales/customers outside area)	Sales: Outside NYS and within U.S.: 52% International: 45%
In Region Purchases (% of overall purchases)	Approximately 5%
Research & Development Activities	While the overall facility includes research and development activities, the new project expansion does not involve R&D.
Investment in Energy Efficiency	New purchases of energy efficient chillers and high efficiency air handlers are planned.
Locational Land Use Factors, Brownfields or Locally Designated Development Areas	Site is zoned industrial.
LEED/Renewable Resources	Not applicable.
Retention/Flight Risk	The Grand Island facility competes in the life sciences industry against companies such as Merck (Germany), Millipore (MA), Lonza (MD) and GE/Hyclone (UT). Company manufacturing operations are located in Europe and other locations within the U.S. The Grand Island facility faces both internal and external competition to retain market share as well as compete for future growth. Recapture criteria currently in place requires a company this size to retain 95% of its base FTE jobs.

<p>MBE/WBE Utilization</p>	<p>Through our Diversity and Inclusion Recruiting Council, we have developed relationships with select external diversity-focused organizations to recruit top talent from underrepresented ethnic groups such as African-Americans and Hispanic-Latinos. We consider candidates from various career levels, including recent graduates, mid-level managers and senior executives. Organizations worked with in the past include Prospanica (Hispanic MBA's) and the National Black MBA Associates.</p>
<p>Workforce Access – Proximity to Public Transportation</p>	<p>The closest bus stop is 4 miles from the facility. This service is provided by bus line 40A Niagara Falls.</p>

December 16, 2020

**PILOT Worksheet: Estimate of Real Property Tax Abatement Benefits\*\*\* and Percentage of Project Costs financed from Public Sector sources**

**\*\* The PILOT Worksheet will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.**

**PILOT Estimate Table Worksheet-Thermo Fisher West - 2020**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
\$43,400,000	\$1,000,000	\$5.59	\$2.92	\$20.09

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	10%	\$559	\$292	\$2,009	\$2,860	\$28,600	\$25,740
2	10%	\$559	\$292	\$2,009	\$2,860	\$28,600	\$25,740
3	10%	\$559	\$292	\$2,009	\$2,860	\$28,600	\$25,740
4	20%	\$1,118	\$584	\$4,018	\$5,720	\$28,600	\$22,880
5	20%	\$1,118	\$584	\$4,018	\$5,720	\$28,600	\$22,880
6	20%	\$1,118	\$584	\$4,018	\$5,720	\$28,600	\$22,880
7	30%	\$1,677	\$876	\$6,027	\$8,580	\$28,600	\$20,020
8	30%	\$1,677	\$876	\$6,027	\$8,580	\$28,600	\$20,020
9	30%	\$1,677	\$876	\$6,027	\$8,580	\$28,600	\$20,020
10	30%	\$1,677	\$876	\$6,027	\$8,580	\$28,600	\$20,020
Total		\$11,739	\$6,132	\$42,189	\$60,060	\$286,000	\$225,940

**\*\*\* Estimates provided are based on current property tax rates and assessment value (current as of date of application submission) and have been calculated by IDA staff**

**Percentage of Project Costs financed from Public Sector Table Worksheet:**

Total Project Cost	Estimated Value of PILOT	Estimated Value of Sales Tax Incentive	Estimated Value of Mortgage Tax Incentive	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)
\$90,000,000	\$225,940	\$2,187,500	\$0	\$0

**Calculate %**

**(Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: .03%**



# Cost-Benefit Analysis for Life Technologies Corporation

Prepared by Erie County IDA using InformAnalytics

# Executive Summary

**INVESTOR**  
**Life Technologies Corporation - West Expansion**

**TOTAL INVESTED**  
**\$90.0 Million**

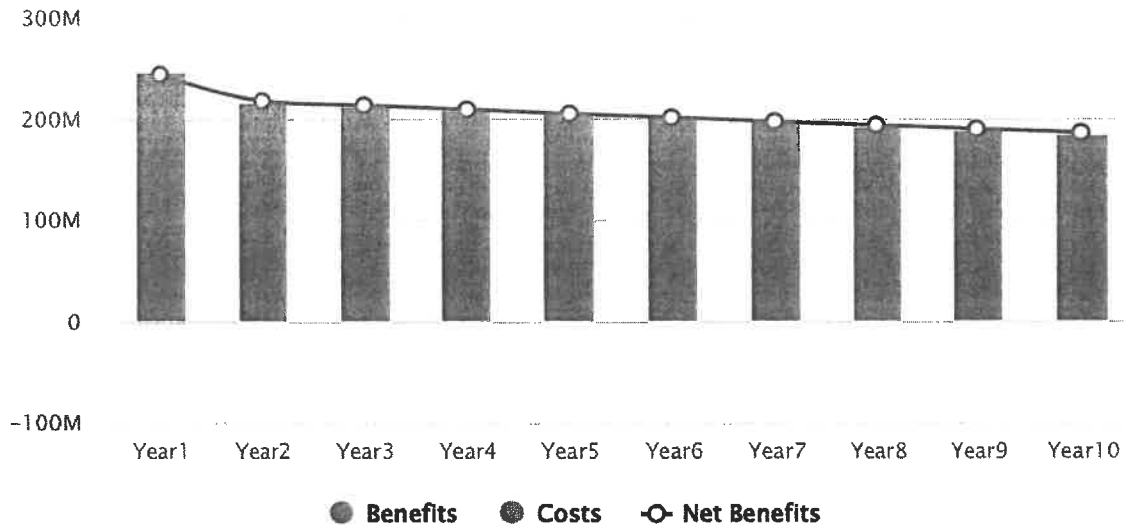
**LOCATION**  
**3175 Staley Rd, Grand Island, NY 14072**

**TIMELINE**  
**10 Years**

F1 FIGURE 1

Discounted\* Net Benefits for Life Technologies Corporation by Year

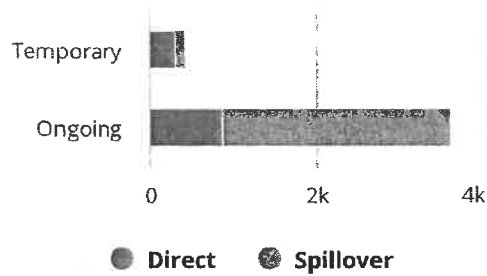
Total Net Benefits: \$2,056,436,000



Discounted at 2%

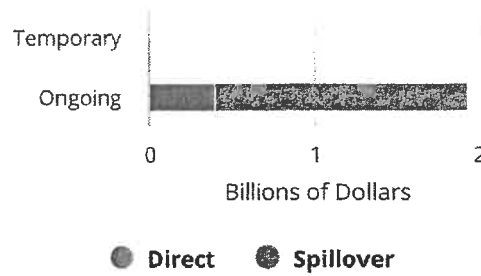
F2 FIGURE 2

Total Jobs



F3 FIGURE 3

Total Payroll



# Proposed Investment

Life Technologies Corporation - West Expansion proposes to invest \$90.0 million at 3175 Staley Rd, Grand Island, NY 14072 over 10 years.

T1 TABLE 1

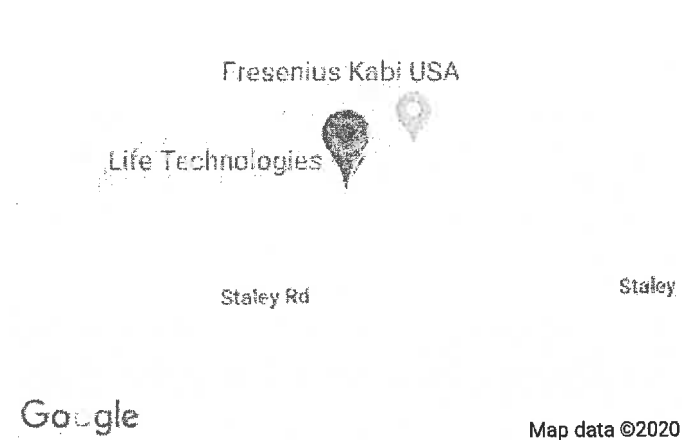
Proposed Investments

Description	Amount
<b>CONSTRUCTION SPENDING</b>	
Construction	\$43,400,000
<b>OTHER SPENDING</b>	
Manufacturing Equipment	\$25,000,000
Non-Manufacturing Equipment	\$500,000
Soft Costs	\$21,100,000
<b>Total Investments</b>	<b>\$90,000,000</b>
<b>Discounted Total (2%)</b>	<b>\$90,000,000</b>

May not sum to total due to rounding.

F4 FIGURE 4

Location of Investment



# Cost-Benefit Analysis

A cost-benefit analysis of this proposed investment was conducted using InformAnalytics, an economic impact model developed by CGR. The report estimates the impact that a potential project will have on the local economy based on information provided by Erie County IDA. The report calculates the costs and benefits for specified local taxing districts over the first 10 years, with future returns discounted at a 2% rate.

T2 TABLE 2

## Estimated Costs or Incentives

Erie County IDA is considering the following incentive package for Life Technologies Corporation - West Expansion.

Description	Nominal Value	Discounted Value*
Property Tax Exemption	\$193,000	\$177,000
Sales Tax Exemption	\$2,176,000	\$2,176,000
<b>Total Costs</b>	<b>\$2,368,000</b>	<b>\$2,353,000</b>

**May not sum to total due to rounding.**

\* Discounted at 2%

T3 TABLE 3

**State & Regional Impact (Life of Project)**

The following table estimates the total benefits from the project over its lifetime.

Description	Direct	Spillover	Total
<b>REGIONAL BENEFITS</b>	<b>\$489,109,000</b>	<b>\$1,625,301,000</b>	<b>\$2,114,410,000</b>
To Private Individuals	\$481,212,000	\$1,599,225,000	\$2,080,437,000
Temporary Payroll	\$16,680,000	\$5,789,000	\$22,469,000
Ongoing Payroll	\$464,532,000	\$1,593,436,000	\$2,057,968,000
To the Public	\$7,897,000	\$26,075,000	\$33,973,000
Property Tax Revenue	\$51,000	N/A	\$51,000
Temporary Sales Tax Revenue	\$272,000	\$94,000	\$366,000
Ongoing Sales Tax Revenue	\$7,574,000	\$25,981,000	\$33,555,000
<b>STATE BENEFITS</b>	<b>\$30,315,000</b>	<b>\$100,091,000</b>	<b>\$130,406,000</b>
To the Public	\$30,315,000	\$100,091,000	\$130,406,000
Temporary Income Tax Revenue	\$815,000	\$283,000	\$1,098,000
Ongoing Income Tax Revenue	\$22,707,000	\$77,235,000	\$99,943,000
Temporary Sales Tax Revenue	\$235,000	\$82,000	\$317,000
Ongoing Sales Tax Revenue	\$6,557,000	\$22,491,000	\$29,048,000
<b>Total Benefits to State &amp; Region</b>	<b>\$519,424,000</b>	<b>\$1,725,392,000</b>	<b>\$2,244,816,000</b>
<b>Discounted Total Benefits (2%)</b>	<b>\$477,421,000</b>	<b>\$1,581,368,000</b>	<b>\$2,058,789,000</b>

May not sum to total due to rounding.

T4 TABLE 4

**Benefit to Cost Ratio**

The following benefit to cost ratios were calculated using the discounted totals.

Description	Benefit*	Cost*	Ratio
Region	\$1,939,190,000	\$1,344,000	1443:1
State	\$119,600,000	\$1,010,000	118:1
<b>Grand Total</b>	<b>\$2,058,789,000</b>	<b>\$2,353,000</b>	<b>875:1</b>

**May not sum to total due to rounding.**

\* Discounted at 2%

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CGR has exercised reasonable professional care and diligence in the the production and design of the InformAnalytics™ tool. However, the data used is provided by users. InformAnalytics does not independently verify, validate or audit the data supplied by users. CGR makes no representations or warranties with respect to the accuracy of the data supplied by users.

## VIRTUAL PUBLIC HEARING SCRIPT

**Life Technologies Corporation and/or  
Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or  
to be formed on its behalf  
West Expansion Project**

Public Hearing to be held on November 24, 2020 at 11:00 a.m.  
via Virtual Conference Software

### ATTENDANCE:

Steve Schrader – Thermo Fisher  
Scott Verost – Thermo Fisher  
Karen Fiala – ECIDA  
Carrie Hocieniec – ECIDA  
Brian Krygier – ECIDA

### 1. WELCOME: Call to Order and Identity of Hearing Officer.

*Hearing Officer:* Welcome. This public hearing is now open; it is 11:01 a.m. My name is Grant Lesswing. I am the Business Development Officer of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this virtual public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at [www.ecidany.com](http://www.ecidany.com). Pre-registration for anyone wishing to speak at today's public hearing was required through our website. Today I am joined by Brian Krygier, ECIDA Systems Analyst who will be the Hearing Moderator and he will be managing the public comment portion of this hearing.

### 2. PURPOSE: Purpose of the Hearing.

*Hearing Officer:* We are here to hold the public hearing on the Life Technologies Corporation and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf-West Expansion project. The transcript of this hearing will be reviewed and considered by the Agency in determination of this project. Notice of this hearing appeared in The Buffalo News on November 14, 2020.

### 3. PROJECT SUMMARY: Description of Project and Contemplated Agency Benefits.

*Hearing Officer:* The proposed project (the "Project") consists of: (i) the construction and equipping of a manufacturing facility addition totaling 48,000+/- SF to be utilized for the production of animal origin free (AOF) products, and the purchase and installation of new machinery equipment in order to increase production capacity. Installation of second Fluid Bed, two Fitz Mills, cold

storage and dispensary suites. Building design will be capable of being reconfigured to support expected future manufacturing growth, located at 3175 Staley Road, Town of Grand Island, Erie County, New York (the "Improvements"); and (ii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the "Equipment"); and, collectively with the Improvements, the "Facility").

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits and real property tax abatement benefits (in compliance with Agency's uniform tax exemption policy).

**4. FORMAT OF HEARING:** Review rules and manner in which the hearing will proceed.

*Hearing Officer:* All those who have joined this conference call were required to pre-register through our website ([www.ecidany.com](http://www.ecidany.com)). Everyone who has pre-registered will be given an opportunity to make statements and/or comments on the Project.

If you have a written statement or comment to submit for the record, please submit it on the Agency's website or mail to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes on December 15, 2020. There are no limitations on written statements or comments.

**5. PUBLIC COMMENT:** Hearing Officer gives the Public an opportunity to speak.

*Hearing Officer:* Those interested in making a statement or comment will be called upon by Brian in the order that they registered for this meeting. Please begin by stating your name and address; if you are representing a company, please identify the company. I request that speakers keep statements and/or comments to 5 minutes, and if possible, 3 minutes.

**The Hearing Moderator introduces each participant in the order they registered for this meeting.**

Steve Schrader – I am Operations Director and Site Leader for Thermo Fisher the site we are speaking of. The site has been in existence since 1962. We are talking about a 48,000 sq. ft. facility addition to support our customer demand in our base business which directly supports the healthcare industry plus long-term support of a COVID-19 vaccine and therapy products. I look forward to continuing our production of products at this site.

**6. ADJOURNMENT:**

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 11:05 a.m.



**SIGN IN SHEET  
VIRTUAL PUBLIC HEARING**

Public Hearing to be held on November 24, 2020 at 11:00 a.m.  
via Virtual Conference Software

**Life Technologies Corporation and/or Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 3175 Staley Road, Town of Grand Island, Erie County, New York

Name	Company and/or Address	X box to speak/ comment
Steve Schrader	Thermo Fisher 3175 Staley Road Grand Island, New York 14072	X
Scott Verost	Thermo Fisher 3175 Staley Road Grand Island, New York 14072	
Karen Fiala	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	
Carrie Hocieniec	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	
Brian Krygier	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	

## TOWN OF GRAND ISLAND TOWN BOARD

### Resolution Reaffirming and Ratifying Negative Declaration and Site Plan Approval

WHEREAS, an application (the “Application”) has been submitted for Thermo Fisher Scientific Expansion – Liquid Core Addition (NE) and AGT West Addition (SW) – Manufacturing Facility Expansion a/k/a Thermo Fisher Scientific / Life Technologies Corporation (subsidiary) / Life Sciences Solution Group (together, the “Applicant”) for Site Plan Approval for its expansion project (the “Project”) located at 3175 Staley Road, Grand Island, New York (the “Property”); and

WHEREAS, the Application is classified as a Type I action under the New York State Environmental Quality Review Act (“SEQRA”), thus a full Environmental Assessment Form (“EAF”) was prepared as part of the Application and a coordinated review was conducted; and

WHEREAS, the Town Board was established as the Lead Agency for the coordinated review of the Project; and

WHEREAS, as noted in the Town Board’s meeting minutes, on September 21, 2020, the Town Board issued a negative declaration for the Project; and

WHEREAS, as noted in the Town Board’s meeting minutes on September 21, 2020, the Town Board approved the Application; and

WHEREAS, the Erie County Industrial Development Agency now may be involved in the Project and requests that the Town Board request that the ECIDA consent to the Town Board’s lead agency status; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Grand Island that:

1. The recital paragraphs above are incorporated herein as if set forth in full.
2. The Town Board authorizes the Town Supervisor to request that ECIDA be requested to consent to the Town Board’s lead agency status.
3. To further set forth the Town Board’s written reasoned elaboration for the determination of significance it made on September 21, 2020, the Town Board hereby reaffirms and ratifies the negative declaration for the Project for the reasons set forth in the attached negative declaration (*see* Exhibit A), which is incorporated herein by reference. The proposed parts 2 and 3 of the EAF are hereby approved and the Supervisor is directed to sign Part 3.

4. The Town Board hereby reaffirms and ratifies the Site Plan approval it approved on September 21, 2020.

5. This resolution is effective immediately.

PASSED AND ADOPTED this 7th day of December, 2020 by the Town Board of the Town of Grand Island.

**Exhibit A**

**NEGATIVE DECLARATION  
Determination of Non-Significance**

**Lead Agency:**           **Town of Grand Island Town Board**

**Date:**                   **December 7, 2020**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Grand Island Town Board (the “Town Board”), has reviewed the proposed project (“action”) and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

**Name of Action:**           Thermo Fisher Scientific Expansion – Liquid Core Addition (NE) and AGT West Addition (SW) – Manufacturing Facility Expansion a/k/a Thermo Fisher Scientific / Life Technologies Corporation (subsidiary) / Life Sciences Solution Group (together, the “Applicant”) Site Plan Approval – 2-Part Expansion

**Location of Project Site:**   3175 Staley Road, Grand Island, New York (the “Property”)

**SEQR Status:**               Type I Action.

**Description of Action:**       The Applicant is considering a two-part expansion of its existing manufacturing facility. The expansion may include construction of two separate additions as described below, with associated upgrades including access drives, parking, utilities, storm drainage and associated infrastructure.

Liquid Core Addition (NE): The proposed 37,280+/- sq.ft. (footprint / 69,000+/- sq.ft. on two floors) addition would be constructed adjacent to the northeast corner of the existing building.

AFT Addition (SW): The proposed 25,500+/- sq.ft. (footprint / 43,000+/- sq.ft. on two floors) addition would be constructed adjacent to the southwest corner of the existing building.

**Reasons Supporting this Determination:**

The Town Board, with the recommendation of the Planning Board, has identified the relevant areas of environmental concern, has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act (“SEQRA”), and has compared the proposed project (“action”) with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the

discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the project will not have a significant adverse impact on the environment.

**(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;**

**a. Traffic Impacts/Noise Impacts**

A Traffic Study was completed (counts obtained prior to the pandemic) and per the following conclusions, the project will not result in a significant impact on traffic.

-- The volume of traffic at the intersection of Staley Road, the Thermo Fisher Scientific site drive and parking lot drive will not exceed previously established levels due to the relocation of administrative employees to the Whitehaven Road site.

-- The intersection of Staley Road, the Thermo Fisher Scientific site drive and parking lot drive operate at an acceptable Level of Service for the time periods analyzed.

-- Minimum stopping sight distances are exceeded on Staley Road to the intersection and crosswalks.

-- A Traffic Control Signal is not warranted at the intersection of Staley Road, the Thermo Fisher Scientific site drive and parking lot drive based on available volumes of traffic and pedestrians.

-- Warning devices consistent with current practices are in place at the crosswalk locations and are clearly visible. The pavement markings, signs and flashers should be maintained to remain effective

A Noise Study was completed to evaluate existing and proposed transient and ambient noise levels at six different collection points around the facility. The existing conditions data collection provided a baseline understanding of the existing noise levels experienced from the facility (traffic, noise from facility operations and construction equipment due to current construction operations). The existing conditions noise data was incorporated into proposed conditions to determine if the proposed project would result in a significant noise impact. The data collection focused on the trucks entering and exiting the property, noise from vehicle operation and equipment noise. Based on the data collected, the existing and proposed transient and ambient noises remained below the Town of Grand Island Zoning Code's accepted level of 65 dBs and that the transient sound levels at no time exceed the Town's maximum level of 85 dBs.

**b. Air Quality Impacts**

No significant air quality impacts resulting from the expanded manufacturing operations are anticipated. Upgraded permits may be obtained from the New York State Department of Environmental Conservation if needed (for boilers and coolers for instance), but there will not be significant adverse impacts.

**c. Wetland Impacts**

The proposed building additions will not impact any wetlands. In conjunction with prior infrastructural improvement upgrades that included driveway work proposed and approved in 2019, a small area of federal jurisdictional wetlands were approved to be impacted through a permit issued by the United States Army Corps of Engineers. There are no significant impacts.

**d. Erosion, Flooding and Drainage Impacts**

The proposed site work will not create a substantial adverse change in existing ground or surface water quality or quantity and will not increase the potential for erosion, flooding, leaching and drainage problems on or adjacent to the sites. Construction-related erosion and sediment controls will be utilized. Coverage under the New York State Department of Environmental Conservation's ("NYSDEC") SPDES General Permit for Storm Water Discharges from Construction Activity ("Storm Water General Permit") will be obtained, and a Storm Water Pollution Prevention Plan ("SWPPP") will be developed and implemented. In keeping with common practice, prior to seeking coverage under the Storm Water General Permit, if applicable, a SWPPP will be submitted to the Town of Grand Island (MS4) for review and acceptance, if required. In turn, the Town's signed "MS4 Acceptance Form," if required, will be included with the Notice of Intent submittal to the NYSDEC confirming coverage under the Storm Water General Permit. Associated infrastructural upgrades to accommodate drainage are or will be in place, and impacts will be minor and not significant.

**(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;**

The area to be disturbed for the construction of the additions are located on a developed manufacturing facility. A small part of the footprint area of the proposed AGT West addition is landscaped and a former wooded area, and the footprint area of the proposed Liquid North addition is mostly currently paved. Site work to be undertaken on the developed site will not remove or destroy large quantities of fauna or substantially interfere with the movement of resident or migratory fish or wildlife species. The project will not have a substantial adverse impact on a threatened or endangered species of animals or plants, impact a significant habitat area, or have other significant adverse impacts to natural resources.

**(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;**

The project site is not located within or in close vicinity to a Critical Environmental Area as designated under 6 NYCRR § 617.14(g).

**(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted; and**

The project will not create a conflict with the community's current plans or goals as officially approved or adopted. The manufacturing facility has existed at this site for nearly 60 years, with multiple building additions throughout the decades. The proposed additions and associated upgrades will maintain and enhance the facility's production and creation of employment.

**(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;**

The New York State Office of Parks, Recreation and Historic Preservation State Historic Preservation Office ("SHPO") Cultural Resource Information System ("CRIS") database does not identify the manufacturing facility as being "eligible" for listing on the National and State Register of Historic Places ("Registers"), and the site is not identified as being within an area designated as archaeologically sensitive. The Nike Battery NF-41 Launch Site, a site identified in CRIS as being "eligible" for listing in the Registers, is located to the west of the site, but a wooded area lies between the facility and the Launch Site. There will not be a significant adverse impact on historic or archeological resources. It is noted that a Photometric Study and Plan has been provided that illustrates that a minimum of 1 ft-candle of light will be provided at all areas of public access, and there will be no more than 0.0 ft-candle of light at the south, west and north property line. The eastern property line is an "internal" property line shared with the adjacent industrial facility. The Property has been a manufacturing facility for decades and its continued and upgraded use will not impair architectural or aesthetic resources or existing community or neighborhood character.

**(vi) a major change in the use of either the quantity or type of energy;**

There will be additional electricity use to support the expanded manufacturing processes. However, the facility already uses a substantial amount of electricity in order to support its manufacturing processes and has a dedicated supply line for this facility. There will not be a significant adverse impact.

**(vii) the creation of a hazard to human health;**

Hazardous materials used and hazardous wastes generated at the facility are handled in accordance with applicable rules and best practices. The volume of such materials and wastes

will increase with the increase in production, but the increase will be relatively small. There will be no such significant negative impacts.

**(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;**

The site is a developed manufacturing facility and there will be no substantial change to agricultural, open space or recreational resources.

**(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;**

The additions would result in an increase in the number of employees and production related traffic. However, as described above, the facility recently had over 200 employees transfer to other locations affiliated with the Property, and the number of additional people who would come to the Property as a result of the Project will not be as large as the number of employees who recently transferred to other support locations. There will be no significant impacts.

**(x) the creation of a material demand for other actions that would result in one of the above consequences;**

There will be no such impacts.

**(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or**

There will be no such impacts.

**(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.**

The two possible building additions and associated upgrades have been considered together, and there will be no such impacts.

**For Further Information:**

Contact Person: John Whitney, Supervisor  
Address: 2255 Baseline Road  
Grand Island, NY 14072

Telephone Number: (716) 773-9600



**Full Environmental Assessment Form**  
**Part 2 – Identification of Potential Project Impacts**

Agency Use Only [If applicable]

Project:   
 Date:

**Part 2 is to be completed by the lead agency.** Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency’s reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

**Tips for completing Part 2:**

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “Yes” to a numbered question, please complete all the questions that follow in that section.
- If you answer “No” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

<b>1. Impact on Land</b> Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i>			
		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input type="checkbox"/>	<input checked="" type="checkbox"/>

f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides). NOTE: EROSION AND SEDIMENT CONTROLS AND STORM WATER MANAGEMENT UPGRADES IN ACCORDANCE WITH NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (“NYSDEC”) / STORM WATER POLLUTION PREVENTION PLAN (“SWPPP”) REQUIREMENTS WILL BE IMPLEMENTED.	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

## 2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)  
*If “Yes”, answer questions a - c. If “No”, move on to Section 3.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____ _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____ _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

## 3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2 and E.2.h)  
*If “Yes”, answer questions a - l. If “No”, move on to Section 4.*

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body. NOTE: OTHER SITE WORK RELATED TO FACILITY DRIVEWAY AND DRAINAGE UPGRADES INVOLVED A SMALL AREA OF FEDERAL WETLANDS AND THAT WORK WAS PERMITTED BY THE U.S. ARMY CORPS OF ENGINEERS.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input type="checkbox"/>	<input type="checkbox"/>

f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies. NOTE: EROSION AND SEDIMENT CONTROLS, EXISTING STORM WATER MANAGEMENT SYSTEM, AND STORM WATER MANAGEMENT UPGRADES IN ACCORDANCE WITH SWPPP/NYSDEC REQUIREMENTS WILL BE IMPLEMENTED.	D2e	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input type="checkbox"/>	<input type="checkbox"/>
l. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

#### 4. Impact on Groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q and D.2.t)  
If "Yes", answer questions a - h. If "No", move on to Section 5.

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E21	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E21	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E21, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: <u>NOTE: THE PROJECT DOES INCLUDE SITE WORK. EROSION AND SEDIMENT CONTROLS AND STORM WATER MANAGEMENT UPGRADES IN ACCORDANCE WITH NYSDEC REQUIREMENTS WILL BE UTILIZED.</u>		<input type="checkbox"/>	<input type="checkbox"/>

**5. Impact on Flooding**

The proposed action may result in development on lands subject to flooding.  
(See Part 1. E.2)

NO

YES

*If "Yes", answer questions a - g. If "No", move on to Section 6.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns. NOTE: STORM WATER ASSOCIATED WITH ADDITIONAL IMPERVIOUS SURFACES WILL BE MANAGED PER NYSDEC DESIGN STANDARDS WITHOUT TO DISCHARGE POINTS FOR FLOW RATES.	D2b, D2e	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**6. Impacts on Air**

The proposed action may include a state regulated air emission source.  
(See Part 1. D.2.f, D.2.h and D.2.g)

NO

YES

*If "Yes", answer questions a - f. If "No", move on to Section 7.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels:			
i. More than 1000 tons/year of carbon dioxide (CO <sub>2</sub> )	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. More than 3.5 tons/year of nitrous oxide (N <sub>2</sub> O)	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs)	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. More than .045 tons/year of sulfur hexafluoride (SF <sub>6</sub> )	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflouorocarbons (HFCs) emissions	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
vi. 43 tons/year or more of methane	D2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input checked="" type="checkbox"/>

d. The proposed action may reach 50% of any of the thresholds in “a” through “c”, above.	D2g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: <u>NOTE: DUST SUPPRESSION TECHNIQUES WILL BE UTILIZED AS NECESSARY DURING CONSTRUCTION.</u>		<input type="checkbox"/>	<input type="checkbox"/>

**7. Impact on Plants and Animals**

The proposed action may result in a loss of flora or fauna.

(See Part 1. E.2.m-q)

NO

YES

*If “Yes”, answer questions a - j. If “No”, move on to Section 8.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: <u>NOTE: SITE WORK WILL OCCUR IN DEVELOPED AREAS INCLUDING SMALL LANDSCAPED AREAS.</u>		<input type="checkbox"/>	<input type="checkbox"/>

**8. Impact on Agricultural Resources**

The proposed action may impact agricultural resources.

(See Part 1. E.3.a and b)

NO

YES

*If “Yes”, answer questions a - h. If “No”, move on to Section 9.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.).	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: <u>THE SITE HAS BEEN DEVELOPED AS A MANUFACTURING FACILITY FOR DECADES. AND SOILS THAT WILL BE DISTURBED WILL BE SEGREGATED AND USED ON- OR OFF-SITE.</u>		<input type="checkbox"/>	<input type="checkbox"/>

### 9. Impact on Aesthetic Resources

The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b and E.3.h)

NO

YES

*If "Yes", answer questions a - g. If "No", go to Section 10.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points:	E3h		
i. Seasonally (e.g., screened by summer foliage, but visible during other seasons)		<input type="checkbox"/>	<input type="checkbox"/>
ii. Year round		<input type="checkbox"/>	<input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is:	E3h		
i. Routine travel by residents, including travel to and from work	E2q	<input type="checkbox"/>	<input type="checkbox"/>
ii. Recreational or tourism based activities	E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project:	D1a, E1a, D1f, D1g	<input type="checkbox"/>	<input type="checkbox"/>

0-1/2 mile 1/2 - 3 mile 3-5 mile 5+ mile			
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**10. Impact on Historic and Archeological Resources**

The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f and g)

NO

YES

*If "Yes", answer questions a - e. If "No", go to Section 11.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation, and Historic Preservation to be eligible for listing on the State Register of Historic Places. NOTE: SEE PART 3 AND NEGATIVE DECLARATION.	E3e	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory. NOTE: SEE PART 3 AND NEGATIVE DECLARATION.	E3f	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Yes", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**11. Impact on Open Space and Recreation**

The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.

NO

YES

(Part 1. C.2.c, E.1.c and E.2.q)

*If "Yes", answer questions a - e. If "No", go to Section 12.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur

a. The proposed action may result in an impairment of natural functions, or “ecosystem services”, provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts:		<input type="checkbox"/>	<input type="checkbox"/>

**12. Impact on Critical Environmental Areas**

The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)

NO

YES

*If “Yes”, answer questions a - c. If “No”, go to Section 13.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

**13. Impact on Transportation**

The proposed action may result in a change to existing transportation systems. (Part 1. D.2.j)

NO

YES

*If “Yes”, answer questions a - g. If “No”, go to Section 14.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations. NOTE: PROJECT INCLUDES UPGRADED SIDEWALKS/ PEDESTRIAN CIRCULATION WITHIN THE SITE.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: NOTE: TRAFFIC STUDY CONCLUDED THAT THE PROJECT WILL NOT RESULT IN A SIGNIFICANT IMPACT ON TRAFFIC.		<input checked="" type="checkbox"/>	<input type="checkbox"/>



**14. Impact on Energy**  
 The proposed action may cause an increase in the use of any form of energy.  NO  YES  
 (Part 1. D.2.k)  
*If "Yes", answer questions a - e. If "No", go to Section 15.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MW hrs per year of electricity.	D2k	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Other impacts: <u>NOTE: MORE ENERGY WILL BE USED BUT WILL INCLUDE ELECTRICAL EFFICIENCY UPGRADES. MINOR ENERGY USE ASSOCIATED WITH TEMPORARY CONSTRUCTION.</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**15. Impact on Noise, Odor, and Light**  
 The proposed action may result in an increase in noise, odors, or outdoor lighting. (Part 1. D.2.m, n, and o)  NO  YES  
*If "Yes", answer questions a - f. If "No", go to Section 16.*

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation. NOTE: MINIMAL AND TEMPORARY NOISE ASSOCIATED WITH CONSTRUCTION.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day. NOTE: MINIMAL AND TEMPORARY ODORS ASSOCIATED WITH CONSTRUCTION.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

**16. Impact on Human Health**

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants.

(See Part 1. D.2.q, E.1.d, f, g and h)

If "Yes", answer questions a - m. If "No", go to Section 17.

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action. .	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environmental and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: <u>NOTE: CONSTRUCTION AND DEMOLITION DEBRIS WILL BE MANAGED AND REUSED, RECYCLED, OR DISPOSED IN ACCORDANCE WITH APPLICABLE REQUIREMENTS. HAZARDOUS MATERIALS, IF ANY, INCLUDING ASBESTOS AND OTHERS, WILL BE MANAGED AND DISPOSED IN ACCORDANCE WITH APPLICABLE STANDARDS AND REQUIREMENTS. DEMOLITION &amp; CONSTRUCTION ACTIVITIES WILL BE UNDERTAKEN IN ACCORDANCE WITH APPROPRIATE NOTIFICATIONS. HAZARDOUS WASTE VOLUME WILL INCREASE, BUT BY A RELATIVELY SMALL VOLUME.</u>		<input type="checkbox"/>	<input type="checkbox"/>

**17. Consistency with Community Plans**

The proposed action is not consistent with adopted land use plans.

(See Part 1. C.1, C.2 and C.3)

If "Yes", answer questions a - h. If "No", go to Section 18.

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur

a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d, D2j	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action).	C2a	<input type="checkbox"/>	<input type="checkbox"/>
h. Other: _____		<input type="checkbox"/>	<input type="checkbox"/>
<b>18. Consistency with Community Character</b> The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2 and E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
		<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
	<b>Relevant Part I Question(s)</b>	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire).	C4	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f, D1g, E1a	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3, E1a, E1b, E2g, E2h	<input type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

Project: Date: 

***Full Environmental Assessment Form***  
***Part 3 – Evaluation of the Magnitude and Importance of Project Impacts***  
***and***  
***Determination of Significance***

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

**Reasons Supporting This Determination:**

**To complete this section:**

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact.
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

The “moderate to large impact may occur” box for Question 1.a., “[t]he proposed action may involve construction on land where depth to water table is less than 3 feet,” was checked because, according to data from the U.S. Department of Agriculture Natural Resource Conservation Service (USDA-NRCS), depths to water table for soil types at the site with proposed land disturbance are typically less than 3 feet in areas where there will be site work, and Part 2’s instructions suggest that if a numeric threshold contained in a question is exceeded, the “moderate to large impact may occur” box should be checked. If depth to water table at any of the site work locations is found to be actually less than 3 feet, dewatering methods and erosion and sediment best management practices in accordance with the New York State Department of Environmental Conservation’s (“NYSDEC”) SPDES General Permit for Storm Water Discharges from Construction Activity (“Storm Water General Permit”) and a Storm Water Pollution Prevention Plan (“SWPPP”) will be employed, as necessary, in site work areas, and there will not be a significant adverse environmental impact to land or the water table.

The “moderate to large impact may occur” box for Question 1.d., “[t]he proposed action may involve the excavation and removal of more than 1,000 tons of natural material,” was checked because a preliminary estimate indicates that more than 1,000 tons of natural material may be excavated for site work, and Part 2’s instructions suggest that if a numeric threshold contained in a question is exceeded, the “moderate to large impact may occur” box should be checked. Subsoils that will be excavated will be reused for grading as necessary, and topsoil will be segregated and reused on-site to the extent possible. If necessary, excess materials will be removed from the site for use as fill or topsoil off-site in accordance with NYSDEC regulations or other applicable requirements. There will not be a significant adverse environmental impact to land.

The “moderate to large impact may occur” box for Question 1.e., “[t]he proposed action may involve construction that continues for more than one year or in multiple phases,” was checked because the proposed project would be undertaken over a projected period exceeding 12 months, and Part 2’s instructions suggest that if a numeric threshold contained in a question is exceeded, the “moderate to large impact may occur” box should be checked. Work for the project would be undertaken at various areas of the manufacturing site at various times taking into account work and construction efficiencies, and not all of the work would be undertaken at the same time. There will not be a significant adverse environmental impact.

The “moderate to large impact may occur” box for Question 6.c., “the proposed action may require a state air registration...” was checked because upgraded air emission permits may be obtained from the New York State Department of Environmental Conservation if needed (for boilers and coolers for instance). However, there will not be significant adverse impacts.

The “moderate to large impact may occur” box for Question 10.a., “[t]he proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation, and Historic Preservation to be eligible for listing on the State Register of Historic Places,” was checked because according to the NYS Cultural Resource Information System (“CRIS”), the Nike Base NF-41 Launch Area is located to the west of the facility and is eligible for listing on the National and State Register of Historic Places (“Registers”), and Part 2’s instructions suggest that if a building/site is eligible for the Registers, the “moderate to large impact may occur” box should be checked. There is a wooded area between the manufacturing facility and the Launch Area, and the facility has been located in the same location for decades. There will not be a significant adverse impact.

The “moderate to large impact may occur” boxes for Question 14.c, “[t]he proposed action may utilize more than 2,500 MW hrs per year of electricity” and Question 14.d., “[t]he proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed” were checked because of the possible increases in electricity use. However, the facility already uses a substantial amount of electricity in order to support its manufacturing processes and has a dedicated supply line for this facility. There will not be a significant adverse impact.

As discussed in the Negative Declaration, which is attached and is incorporated herein by reference, no significant adverse impacts have been identified relating to the proposed capital project.

SEQR Status:  Type 1  Unlisted

Identify portions of EAF completed for this Project:  Part 1  Part 2  Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the Town Board of the Town of Grand Island as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

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There will, therefore, be no significant adverse impacts from the project as conditioned, and therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Thermo Fisher Scientific Expansion – Liquid Core Addition (NE) and AGT West Addition (SW) – Manufacturing Facility Expansion a/k/a Thermo Fisher Scientific / Life Technologies Corporation (subsidiary) / Life Sciences Solution Group

Name of Lead Agency: Town Board of Town of Grand Island

Name of Responsible Officer in Lead Agency: John Whitney

Title of Responsible Officer: Town Supervisor

Signature of Responsible Officer in Lead Agency: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Preparer (if different from Responsible Officer) \_\_\_\_\_ Date: \_\_\_\_\_

**For Further Information:**

Contact Person: John Whitney, Town Supervisor  
Address: 2255 Baseline Road, Grand Island, NY 14072  
Telephone Number: (716) 773-9600  
Email: [jwhitney@grand-island.ny.us](mailto:jwhitney@grand-island.ny.us)

**For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:**

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)  
Other involved agencies (if any)  
Applicant (if any)  
Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
INDUCEMENT RESOLUTION**

**LIFE TECHNOLOGIES CORPORATION, THERMO FISHER SCIENTIFIC INC.,  
AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES)  
FORMED OR TO BE FORMED ON ITS BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, December 16, 2020 at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF LIFE TECHNOLOGIES CORPORATION, THERMO FISHER SCIENTIFIC INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, the Company has submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition of a leasehold interest in an approximately 1 +/- acre parcel of

land located 3175 Staley Road, Town of Grand Island, Erie County, New York (the “Land”); (ii) the construction and equipping of a manufacturing facility addition totaling 50,000+/- SF to the existing manufacturing plant for the production of animal origin free (AOF) and Advanced Granulation Technology (AGT) products and reconfiguration of existing space (the “Improvements”); and (iii) the acquisition and installation therein, thereon or thereabout of certain items of machinery, equipment and other related personal property (the “Equipment” and, collectively with the Land and the Improvements, the “Facility”); and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, and pursuant to Governor Cuomo’s Executive Order 202.15 issued on April 9, 2020, and as amended from time to time, authorizing the conduct of public hearings through the use of telephone conference, video conference and/or other similar service, the Agency, on November 24, 2020, at 11:00 a.m., held a public hearing with respect to the Project and the proposed Financial Assistance (as hereinafter defined) being contemplated by the Agency (the “Public Hearing”) via live stream web broadcast at [www.ecidany.com/streaming](http://www.ecidany.com/streaming), at which the Agency provided interested parties a reasonable opportunity to provide oral comments and/or their views on the Project, and further instructed interested parties on the process to submit written comments with respect to the Project; and

**WHEREAS**, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of undertaking the Project pursuant to an Agent and Financial Assistance Project Agreement (the “Agent Agreement”), (ii) negotiate and enter into a lease agreement (the “Lease Agreement”) and related leaseback agreement (the “Leaseback Agreement”) with the Company, pursuant to which the Agency will retain a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and personal property constituting the Facility; and (iii) provide Financial Assistance to the Company in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility, and (b) a partial abatement from real property taxes benefit through a ten (10) year term PILOT Agreement for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

**WHEREAS**, pursuant to and in accordance with applicable provisions of the New York State Environmental Quality Review Act (“SEQR”), the Company has submitted to the Agency a Full Environmental Assessment Form (the “EAF”) with respect to the Project; and

**WHEREAS**, the Town of Board of the Grand Island (the “Town Board”) in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617 (collectively referred to as the “State Environmental Quality Review Act” and/or “SEQR”), undertook coordinated review with respect to the Project, established itself as Lead Agency as defined in SEQR, determined that the Project was a Type I action, and issued a negative declaration (“Original Negative Declaration”) under SEQR on September 21, 2020, with respect to the Project; and



**WHEREAS**, on December 7, 2020, the Town Board revised its Negative Declaration by providing additional reasoned elaboration for the determination of significant it made on September 21, 2020, and ratified and reaffirmed the Original Negative Declaration for the Project (the “Negative Declaration”); and

**WHEREAS**, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance that the Agency is contemplating with respect to the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. The Company has presented an application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company’s application and any other correspondence submitted by the Company to the Agency, public hearing comments, if any, Agency Policy Committee review and recommendations of the Project and its December 9, 2020 resolution to approve the project subject to the terms and conditions as described herein, and Agency board member review, discussion, and consideration of same, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and/or renovating and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing and/or retaining employment opportunities in Erie County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the “State”) to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company’s application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries, and, to the extent occupants are relocating from one plant or facility to another in another area of the State, the Agency has complied with the Intermunicipal Movement procedures as required in the Countywide Industrial Development Agency Uniform Tax Exemption Policy; and

(F) The Agency has assessed all material information included in connection with the Application necessary to afford a reasonable basis for the decision by the Agency to provide Financial Assistance for the Project as described herein; and

(G) The Agency has prepared a written cost-benefit analysis identifying the extent to which the Project will create or retain permanent, private sector jobs, the estimated value of any tax exemption to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the Project in a timely fashion, and the extent to which the Project will provide additional sources of revenue for municipalities and school districts, and any other public benefits that might occur as a result of the Project; and

(H) The Company has provided a written statement confirming that the Project as of the date of the Application is in substantial compliance with all provisions the Act.

(I) Based upon a thorough and complete review of the Application and its accompanying materials and information, the EAF submitted by the Company, and the proceedings conducted by the Agency and the Town Board, pursuant to SEQR, the Agency hereby:

(i) consents to and affirms the status of the Town of Board as “Lead Agency” within the meaning of and for all purposes of complying with SEQR and determines that the proceedings undertaken by the Town Board under SEQR with respect to the undertaking of the Project by the Company (as agent of the Agency) satisfy the requirements of SEQR;

(ii) affirms that the Project involves an “Type I action” as that term is defined under SEQR;

(iii) reviews, considers, confirms, ratifies, and adopts such proceedings by the Town Board, including the “Negative Declaration”;

(iv) determines that the Project related increase in traffic at the intersections of the Project location will not exceed established levels due to the relocation of certain administrative employees to an alternative site, that increased noise levels associated with increased truck traffic entering and existing the Facility and Facility operations are within the Town of Grand Island accepted levels of noise per the Town of Grand Island Zoning Code, that no significant air quality impacts will result from the Project, no wetland impacts will result, and no substantial changes to existing ground or surface water quality or quantity will result, that no endangered or threatened specials or habitat will be impacted and the Project is not located within a Critical Environmental Area, that the Project will not conflict with the community’s current plans or goals, that there will be no adverse impacts on historic or archeological resources, that there will not be a major change in the use of energy, that the volume or use of hazardous materials related to Facility operations will be small and have no significant adverse impact, that there will be no substantial change to agricultural, open space, or recreation resources, that the number of additional people who will come to the Facility as a result of the Project will not be as large as the number of employees who recently transferred to other support locations, that

there are not any changes in two or more elements of the environment, no one of which has a significant impact on the environment but when considered together result in a substantial adverse impact, nor will there be two or more related actions undertaken, funded or approved producing significant cumulative impacts because the two possible building additions have been considered together within the EAF and the Town Board Negative Declaration and as such, the Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment, that the Project will not have a “significant effect on the environment” as such quoted terms are defined in SEQR, and that no “environmental impact statement” as such quoted term is defined in SEQR need be prepared for this action; and

(v) determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project, and the participation by the Agency in undertaking the Project, have been satisfied. This determination constitutes a “negative declaration” (as such quoted terms are defined under SEQR) for purposes of SEQR.

Section 2. The Agency hereby authorizes the undertaking of the Project and the provision of the Financial Assistance to the Company as described herein.

Section 3. Subject to the Company executing an Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of insurance for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and/or renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the appointment of the Company as agent of the Agency, if utilized, shall expire one year from the date of this resolution (unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer).

A. Financial Assistance. With respect to the foregoing, and based upon the representations and warranties made by the Company in its application for Financial Assistance, the Agency hereby:

- (i) authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount estimated up to \$25,000,000.00, and, therefore, the value of the sales and use tax exemption benefits (“sales and use tax exemption benefits”) authorized and approved by the Agency cannot exceed \$2,187,500.00, however, the Agency may consider any requests by the Company for increases to the amount of sales and use tax

exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services; and

- (ii) authorizes and approves that the real property tax abatement benefits (“PILOT benefits”) to be provided over the term of the PILOT Agreement are estimated to be approximately \$225,940.00, resulting in estimated total PILOT payments of \$60,060.00 over the term of the PILOT Agreement.

B. Terms and Conditions of Financial Assistance. Pursuant to Section 875(3) of the New York General Municipal Law, and per the policies of the Agency, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any New York State and local sales and use tax exemption benefits, and/or partial abatements from real property taxes benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the New York State and local sales and use tax exemption benefits; (ii) the New York State and local sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the New York State and local sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for Financial Assistance; (v) the New York State and local sales and use tax exemption benefits and/or the partial abatement from real property taxes benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with the Investment Commitment, the Employment Commitment, and/or the Local Labor Commitment, said commitments, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the New York State and local sales and use tax exemption benefits, and/or the partial abatement from real property taxes benefits are taken in cases where the Company fails to comply with the Equal Pay Commitment and/or the Unpaid Real Property Tax Policy Commitment, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent of receiving Financial Assistance, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must cooperate with the Agency in its efforts to recover or recapture any Financial Assistance, and promptly pay over any such amounts to the Agency that the Agency demands.

C. Commitments. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as

otherwise indicated below through the termination of the PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment - the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$76,500,000 (which represents the product of 85% multiplied by \$90,000,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 818 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility as stated in the Company's application for Financial Assistance (the “Baseline FTE”); and
  - the number of current FTE employees in the then current year at the Facility; and
  - that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 869 FTE employees [representing the sum of (i) 818 Baseline FTE and (ii) 51 FTE employees, being the product of 85% and 60 (representing the 60 new FTE employee positions proposed to be created by the Company as stated in its Application)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Section 4. Subject to the terms of this Inducement Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver (A) an Agent Agreement, (B) the Lease Agreement whereby the Company leases the Project to the Agency, (C) the related Leaseback Agreement whereby the Agency leases the Project back to the Company, and (D) the PILOT Agreement and (E) related documents; provided, however, that (i) the rental payments under the Leaseback Agreement to the Company include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the PILOT

Agreement are consistent with the Agency's Uniform Tax Exemption Policy, or procedures for deviation have been complied with accordingly.

Section 5. Subject to the terms of this Inducement Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance acquisition and Project costs or equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement, and related documents, collectively called the "Agency Documents"); and, where appropriate, the Secretary or the Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency shall approve, the execution thereof by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to negotiate, execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. The provision by the Agency of Financial Assistance with respect to the Project as described herein is subject to the execution and delivery of the Agency's Administrative Fee Agreement (the "Fee Agreement") and payment by the Company of an administrative fee calculated in accordance with the Fee Agreement, all within sixty (60) days of the date of this resolution. In the event the Agency has not received the executed Fee Agreement and the appropriate fee within such sixty (60) day period, this resolution shall become automatically null and void and of no further effect and the Agency shall have no liability to the Company hereunder or otherwise, unless extended in the discretion of the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, or the Assistant Treasurer for good cause shown.

Section 8. This resolution shall take effect immediately, and shall expire one (1) year from the date hereof unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, or the Assistant Treasurer.

Dated: December 16, 2020



**AOF manufacturing expansion West**

Instructions and Insurance Requirements Document

**Section I: Applicant Background Information**

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

Applicant Information - Company Receiving Benefit

**Project Name** AOF manufacturing expansion west  
**Project Summary** Adding building and equipment to expand operations of specific product lines to meet customer demand and to secure growth opportunities for the benefit of the western NY Economy.  
**Applicant Name** Life Technologies Corporation (subsidiary of Thermo Fisher Scientific Inc)  
**Applicant Address** 3175 Staley Road  
**Applicant Address 2**  
**Applicant City** Grand Island  
**Applicant State** New York  
**Applicant Zip** 14072  
**Phone** (716) 609-9712  
**Fax** (716) 774-6999  
**E-mail** Dan.Wemmell@thermofisher.com  
**Website** <https://www.thermofisher.com/us/en/home.html>  
**NAICS Code** 3254

Business Organization

**Type of Business** Public Corporation  
**Year Established** 2008  
**State in which Organization is established** Delaware

Individual Completing Application

**Name** Daniel Wemmell  
**Title** Manufacturing Engineer  
**Address** 3175 Staley Road  
**Address 2**  
**City** Grand Island  
**State** New York  
**Zip** 14072

**Phone** (716) 609-9712  
**Fax** (716) 774-6999  
**E-Mail** Dan.Wemmell@thermofisher.com

Company Contact (if different from individual completing application).

**Name** Mary McCormick  
**Title** Sr. Finance Manager  
**Address** 3175 Staley Road  
**Address 2**  
**City** Grand Island  
**State** New York  
**Zip** 14072  
**Phone** (716) 464-0464  
**Fax** (716) 774-6805  
**E-Mail** mary.mccormick@thermofisher.com

Company Counsel

**Name of Attorney** Paul D. Meosky  
**Firm Name** Hodgson Russ LLP  
**Address** 140 Pearl Street  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14202  
**Phone** (716) 848-1482  
**Fax**  
**E-Mail** pmeosky@hodgsonruss.com

Benefits Requested (select all that apply)

<b>Exemption from Sales Tax</b>	Yes
<b>Exemption from Mortgage Tax</b>	No
<b>Exemption from Real Property Tax</b>	Yes
<b>Tax Exempt Financing*</b>	No

\* (typically for not-for-profits & small qualified manufacturers)

Applicant Business Description

**Describe in detail company background, history, products and customers. Description is critical in determining eligibility.**



Grand Island Biological Company ("GIBCO") was established in 1962 in Grand Island, New York as an entrepreneurial effort to bring commercially prepared cell culture products to local markets such as Roswell Park Cancer Research Center and the State University of New York at Buffalo's biological and medical science research laboratories. Over the decades, the company has undergone ownership changes including in November 2008 when Life Technologies Corporation was created from the merger of Invitrogen Corporation and Applied Biosystems Inc. In 2014, the acquisition of Life Technologies Corporation by Thermo Fisher Scientific Inc. was completed, with Life Technologies Corporation remaining as a corporation and becoming part of the Life Sciences Solutions Group of Thermo Fisher Scientific Inc. The GIBCO brand is one of the premier global suppliers of cell culture products. Cell culture products manufactured at the Grand Island facility are used for a wide variety of applications in basic and applied life sciences research and in medical, diagnostic, therapeutic, and large-scale industrial biotechnology applications. Such applications include research into biological processes, cellular nutrition and genetic analyses, Covid research, cancer, AIDS research, and genetically-engineered pharmaceutical drug manufacturing. We compete in the life sciences industry against companies such as Merck (Germany), Millipore (MA), Lonza(MD), and GE/Hyclone (UT). The cell culture marketplace is growing at a fast pace. Company manufacturing operations are located in Europe and other locations in the United States besides Grand Island. As such, the Grand Island facility faces both internal and external competition to retain market share as well as compete for future growth. We need local development assistance to help secure these growth opportunities for the benefit of the Western New York Economy. Thermo Fisher Scientific is a U.S.-based provisioner of scientific instrumentation, reagents and consumables, and software and services to healthcare, life science, and other laboratories in academia, government, and industry (including in the biotechnology and pharmaceutical sectors).

<b>Estimated % of sales within Erie County</b>	1 %
<b>Estimated % of sales outside Erie County but within New York State</b>	2 %
<b>Estimated % of sales outside New York State but within the U.S.</b>	52 %
<b>Estimated % of sales outside the U.S.</b>	45 %

(\*Percentage to equal 100%)

**For your operations, company and proposed project what percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County?**

5

**Describe vendors within Erie County for major purchases**

landscaping, outside council, uniforms, cleaning and lab supplies, raw materials

**Section II: Eligibility Questionnaire - Project Description & Details**

Project Location

**Address of Proposed Project Facility**

3175 Staley Road

**Town/City/Village of Project Site**

Grand Island

**School District of Project Site**

Grand Island Central

**Current Address (if different)**

**Current Town/City/Village of Project Site (if different)**

**SBL Number(s) for proposed Project**

36.00-4-31

**What are the current real estate taxes on the proposed Project Site**

263,000+/-

**If amount of current taxes is not available, provide assessed value for each.**

Land

\$

Building(s)

\$

If available include a copy of current tax receipt.

**Are Real Property Taxes current at project location?**

Yes

**If no please explain**

\*The ECIDA has an unpaid tax policy and you will be required to certify all taxes and PILOTS are current.

**Does the Applicant or any related entity currently hold fee title or have an option/contract to purchase the Project site?**

Yes

**If No, indicate name of present owner of the Project Site**

**Does Applicant or related entity have an option/contract to purchase the Project site?**

No

**Describe the present use of the proposed Project site (vacant land, existing building, etc.)**

Existing manufacturing, research and development and office facility. Proposed development includes an expanded building on existing landscaped land with driveway, renovations to existing manufacturing (core liquid area) and office spaces to meet business demand, including a upgraded water for injection system and tanks to support the added capacity.

**Provide narrative and purpose of the proposed project (new build, renovations) square footage of existing and new construction contemplated and/or equipment purchases. Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)**

Existing building is ~300,000 sf site. The project involves the construction of a ~50,000+/- square foot (between 2 floors) addition to the existing manufacturing plant for the production of animal origin free (AOF) and Advanced Granulation Technology (AGT) products, and the purchase and installation of new machinery equipment and upgraded water for injection system in order to increase production capacity with renovated space of ~12,000. The design of the building addition will be capable of being reconfigured to support expected future manufacturing growth. New facility space and reconfigured existing spaces will allow for expansion of operations to meet customer demand.

**Municipality or Municipalities of current operations**

Grand Island, Erie County, NY

Will the Proposed Project be located within a Municipality identified above?

Yes

Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?

No

If the Proposed Project is located in a different Municipality within New York State than that Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?

No

(If yes, you will need to complete the Intermunicipal Move Determination section of this application)

Is the project reasonably necessary to prevent the project occupant from moving out of New York State?

No

If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation available

Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies?

Yes

If yes, please indicate the Agency and nature of inquiry below

preliminary meeting with various state agencies on possible incentives.

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

As stated above, without the agencies assistance the project may go elsewhere.

Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary)

Although the facility itself will not move, this large expansion and business opportunity is dependent upon receiving assistance. This project will create ~60 new full time permanent jobs at the project location. The project will allow us to serve our existing customer's increasing demand for our products as well compete in the expanding life sciences industry and gain additional customers/business. The opportunity exists to build this expansion in our Scotland facility who currently produce like products where government agencies have provided assistance for similar projects. Our Florida facility is being considered.

Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency

Yes

If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and Erie County?

Obtaining this assistance will encourage the company to expand at the Grand Island location rather than outside the state. If the project moves out of GI the county will lose the opportunity for job creation and its economic impacts.

Will project include leasing any equipment?

No

If yes, please describe equipment and lease terms.

### Site Characteristics

Is your project located near public transportation?

No

If yes describe if site is accessible by either metro or bus line (provide route number for bus lines)

Has a project related site plan approval application been submitted to the appropriate planning department?

Yes

If Yes, include the applicable municipality's and/or planning department's approval resolution, the related State Environmental Quality Review Act ("SEQR") "negative declaration" resolution, if applicable, and the related Environmental Assessment Form (EAF), if applicable.

If No, list the ECIDA as an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval.

Will the Project meet zoning/land use requirements at the proposed location?

Yes

Describe the present zoning/land use

Industrial zoning

Describe required zoning/land use, if different

N/A

If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements

N/A

Is the proposed Project located on a site where the known or potential presence of contaminants is complicating the development/use of the property?

No

If yes, please explain

Has a Phase I Environmental Assessment been prepared, or will one be prepared with respect to the proposed Project Site?

No

If yes, please provide a copy.

Have any other studies, or assessments been undertaken with respect to the proposed Project Site that indicate the known or suspected presence of contamination that would complicate the site's development?

No

If yes, please provide copies of the study.

If you are purchasing new machinery and equipment, does it provide demonstrable energy efficiency benefits?

Yes

If yes, describe the efficiencies achieved

Energy efficient Chillers and High Efficiency Air Handling Units.

You may also attach additional information about the machinery and equipment at the end of the application.

Does or will the company or project occupant perform research and development activities on new products/services at the project location?

Yes

If yes, include percentage of operating expenses attributed to R&D activities and provide details.

the large facility site includes RD, the new project expansion will not involve RD

Select Project Type for all end users at project site (you may check more than one).

For purposes of the following, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, you will need to complete the Retail section of this application.

Retail Sales No

Services No

Please check any and all end uses as identified below.

- No Acquisition of Existing Facility**
- No Assisted Living**
- No Back Office**
- No Civic Facility (not for profit)**
- No Commercial**
- No Equipment Purchase**
- No Facility for the Aging**
- No Industrial**
- No Life Care Facility (CCRC)**

No Market Rate Housing      No Mixed Use      No Multi-Tenant  
 No Retail      No Senior Housing      No Manufacturing  
 Yes Other  
 high-tech manufacturing facility

For proposed facility, please include the square footage for each of the uses outlined below

If applicant is paying for FFE for tenants, include in cost breakdown.

			Cost	% of Total Cost
<b>Manufacturing/Processing</b>	62,000 square feet	\$	43,400,000	100%
<b>Warehouse</b>	square feet	\$	0	0%
<b>Research &amp; Development</b>	square feet	\$	0	0%
<b>Commercial</b>	square feet	\$	0	0%
<b>Retail</b>	square feet	\$	0	0%
<b>Office</b>	square feet	\$	0	0%
<b>Specify Other</b>	square feet	\$	0	0%

If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council?

No

If you answered yes to question above, what level of LEED certification do you anticipate receiving? (Check applicable box)

Standard

Provide estimate of additional construction cost as a result of LEED certification you are seeking < BLANK >

Will project result in significant utility infrastructure cost or uses Yes

What is the estimated project timetable (provide dates)

**Start date : acquisition of equipment or construction of facilities**

1/30/2021

**End date : Estimated completion date of project**

12/1/2022

**Project occupancy : estimated starting date of occupancy**

12/1/2022

Project Information

**Estimated costs in connection with Project**

**Land and/or Building Acquisition**

\$ 0      square feet      acres

**New Building Construction**

\$ 0      square feet

**New Building addition(s)**

\$ 36,200,000      50,000 square feet

**Reconstruction/Renovation**

\$ 7,200,000

12,000 square feet

**Manufacturing Equipment**

\$ 25,000,000

**Infrastructure Work**

\$ 0

**Non-Manufacturing Equipment: (furniture, fixtures, etc.)**

\$ 500,000

**Soft Costs: (Legal, architect, engineering, etc.)**

\$ 17,100,000

**Other Cost**

\$ 4,000,000

**Explain Other Costs**      Company Contingency

**Total Cost**      90,000,000

Construction Cost Breakdown:

<b>Total Cost of Construction</b>	\$ 43,400,000 (sum of 2, 3, 4 and 6 in Project Information, above)
<b>Cost of materials</b>	\$ 25,000,000.00
<b>% sourced in Erie County</b>	25%

Sales and Use Tax:

**Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit**      \$ 25,000,000

**Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):**      \$ 2,187,500

\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.

**Project refinancing estimated amount, if applicable (for refinancing of existing debt only)**      \$ 0

**Have any of the above costs been paid or incurred as of the date of this Application?**      No

**If Yes, describe particulars:**

Sources of Funds for Project Costs:

**Equity (excluding equity that is attributed to grants/tax credits):**      \$ 90,300,000

**Bank Financing:**      \$ 0

**Tax Exempt Bond Issuance (if applicable):**      \$ 0

**Taxable Bond Issuance (if applicable):**      \$ 0

**Public Sources (Include sum total of all state and federal grants and tax credits):**      \$ 0

**Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program,**      0

ESD, other public sources)

Total Sources of Funds for Project Costs: \$90,300,000

Have you secured financing for the project? No

Mortgage Recording Tax Exemption Benefit:

Amount of mortgage, if any that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing). 0

Lender Name, if Known

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%): \$0

Real Property Tax Benefit:

Identify and describe if the Project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit (485-a, 485-b, other):

IDA PILOT Benefit: Agency staff will indicate the estimated amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in the PILOT worksheet in the additional document section.

Percentage of Project Costs financed from Public Sector sources: Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon the Sources of Funds for Project Costs as depicted above. The percentage of Project Costs financed from public sector sources will be depicted in the PILOT worksheet in the additional document section.

**ECIDA encourages applicants to utilize MBE/WBE contractors for their projects. Describe your company's internal practices that promote MBE/WBE hiring and utilization**

Thermo Fisher Scientific is committed to providing equal employment opportunity and ethical employment practices, including promoting human rights, within the Company's sphere of influence.

**Is project necessary to expand project employment?**

Yes

**Is project necessary to retain existing employment?**

Yes.

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Employment Plan (Specific to the proposed project location)

You must include a copy of the most recent NYS-45 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return. The Labor Market Area consists of the following six counties: Erie, Niagara, Chautauqua, Cattaraugus, Wyoming and Genessee.

By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO Year time period following Project completion. Agency staff converts PT jobs into FTE jobs by dividing the number of PT jobs by two (2).

Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon	Estimate number of residents of the Labor Market Area in which the project is located that will fill the FT and
---	--	--	---

			24 months (2 years) after Project completion	PT jobs to be created upon 24 months (2 years) after project completion **
Full time	818	818	60	0
Part time	0	0	0	0
<b>Total</b>	<b>818</b>	<b>818</b>	<b>60</b>	

Salary and Fringe Benefits for Jobs to be Retained and Created

Category of Jobs to be Retained and/or Created	# of Employees Retained and/or Created	Average Salary for Full Time	Average Fringe Benefits for Full Time	Average Salary for Part Time (if applicable)	Average Fringe Benefits for Part Time (if applicable)
Management	20	\$ 197,620	\$ 35,496	\$ 0	\$ 0
Professional	189	\$ 94,655	\$ 26,221	\$ 0	\$ 0
Administrative	45	\$ 45,346	\$ 0	\$ 0	\$ 0
Production	564	\$ 41,502	\$ 20,675	\$ 0	\$ 0
Independent Contractor	0	\$ 0	\$ 0	\$ 0	\$ 0
Other	0	\$ 0	\$ 0	\$ 0	\$ 0

\*\* Note that the Agency may utilize the foregoing employment projections, among other items, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

Employment at other locations in Erie County: (provide address and number of employees at each location):

Address			
1870 Whitehaven road grand island ny			
Full time	250		0
Part time	0		0
<b>Total</b>	<b>250</b>		<b>0</b>

Payroll Information

**Annual Payroll at Proposed Project Site upon completion**

52,406,723

**Estimated average annual salary of jobs to be retained (Full Time)**

59,940

**Estimated average annual salary of jobs to be retained (Part Time)**

0

**Estimated average annual salary of jobs to be created (Full Time)**

45,875

**Estimated average annual salary of jobs to be created (Part Time)**

0

**Estimated salary range of jobs to be created**

<b>From (Full Time)</b>	41,502	<b>To (Full Time)</b>	197,620
<b>From (Part Time)</b>	0	<b>To (Part Time)</b>	0



### **Section III: Environmental Questionnaire**

INSTRUCTIONS: Please complete the following questionnaire as completely as possible. If you need additional space to fully answer any question, please attach additional page(s).

#### General Background Information

##### **Address of Premises**

3175 Staley Road Grand Island, NY 14072

##### **Name and Address of Owner of Premises**

Life Technologies Corp (subsidiary of Thermo Fisher Scientific), 3175 Staley Road Grand Island, NY 14072

##### **Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.)**

Flat level terrain

##### **Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises**

Main plant constructed circa 1963 under GIBCO name. with multiple expansions over the years for warehouse, research and development and cell culture manufacturing

##### **Describe all known former uses of the Premises**

Horse farm prior to founding, circa 1963 construction

##### **Does any person, firm or corporation other than the owner occupy the Premises or any part of it?**

No

##### **If yes, please identify them and describe their use of the property**

##### **Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises?**

No

##### **If yes, describe and attach any incident reports and the results of any investigations**

##### **Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months?**

No

##### **If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances**

##### **Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises?**

No

##### **If yes, describe in full detail**

#### Solid And Hazardous Wastes And Hazardous Substances

**Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances?**

Yes

If yes, provide the Premises' applicable EPA (or State) identification number

Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes?

Yes

If yes, please provide copies of the permits.

Identify the transporter of any hazardous and/or solid wastes to or from the Premises

Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years

Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days?

<BLANK>

If yes, please identify the substance, the quantity and describe how it is stored

Discharge Into Waterbodies

Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges

Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site

Is any waste discharged into or near surface water or groundwaters?

No

If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste

Air Pollution

Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises?

No

If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source

Are any of the air emission sources permitted?

No

If yes, attach a copy of each permit.

Storage Tanks

List and describe all above and under ground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks

Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks?

<BLANK>

If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved

Polychlorinated Biphenyls ("PCB" or "PCBs") And Asbestos

**Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise.**

**Have there been any PCB spills, discharges or other accidents at the Premises?**

<BLANK>

**If yes, relate all the circumstances**

**Do the Premises have any asbestos containing materials?**

<BLANK>

**If yes, please identify the materials**

**Section IV: Facility Type - Single or Multi Tenant**

**Is this a Single Use Facility or a Multi-Tenant Facility?**

Single Use Facility

For Single Use Facility.

**Occupant Name** Life Technologies Corp (subsidiary of Thermo Fisher Scientific)  
**Address** 3175 Staley Road Grand Island, NY 14072  
**Contact Person** Mary McCormick  
**Phone** (716) 464-0464  
**Fax** (716) 774-6805  
**E-Mail** mary.mccormick@thermofisher.com  
**Federal ID #** 33-037-3077  
**SIC/NAICS Code** 3254

SS

## **Section VI: Retail Determination**

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

**Will any portion of the project (including that portion of the costs to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?**

No

If yes, complete the Retail Questionnaire Supplement below.

## **Section VII: Adaptive Reuse Projects**

Adaptive Reuse is the process of adapting old structures or sites for new purposes.

**Are you applying for tax incentives under the Adaptive Reuse Program?**

No

**Section VIII: Inter-Municipal Move Determination**

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

**Current Address**

3175 Staley Road

**City/Town**

Grand Island

**State**

New York

**Zip Code**

14072

**Will the project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?**

No

**Will the project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?**

No

**If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:**

**Does this project involve relocation or consolidation of a project occupant from another municipality?**

**Within New York State**

No

**Within Erie County**

No

**If Yes to either question, please, explain**

**Will the project result in a relocation of an existing business operation from the City of Buffalo?**

No

**If yes, please explain the factors which require the project occupant to relocate out of the City of Buffalo (For example, present site is not large enough, or owner will not renew leases etc.)**

**What are some of the key requirements the project occupant is looking for in a new site? (For example, minimum sq. ft., 12 foot ceilings, truck loading docs etc.)**

N/A

**If the project occupant is currently located in Erie County and will be moving to a different municipality within Erie County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located?**

No

**What factors have lead the project occupant to consider remaining or locating in Erie County?**

N/A

**If the current facility is to be abandoned, what is going to happen to the current facility that project occupant is located in?**

N/A

Please provide a list of properties considered, and the reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.) Please include full address for locations.

N/A



## **Section IX: Senior Housing**

IDA tax incentives may be granted to projects under the Agency's Senior Citizen Rental Housing policy when the project consists of a multi-family housing structure where at least 90% of the units are (or are intended to be) rented to and occupied by a person who is 60 years of age or older.

**Are you applying for tax incentives under the Senior Rental Housing policy?**

No

**Rosina - Protein Operation Expansion**  
**\$58,000,000**  
**AMENDATORY INDUCEMENT RESOLUTION**

<b>ELIGIBILITY</b>	Project Title: Rosina - Protein Operation Expansion																
<ul style="list-style-type: none"> <li>• NAICS Section - 311612</li> </ul>	Project Address: 3100 Clinton Street West Seneca, New York 14224 (West Seneca Central School District)																
<b>COMPANY INCENTIVES</b>	<b>Amendment to the Agency Request</b>																
<ul style="list-style-type: none"> <li>• Approximately \$1,443,750 in sales tax savings</li> <li>• Approximately \$1,325,000 in real property tax savings</li> <li>• Prior - Up to 3/4 of 1% of the final mortgage amount estimated at \$210,000</li> <li>• Current - Up to 3/4 of 1% of the final mortgage amount estimated at \$296,250</li> </ul>	To increase amount of mortgage tax savings from \$210,000 to \$296,250																
<b>EMPLOYMENT</b>	<b>Agency Request</b>																
<ul style="list-style-type: none"> <li>• Retained Jobs - 100</li> <li>• Projected New Jobs - 40</li> <li>• Total Jobs After Project Completion: 140</li> <li>• Annual payroll: \$4,945,000</li> <li>• Estimated salary of jobs to be created: \$38,600</li> <li>• Estimated salary of jobs to be retained: \$34,010</li> </ul>	<p>A sales tax, mortgage recording tax and real property tax exemption in connection with the construction of a 105,000 sq. ft. manufacturing facility.</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 40px;">New Building Construction</td> <td style="text-align: right;">\$28,500,000</td> </tr> <tr> <td style="padding-left: 40px;">Infrastructure</td> <td style="text-align: right;">\$ 4,000,000</td> </tr> <tr> <td style="padding-left: 40px;">Manufacturing Equipment</td> <td style="text-align: right;">\$15,500,000</td> </tr> <tr> <td style="padding-left: 40px;">Non-Manufacturing Equipment</td> <td style="text-align: right;">\$ 500,000</td> </tr> <tr> <td style="padding-left: 40px;">Soft Costs</td> <td style="text-align: right;">\$ 4,500,000</td> </tr> <tr> <td style="padding-left: 40px;">Other Costs (Remediation)</td> <td style="text-align: right;">\$ 5,000,000</td> </tr> <tr> <td style="padding-left: 40px;">Total Project Cost</td> <td style="text-align: right;">\$58,000,000</td> </tr> <tr> <td style="padding-left: 40px;">85%</td> <td style="text-align: right;">\$49,300,000</td> </tr> </table>	New Building Construction	\$28,500,000	Infrastructure	\$ 4,000,000	Manufacturing Equipment	\$15,500,000	Non-Manufacturing Equipment	\$ 500,000	Soft Costs	\$ 4,500,000	Other Costs (Remediation)	\$ 5,000,000	Total Project Cost	\$58,000,000	85%	\$49,300,000
New Building Construction	\$28,500,000																
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85%	\$49,300,000																
<b>PROJECT HISTORY</b>	<b>Company Description</b>																
<ul style="list-style-type: none"> <li>• 08/20/2019 - Public hearing held. Transcript attached.</li> <li>• 10/10/2019 - The Town of West Seneca adopts a Negative Declaration in accordance with SEQRA.</li> <li>• 10/23/2019 - Lease/Leaseback Inducement Resolution presented to the Board of Directors</li> <li>• 12/16/2020 - Amendatory Inducement Resolution presented to the Board of Directors</li> </ul>	<p>Rosina Food Products was founded in 1963 and is a manufacturer of frozen foods such as pre-cooked meatballs, sausages and pasta.</p> <p>Rosina markets its products to retail and food service industries throughout North America as well as internationally. The company sells to 95% of the nation's largest supermarkets including Wegmans and Publix. Sixty nine percent of its products are sold to companies located outside of New York State.</p>																
	<b>Project Description</b>																
	<p>The proposed project known as "the Protein Operation Expansion" entails the construction of a 105,000 sq. ft. protein plant including a new high-speed, state of the art production line for the manufacture of a variety of frozen meatballs, sliced sausages and toppings.</p> <p>The new facility will be adjacent to Rosina's other West Seneca plant that produces pastas and entrees.</p> <p>At maximum capacity, the new production plant in West Seneca will be able to produce 40 million pounds annually (some of which is presently co-packed in Chicago) and will be replacing an outdated processing line currently located at the 75 Industrial Parkway facility in Cheektowaga that has a current capacity of only 20 million pounds annually.</p> <p>The company will also be purchasing new production equipment as part of the project.</p> <p>There is a high possibility of this expansion representing one phase of a multi-phased development at the project site.</p>																

Since the project results in the transfer and retention of approximately 100 employees from Cheektowaga to a location in West Seneca, we are following our Inter-Municipal Move Policy and have notified the Supervisors of both the Town of Cheektowaga and West Seneca.

Rosina stated that if this project does not proceed the company will be forced to outsource more production functions to their Chicago co packer as the outdated line will be shut down; potentially resulting in more than 100 employees being laid off. Additionally, 40 new jobs would not be created locally.

Rosina currently has production facilities at the following locations: 75 and 109 Industrial Parkway and 170 French Road in the Town of Cheektowaga and 75 Empire Drive in the Town of West Seneca. Along with the retention of 100 jobs, 40 new jobs are associated with this expansion project. The Cheektowaga operation will continue to employ 166 people.

**New Tax Revenue Estimated**

Current Yearly Taxes	Estimated New Assessed Value	Additional County Revenue over abatement period	Additional Local Revenue Over abatement period	New Yearly Taxes Upon Expiration of Abatement Period
\$0	\$2,140,000	\$58,000	\$294,000	\$167,000
Combined Tax Rate: \$78				

**Draft**

**Recapture**

**Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total project amount = 58,000,000 85% = \$49,300,000
Employment	Coincides with 10-year PILOT	Maintain base: 100 Create 85% of Projected Projected = 40 85% = 34 Recapture Employment = 134
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10 -year PILOT	Adherence to Policy
Unpaid Tax	Coincides with 10 -year PILOT	Adherence to Policy
Recapture Period	Coincides with 10 -year PILOT	Recapture of Mortgage recording tax, state and local sales taxes

Recapture applies to:  
State and Local Sales Taxes  
Real Property Tax  
Mortgage Recording Tax

**Recapture**

Pursuant to New York State General Municipal Law, the agency shall modify, recover, recapture or terminate any financial assistance taken by the company that is in violation of the GML.

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 100 FTE and created 40 FTE jobs, iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.



December 4, 2020

Erie County Industrial Development Agency  
Attn: Karen M. Fiala, Vice President  
95 Perry Street, Suite 403  
Buffalo, New York 14203

RE: Rosina – Protein Operation Expansion  
3100 Clinton Street, West Seneca, NY 14224  
Project Inducement Resolution dated October 23, 2019

Dear Ms. Fiala:

There are several primary reasons why the benefitted amount of the above referenced project increased by \$6,417,440 from \$33,000,000 to \$39,471,440 and are as follows. As you may recall, the property we are building on is Company owned real estate that was undeveloped and required to be remediated under the NYS DEC Brownfield Cleanup Program before any construction could begin. We applied for ECIDA assistance while the design build work was underway by the Stellar Group, our architect and construction manager, but only 30% completed and prior to BCP remediation of the property. Therefore, a significant amount of estimating of the final construction costs was needed.

There was also a strong Company desire to keep the total cost of the property remediation and construction under \$40,000,000. Due to various challenges and delays with the site, remediation work did not begin until late fall of 2019. As we moved into 2020, the COVID-19 pandemic hit, and we put the project on hold in mid-March, with the exception of the BCP remediation that was well underway and which was ultimately completed in late May. During this same time, 100% of the design build work was completed by Stellar with an initial construction cost that came in too high. We then decided to work with Stellar through a process called "value engineering" to lower the construction cost and stay within our bank financing commitments of \$39,471,440.

The bank financing commitments consist of a construction loan of \$28,340,432 and a bridge loan backed by the proceeds of the BCP tax credits of \$11,130,998. At the time we applied to ECIDA for incentive assistance, we only requested a mortgage tax reduction on the construction loan, but not the bridge loan. However, the financing commitment we subsequently agreed to with Five Star Bank in late November 2019 requires a second mortgage on the bridge loan which is why we are requesting ECIDA to consider an additional incentive reduction in the mortgage tax on that facility. The continuing support of ECIDA is greatly appreciated.

Best regards,

A handwritten signature in black ink that reads "Randy Bernick". The signature is written in a cursive, slightly slanted style.

Randy Bernick  
Vice President – Finance & Administration

cc: Roger Cominsky, Esq., Barclay Damon LLP (Company Counsel)

**ROSINA® · CELENTANO® · ITALIAN VILLAGE®**

Rosina Food Products, Inc.  
170 French Road, Buffalo, New York 14227-2717  
P (716) 668-0123 (800) 247-4951 www.rosina.com

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
FIRST AMENDMENT TO INDUCEMENT RESOLUTION**

**ROSINA FOOD PRODUCTS, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S),  
SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS  
BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, December 16, 2020 at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

FIRST AMENDMENT TO INDUCEMENT RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE APPROVAL OF AN INCREASE IN THE MORTGAGE TAX EXEMPTION BENEFIT WITH RESPECT TO THE ROSINA FOOD PRODUCTS, INC. PROJECT (AS MORE FULLY DESCRIBED BELOW)

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the "Act"), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

**WHEREAS**, ROSINA FOOD PRODUCTS, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (the "Company") submitted an application to the Agency (the "Application") requesting the Agency's assistance with a certain project (the "Original Project") consisting of: (i) a portion of a vacant parcel of land located at 3100 Clinton Street, Town of West Seneca, Erie County, New York (the "Land"); (ii) the construction and equipping of a 105,000+/- SF protein manufacturing plant including the installation of a new high speed, state-of-the-art production line (the "Improvements"); and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the "Equipment", and collectively with the Land and the Improvements, the "Facility"); and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on August 20, 2019 at 9:00 a.m. at the Town of West Seneca Community Center & Library located at 1300 Union Road (Community Room), West Seneca, NY 14224, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance (as hereinafter defined) being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

**WHEREAS**, by resolution adopted on October 23, 2019 (the "Original Resolution") the Agency determined that the Original Project will not have a "significant effect on the environment" as such quoted term is defined under Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617

(collectively referred to as or “SEQR”), that no “environmental impact statement” as such quoted term is defined in SEQR, need be prepared for this action, and issued a Negative Declaration pursuant to 6 N.Y.C.R.R. § 617.7 of the SEQR regulations with respect to the Original Project, and further authorized financial assistance to the Company with respect to the Original Project in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, reconstruction and/or renovation, rehabilitation or equipping of the Facility (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a partial abatement from real property taxes benefit through a ten (10) year term PILOT Agreement for the benefit of each municipality and school district having taxing jurisdiction over the Project (collectively, the sales and use tax exemption benefit, the mortgage recording tax exemption benefit, and the partial abatement from real property taxes benefit, are hereinafter referred to as the “Financial Assistance”); and

**WHEREAS**, the Agency received notification from the Company dated December 1, 2020 (the “Notification”) informing the Agency that the estimated mortgage amount has increased from \$28,000,000 to \$39,500,000 and requesting that the Agency increase the mortgage recording tax exemption benefit amount from \$210,000 to \$296,250 (the “Increased MRT Exemption Benefit Amount”); and

**WHEREAS**, the requested Increased MRT Exemption Benefit Amount shall not exceed \$100,000, until a Public Hearing is held, if at all, and a subsequent resolution is passed pursuant to General Municipal Law Section 859-a; and

**WHEREAS**, as a result of the Notification, the Agency wishes to amend the Original Resolution by authorizing this certain First Amendment To Inducement Resolution to authorize the Increased MRT Exemption Benefit Amount.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. All recitals, findings and determinations of the Agency contained in the Original Resolution and this First Amendment To Inducement Resolution are hereby reaffirmed, ratified, restated and incorporated herein by reference as if set forth herein in their entirety, except as modified by this First Amendment To Inducement Resolution.

Section 2. With respect to the foregoing, and based upon the representations and warranties made by the Company with respect to its requested Increased MRT Exemption Benefit Amount, the Agency hereby authorizes and approves the Increased MRT Exemption Benefit Amount with respect to the Project.

Section 3. Based upon the foregoing, the Agency hereby amends Section 3 of the Original Resolution in its entirety to read as follows:

Section 3. Subject to the Company executing an Agent Agreement and the delivery to the Agency of a binder, certificate or other evidence of insurance for the

Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and/or renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the appointment of the Company as agent of the Agency, if utilized, shall expire one year from the date of this resolution (unless extended for good cause by the Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer, and/or the Assistant Treasurer).

A. Financial Assistance. With respect to the foregoing, and based upon the representations and warranties made by the Company in its application for Financial Assistance and as requested within the Notification, the Agency hereby:

(i) authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount estimated up to \$16,500,000.00, and, therefore, the value of the sales and use tax exemption benefits (“sales and use tax exemption benefits”) authorized and approved by the Agency cannot exceed \$1,443,750.00, however, the Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services; and

(ii) authorizes and approves that the value of the mortgage recording tax exemption benefit (“mortgage recording tax exemption benefits”) shall not exceed \$296,250.00; and

(iii) authorizes and approves that the real property tax abatement benefits (“PILOT benefits”) to be provided over the term of the PILOT Agreement are estimated to be approximately \$1,325,599.00, resulting in estimated total PILOT payments of \$352,375.00 over the term of the PILOT Agreement.

B. Terms and Conditions of Financial Assistance. Pursuant to Section 875(3) of the New York General Municipal Law, and per the policies of the Agency, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any New York State and local sales and use tax exemption benefits, and/or mortgage recording tax exemption benefits, and/or partial abatements from real property taxes benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any

other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the New York State and local sales and use tax exemption benefits; (ii) the New York State and local sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the New York State and local sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; (iv) the Company has made a material false statement on its application for Financial Assistance; (v) the New York State and local sales and use tax exemption benefits and/or mortgage recording tax exemption benefits, and/or the partial abatement from real property taxes benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with the Investment Commitment, the Employment Commitment, and/or the Local Labor Commitment, said commitments, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project; and/or (vi) the New York State and local sales and use tax exemption benefits, and/or mortgage recording tax exemption benefits, and/or the partial abatement from real property taxes benefits are taken in cases where the Company fails to comply with the Equal Pay Commitment and/or the Unpaid Real Property Tax Policy Commitment, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent of receiving Financial Assistance, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must cooperate with the Agency in its efforts to recover or recapture any Financial Assistance, and promptly pay over any such amounts to the Agency that the Agency demands.

(C) Commitments. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the termination PILOT Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment – the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$49,300,000.00 (which represents the product of 85% multiplied by \$58,000,000.00, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 100 existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility



as stated in the Company's application for Financial Assistance (the "Baseline FTE"); and

- the number of current FTE employees in the then current year at the Facility; and
  - that the Company has maintained and created FTE employment at the Facility equal to 134 FTE employees within two (2) years of Project completion [representing the sum of the 100 Baseline FTE plus 34, the product of 85% multiplied by 40, (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company's application for Financial Assistance)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data on a quarterly basis to the Agency, said information to be provided on the Agency's "Quarterly Employment Survey" form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment – that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 5. All actions heretofore undertaken by the Agency and the Company, as agent of the Agency, are ratified and approved and the Agency and the Company, as agent of the Agency, are hereby authorized to continue to undertake the Project.

Section 6. These Resolutions shall take effect immediately.

Dated: December 16, 2020



## Rosina - Protein Operation Expansion

### Section I: Applicant Background Information

#### Applicant Information - Company Receiving Benefit

<b>Project Name</b>	Rosina - Protein Operation Expansion
<b>Applicant Name</b>	Rosina Food Products, Inc.
<b>Applicant Address</b>	170 French Road
<b>Applicant Address 2</b>	
<b>Applicant City</b>	Cheektowaga
<b>Applicant State</b>	New York
<b>Applicant Zip</b>	14227
<b>Phone</b>	716-668-0123
<b>Fax</b>	716-668-5762
<b>E-mail</b>	rbernick@rosina.com
<b>Website</b>	www.rosina.com
<b>Federal ID#</b>	16-0876738
<b>NAICS Code</b>	311612 & 311412
<b>Will a Real Estate Holding Company be utilized to own the Project property/facility</b>	Yes
<b>What is the name of the Real Estate Holding Company</b>	Two Brothers Realty, LLC (likely to be transferred to a new LLC - 3100 Clinton Street, LLC in the future)
<b>Federal ID#</b>	32-0046449
<b>State and Year of Incorporation/Organization</b>	New York, 2002
<b>List of stockholders, members, or partners of Real Estate Holding Company</b>	Rosina Holding, Inc.

#### Individual Completing Application

<b>Name</b>	Randy Bernick
<b>Title</b>	Vice President - Finance & Administration
<b>Address</b>	170 French Road
<b>Address 2</b>	
<b>City</b>	Buffalo
<b>State</b>	New York
<b>Zip</b>	14227

12/1/2020

The Erie County Industrial Development Agency (ECIDA)

**Phone**

716-608-8503

**Fax**

716-668-5762

**E-Mail**

rbernick@rosina.com

Company Contact (if different from individual completing application)

**Name**  
**Title**  
**Address**  
**Address 2**  
**City**  
**State**  
**Zip**  
**Phone**  
**Fax**  
**E-Mail**

Company Counsel

<b>Name of Attorney</b>	Roger Cominsky
<b>Firm Name</b>	Barclay Damon
<b>Address</b>	The Avant Building
<b>Address 2</b>	200 Delaware Avenue, Suite 1200
<b>City</b>	Buffalo
<b>State</b>	New York
<b>Zip</b>	14202
<b>Phone</b>	716-566-1413
<b>Fax</b>	716-566-4000
<b>E-Mail</b>	rcominsky@barclaydamon.com

Identify the assistance being requested of the Agency

<b>Exemption from Sales Tax</b>	Yes
<b>Exemption from Mortgage Tax</b>	Yes
<b>Exemption from Real Property Tax</b>	Yes
<b>Tax Exempt Financing*</b>	No

\* (typically for not-for-profits & small qualified manufacturers)

Business Organization

<b>Type of Business</b>	Corporation
<b>Type of Ownership</b>	
<b>Year Established</b>	1963
<b>State of Organization</b>	New York

List all stockholders, members, or partners with % of ownership greater than 20%

**Please include name and % of ownership.**

Russell A. Corigliano 50% and Frank J. Corigliano 50%

Applicant Business Description**Describe in detail company background, products, customers, goods and services. Description is critical in determining eligibility**

Rosina manufactures frozen foods including pre-cooked meatballs, Italian sausages, filled pasta, eggplant, entrees, and pizza toppings. Rosina was founded in 1963, originally manufacturing sausage products which were sold to neighborhood meat markets, supermarkets, and restaurants, from a single Buffalo store-front location. By 1981, Rosina had launched its pre-cooked meatball line and was distributing products nationwide. Between 2000 and 2010 the Company continued its growth, and Rosina Holding, Inc. (the "Parent") and its affiliates acquired the assets of Celentano Brothers (Verona, NJ), purchased the frozen pasta brand names Gina Italian Village and Floresta (collectively known as Italian Village) from High Liner Foods (USA), Incorporated of NH, bought the former Lender's Bagels, Inc. (West Seneca, NY) plant, and moved the production there. In 2011, the Company had created an International Division in Cheektowaga, NY and also purchased and relocated the assets of San Rallo Pasta Company Division from Mitsui Foods, Inc. (Norwood, NJ) to WNY. Additionally, the Company has recently outsourced its sauced entrees and eggplant products to accommodate the addition on a new \$4 million pasta manufacturing line increasing capacity by 10 million pounds annually. Rosina markets its products to retail and food service industries and can be found in supermarkets, supercenters, military commissaries, wholesale clubs, and restaurants throughout North America and internationally. Rosina's products are also used by other manufacturers to produce soups, pizza, and lasagna. The Company sells to 95 of the nation's largest supermarkets including Wegman's Food Markets, Inc. (Rochester, NY), Publix Super Markets, Inc. (Lakeland, FL), and major food service distributors such as Performance Foodservice Group (Richmond, VA). Some of its major competitors are Armour-Eckrich Meats (Cincinnati, OH), Windsor Foods (Houston, TX), and Mama Rosie's (Charlestown, MA).

<b>Estimated % of sales within Erie County</b>	1
<b>Estimated % of sales outside Erie County but within New York State</b>	30
<b>Estimated % of sales outside New York State but within the U.S.</b>	64
<b>Estimated % of sales outside the U.S.</b>	5

(\*Percentage to equal 100%)

**What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County? Include list of vendors, raw material suppliers and percentages for each. Provide supporting documentation of the estimated percentage of local purchases**

26.5% (schedule attached)

## Section II: Eligibility Questionnaire - Project Description & Details

### Project Location

#### **Municipality or Municipalities of current operations**

Cheektowaga and West Seneca, NY

#### **Will the Proposed Project be located within a Municipality identified above?**

Yes

#### **In which Municipality will the proposed project be located**

West Seneca

#### **Address**

3100 Clinton St., West Seneca, NY 14224

#### **Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?**

No

#### **If the Proposed Project is located in a different Municipality than that Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?**

Yes

(If yes, you will need to complete the Retail Section of this application)

#### **SBL Number for Property upon which proposed Project will be located**

SBL 124.15-2-10

#### **What are the current real estate taxes on the proposed Project Site**

\$11,028.49

#### **Assessed value of land**

\$130,800

#### **Assessed value of building(s)**

0

#### **Are Real Property Taxes current?**

Yes

#### **If no please explain**

#### **Town/City/Village of Project Site**

West Seneca

#### **School District of Project Site**

West Seneca Central

#### **Does the Applicant or any related entity currently hold fee title to the Project site?**

Yes

#### **If No, indicate name of present owner of the Project Site**

#### **Does Applicant or related entity have an option/contract to purchase the Project site?**

No

#### **Describe the present use of the Proposed Project site**

It is vacant land.

**Please provide narrative of the proposed project and the purpose of the proposed project (new build, renovations, and/or equipment purchases). Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)**

The Protein Operation Expansion project entails building a brand new 105,000 square foot Protein plant including a new high speed state-of-the-art production line for the manufacturing of a variety of frozen meatballs, sliced sausage, and toppings. It will be built on land that we owned for over 10 years and is located at 3100 Clinton Street, West Seneca, NY 14224 and runs adjacent to Empire Dr. where our Pasta & Entree plant is located. At maximum capacity, the new production line will be able to produce 40 million pounds of products annually and will be replacing an antiquated processing line in one of our kitchens at our 75 Industrial Parkway, Cheektowaga, NY facility that has a maximum capacity of 20 million pounds annually. Additionally, we will be adding 40 new jobs and transferring another 10 million pounds of the approximately 15 million pounds that we currently have produced by a co-packer in Chicago, IL to the new facility. This is phase I of a potentially multi-phased master plan to keep Rosina a viable business ingrained in Western New York.

**If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:**

**Describe the reasons why the Agency's Financial Assistance is necessary and how the Financial Assistance enables the company to undertake the Project to facilitate investment, job creation and/or job retention. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary)**

This \$58 million capital project is financially challenging. The existing meatball processing line at the 75 Industrial Parkway facility is antiquated and must be replaced with a new automated production line to be profitable. ECIDA financial assistance is essential to make the new facility economically viable and but for dedicated exemption from sales tax, exemption from mortgage tax, and exemption from real property tax, the project will not move forward. If the project is undertaken, it will result in the creation of 40 jobs. If the project is not undertaken with a new facility at the West Seneca site, the Company will be forced to outsource more production to our Chicago Co-packer as the antiquated line will be shut down regardless, a move that will result in the lay-off of more than 100 production, support and administrative associates.

**Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency**

Yes

**If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and Erie County?**

The requested level of ECIDA Financial Assistance is necessary to achieve a level of financial viability for the project. The Company must make sound financial decisions and will be investing significant equity and bank financing to accomplish the project. Without the requested level of financial assistance, the return on investment is not sufficient to warrant the capital expenditure. This would likely eliminate the project, instead moving more business to the Chicago based co-packer. Further, without the investment in the new facility, and the ability to replace the existing antiquated production line as the the existing plant would need to be down for an extended period of time, if not permanently. Exemption from sales tax will be used to offset a portion of the capital investment and ensure that the Company can afford to build the new facility to the food safety and quality standards in order to maintain BRC Certification, which is required by key customers, and for USDA compliance. Additionally, exemption from the mortgage tax and exemption from real property taxes will help to get the new facility off the ground by lessening the burden of ongoing operating costs.

**Will project include leasing any equipment?**

Yes

**If yes, please describe equipment and lease terms.**

Yes possibly. Leasing the required production equipment is still being evaluated versus buying it outright. Leasing terms would be in the 7 - 8 year range with an option to buy and be priced based on current long term rates and whether tax benefits remain with the lessor.

#### Site Characteristics

**Will the Project meet zoning/land use requirements at the proposed location?**

Yes

**Describe the present zoning/land use**

Vacant Industrial land.

**Describe required zoning/land use, if different**





Project Information**Estimated costs in connection with project****Land and/or Building Acquisition**

\$ 0	square feet	acres
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**New Building Construction**

\$ 28,500,000	105,000 square feet	
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**New Building addition(s)**

\$ 0	square feet	
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**Infrastructure Work**

\$ 4,000,000		
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**Renovation**

\$ 0	square feet	
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**Manufacturing Equipment**

\$ 15,500,000		
---------------	--	--

**Non-Manufacturing Equipment: (furniture, fixtures, etc.)**

\$ 500,000		
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**Soft Costs: (professional services, etc.)**

\$ 4,500,000		
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**Other Cost**

\$ 5,000,000		
--------------	--	--

**Explain Other Costs**

Land remediation required under the NYSDEC Brownfield Clean-up program.

**Total Cost**

\$ 58,000,000		
---------------	--	--

**Project Refinancing; estimated amount (for refinancing of existing debt only)**

\$ 0		
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**Have any of the above costs been paid or incurred as of the date of this Application?**

No

**If Yes, describe particulars:**Sources of Funds for Project Costs:**Equity (excluding equity that is attributed to grants/tax credits):**

\$ 3,000,000		
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**Bank Financing:**

\$ 43,000,000		
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**Tax Exempt Bond Issuance (if applicable):**

\$ 0		
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**Taxable Bond Issuance (if applicable):**

\$ 0		
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**Public Sources (Include sum total of all state and federal grants and tax credits):**

\$ 12,000,000

**Identify each state and federal grant/credit:**

\$1,000,000 Empire State Development (applied through CFA for this amount so this is an estimate only). \$100,000 in Excelsior Job Tax Credits annually for 10 years. NYSDEC BCP with 50% tax credit for clean-up & 20% tax credit for qualified investments in the property.

**Total Sources of Funds for Project Costs:**

\$58,000,000

**Has a financing preapproval letter or loan commitment letter been obtained?**

No

Mortgage Recording Tax Exemption Benefit:

**Estimated Mortgage Amount (Sum total of all financing – construction and bridge).**

**\*Amount of mortgage, if any, that would be subject to mortgage recording tax.**

\$ 39,500,000

**Lender Name, if Known**

N.A.

**Estimated Mortgage Recording Tax Exemption Benefit (% of estimated mortgage amount stated above):**

\$296,250

Construction Cost Breakdown:

**Total Cost of Construction**

\$ 33,000,0000 (sum of 2,3,4,5, and/or 7 in Question K, above)

**Cost for materials**

\$ 16,500,000

**% sourced in Erie County**

100%

**% sourced in State**

100% (including Erie County)

**Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit**

\$ 16,500,000

**Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):**

\$ 1,443,750

Real Property Tax Benefit:

**Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency's PILOT benefit:**

N.A.

For proposed facility please include # of sq ft for each of the uses outlined below

		<b>Cost</b>	<b>% of Total Cost</b>
<b>Manufacturing/Processing</b>	56,000 square feet	\$ 17,490,000	53
<b>Warehouse</b>	32,000 square feet	\$ 10,230,000	31
<b>Research &amp; Development</b>	0 square feet	\$ 0	0
<b>Commercial</b>	0 square feet	\$ 0	0

<b>Retail</b>	0 square feet	\$ 0	0
<b>Office</b>	5,500 square feet	\$ 1,650,000	5
<b>Specify Other</b>	11,500 square feet	\$ 3,630,000	11

**If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council?**

No

**If you answered yes to question above, what level of LEED certification do you anticipate receiving? (Check applicable box)**

<BLANK>

**Provide estimate of additional construction cost as a result of LEED certification you are seeking**

N.A.

**Will project result in significant utility infrastructure cost or uses**

Yes

What is your project timetable (Provide dates)

**Start date : acquisition of equipment or construction of facilities**

10/1/2019

**End date : Estimated completion date of project**

12/31/2020

**Project occupancy : estimated starting date of operations**

1/1/2021

**Have construction contracts been signed?**

No

**Have site plans been submitted to the appropriate planning department for approval?**

No

**Has the Project received site plan approval from the appropriate planning department?**

No

**Is project necessary to expand project employment?**

Yes

**Is project necessary to retain existing employment?**

Yes

Employment Plan (Specific to the proposed project location):

	<b>Current # of jobs at proposed project location or to be relocated at project location</b>	<b>IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PT jobs to be RETAINED</b>	<b>IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PT jobs to be CREATED upon TWO years after Project completion</b>	<b>Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PT jobs to be created upon TWO Years after Project Completion **</b>
<b>Full time</b>	0	100	40	40
<b>Part time</b>	0	0	0	0

**Total**

0

100

40

\*\* The Labor Market Area includes the Counties of Erie, Niagara, Genesee, Cattaraugus, Wyoming and Chautauqua. For the purposes of this question, please estimate the number of FTE and PT jobs that will be filled, as indicated in the third column, by residents of the Labor Market Area, in the fourth column.

\*\*\*By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO Year time period following Project completion. Agency staff converts PT jobs into FTE jobs by dividing the number of PT jobs by two (2).

Salary and Fringe Benefits for Jobs to be Retained and Created:

<b>Category of Jobs to be Retained and Created</b>	<b># of Employees Retained and Created</b>	<b>Average Salary for Full Time</b>	<b>Average Fringe Benefits for Full Time</b>	<b>Average Salary for Part Time (if applicable)</b>	<b>Average Fringe Benefits for Part Time (if applicable)</b>
<b>Management</b>	7	\$ 64,000	\$ 19,200	\$ 0	\$ 0
<b>Professional</b>	0	\$ 0	\$ 0	\$ 0	\$ 0
<b>Administrative</b>	3	\$ 30,000	\$ 9,000	\$ 0	\$ 0
<b>Production</b>	111	\$ 32,000	\$ 9,600	\$ 0	\$ 0
<b>Independent Contractor</b>	0	\$ 0	\$ 0	\$ 0	\$ 0
<b>Other</b>	19	\$ 45,000	\$ 13,500	\$ 0	\$ 0

Employment at other locations in Erie County: (provide address and number of employees at each location):

<b>Address</b>	<b>75 Industrial Pkwy Cheektowaga, NY 14227</b>	<b>75 Empire Dr. West Seneca, NY 14224</b>	<b>170 French Rd. &amp; 109 Industrial Pkwy. Cheektowaga, NY 14227</b>
<b>Full time</b>	177	151	89
<b>Part time</b>	4	0	1
<b>Total</b>	181	151	90

**Will any of the facilities described above be closed or subject to reduced activity?**

Yes

Payroll Information**Annual Payroll at Proposed Project Site**

\$ 4,945,000

**Estimated average annual salary of jobs to be retained (Full Time)**

\$ 34,010

**Estimated average annual salary of jobs to be retained (Part Time)**

\$ 0

**Estimated average annual salary of jobs to be created (Full Time)**

\$ 38,600

**Estimated average annual salary of jobs to be created (Part Time)**

\$ 0

**Estimated salary range of jobs to be created**

<b>From (Full Time)</b>	\$ 30,000	<b>To (Full Time)</b>	\$ 68,000
<b>From (Part Time)</b>	\$ 0	<b>To (Part Time)</b>	\$ 0

**Is the project reasonably necessary to prevent the project occupant from moving out of New York State?**

Yes

**If yes, please explain and identify out-of-state locations investigated**

If the project is not undertaken with a new facility at the West Seneca site, the Company will be forced to outsource more production to our Chicago Co-packer as the antiquated line will be shut down regardless, a move that will result in the lay-off of more than 100 production, support and administrative Associates.

**What competitive factors led you to inquire about sites outside of New York State?**

We are already doing business with this Co-packer and have been for more than 10 years and they have excess capacity with multiple plants in the Chicago area that are capable of producing our product. They currently produce about 33% or 15 million pounds of the meatball products we sell annually.

**Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies?**

Yes

**If yes, please indicate the Agency and nature of inquiry below****Do you anticipate applying for any other assistance for this project?**

Yes

**If yes, what type of assistance (Historic Tax Credits, 485(a), Grants, Utility Loans, Energy Assistance, Workforce Training)**

Yes ... grants and jobs tax credits

**Section III: Facility Type - Single or Multi Tenant**

**Is this a Single Use Facility or a Multi-Tenant Facility?**

Single Use Facility

For Single Use Facility

**Occupant Name** Rosina Food Products, Inc.  
**Address** 170 French Road  
**Contact Person** Randy Bernick  
**Phone** 7166088503  
**Fax** 716-668-5762  
**E-Mail** rbernick@rosina.com  
**Federal ID #** 16-0876738  
**SIC/NAICS Code** 5147/311612 (Protein items) & 2038/311412 (Pasta & Entree items)

Multi-Tenant Facility

**Please explain what market conditions support the construction of this multi-tenant facility**

**Have any tenant leases been entered into for this project?**

<BLANK>

**If yes, please fill out the Tenant Information section of this application, for each tenant.**

Tenant Name	Current Address (city, state, zip)	# of sq ft and % of total to be occupied at new projet site	SIC or NAICS-also briefly describe type of business, products services, % of sales in Erie Co.
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**Section IV: Tenant Information**



## Section V: Environmental Questionnaire

### General Background Information

**Address of Premises** 3100 Clinton Street West Seneca, NY 14224

**Name and Address of Owner of Premises** Two Brothers Realty, LLC 170 French Road Buffalo, NY 14227 (will likely be subdividing & transferring the property to 3100 Clinton Street, LLC in the future before the property is developed)

**Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.)**

The Site is located in a moderately developed commercial and industrial area in the Town of West Seneca. The Site is vacant/wooded land. It also contains an easement to New York State Electric and Gas Corporation for a power line right-of-way, an Erie County waterline easement, and the approximate location of a Buckeye Pipeline that bisects a portion of the parcel. The parcel currently is 36.2 acres, but once subdivided the actual site will be approximately 14 acres and includes less than half an acre of jurisdictional wetlands. It also has access to municipal sanitary sewer, electric, natural-gas and public water.

**Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises**

The premises will be developed to include the construction of an approximately 105,000 square foot food plant which will be used to manufacture pre-cooked frozen protein items including meatballs, sliced sausage, and toppings. Upon completing the manufacturing process these frozen protein items will then be transported to frozen distribution centers to be sold to our customer base.

**Describe all known former uses of the Premises**

The Site primarily consists of historic railroad areas with railroad tracks and numerous ties and ballasts remaining on-Site. From the late 1800s/early 1900s to 1960s there were multiple active railroad tracks and yards with fill material from unknown origins brought to the Site to buildup railroad areas. From 1960s to current the site has been vacant/undeveloped land with abandoned railroad tracks.

**Does any person, firm or corporation other than the owner occupy the Premises or any part of it?**

No

**If yes, please identify them and describe their use of the property**

**Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises?**

No

**If yes, describe and attach any incident reports and the results of any investigations**

**Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months?**

No

**If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances**

**Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises?**

No

**If yes, describe in full detail**

### Solid And Hazardous Wastes And Hazardous Substances

**Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances?**

No

**If yes, provide the Premises' applicable EPA (or State) identification number**

**Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes?**

No

**If yes, please provide copies of the permits.**

**Identify the transporter of any hazardous and/or solid wastes to or from the Premises**

**Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years**

**Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days?**

No

**If yes, please identify the substance, the quantity and describe how it is stored**

#### Discharge Into Waterbodies

**Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges**

Currently at 75 Industrial Pkwy - 30 million gallons of discharge from one process source (see attached including permit) Proposed at 3100 Clinton Street - estimated 30 million gallons of process discharge from one source. Wastewater is treated prior to discharge to the municipalities.

**Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site**

Proposed at 3100 Clinton Street - one domestic sanitary discharge and one process discharge to include wastewater generated during equipment cleaning and sanitation. Included in this discharge will be condensate from evaporate refrigeration and process wastewater.

**Is any waste discharged into or near surface water or groundwaters?**

No

**If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste**

#### Air Pollution

**Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises?**

Yes

**If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source**

Currently at 75 Industrial Pkwy - there are three emission sources (see attached including permit) Proposed at 3100 Clinton Street - there will be one emission point from a high capacity cooking oven and one emission point for a gas fired steam boiler

**Are any of the air emission sources permitted?**

Yes

**If yes, attach a copy of each permit.**

#### Storage Tanks

**List and describe all above and under ground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks**

**Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks?**

No

**If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved**

#### Polychlorinated Biphenyls ("PCB" or "PCBs") And Asbestos

**Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise.**

**Have there been any PCB spills, discharges or other accidents at the Premises?**

No

**If yes, relate all the circumstances**

**Do the Premises have any asbestos containing materials?**

No

**If yes, please identify the materials**

## Section VI: Inter-Municipal Move Determination

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

**Will the project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?** No

**Will the project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?** No

**If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:**

**Does this project involve relocation or consolidation of a project occupant from another municipality or abandonment of an existing facility?**

**Within New York State** Yes

**Within Erie County** Yes

**If Yes to either question, please, explain** Yes - to the extent that we will be transferring some Associates and manufacturing from our current 75 Industrial Pkwy, Cheektowaga, NY Protein Plant to a new Protein Facility to built at 3100 Clinton Street, West Seneca. The Cheektowaga plant will remain open.

**Will the project result in a relocation of an existing business operation from the City of Buffalo?**

No

**If yes, please explain the factors which require the project occupant to relocate out of the City of Buffalo (For example, present site is not large enough, or owner will not renew leases etc.)**

**What are some of the key requirements the project occupant is looking for in a new site? (For example, minimum sq. ft., 12 foot ceilings, truck loading docs etc.)**

105,000 square foot plant with ceilings in the manufacturing and warehouse areas reaching nearly 40 feet and including shipping and receiving docks and asphalt parking areas.

**If the project occupant is currently located in Erie County and will be moving to a different municipality within Erie County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located?**

Yes

**What factors have lead the project occupant to consider remaining or locating in Erie County?**

We own a lot of vacant land in West Seneca and Cheektowaga and the new Protein manufacturing site is in close proximity to our Pasta & Entree factory. Additionally, the incentives offered by both New York State and Erie County are invaluable in our ability to move forward with the project. Lastly, we have a very good core work force of Associates who make Erie County their home.

**If the current facility is to be abandoned, what is going to happen to the current facility that project occupant is located in?**

**Please provide a list of properties considered, and the reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.) Please include full address for locations.**

**Section VII: Adaptive Reuse Projects**

**Are you applying for tax incentives under the Adaptive Reuse Program?** No

**What is the age of the structure (in years)?** 0

**Has the structure been vacant or underutilized for a minimum of 3 years? (Underutilized is defined as a minimum of 50% of the rentable square footage of the structure being utilized for a use for which the structure was not designed or intended)** <BLANK>

**If vacant, number of years vacant.** 0

**If underutilized, number of years underutilized.** 0

**Describe the use of the building during the time it has been underutilized:**

**Is the structure currently generating insignificant income? (Insignificant income is defined as income that is 50% or less than the market rate income average for that property class)** <BLANK>

**If yes, please provide dollar amount of income being generated, if any** \$

**If apartments are planned in the facility, please indicate the following:**

	Number of Units	Sq. Ft. Range Low to High	Rent Range Low to High
1 Bedroom	0	0	\$ 0
2 Bedroom	0	0	\$ 0
3 Bedroom	0	0	\$ 0
Other	0	0	\$ 0

**Does the site have historical significance?** No

**Are you applying for either State/Federal Historical Tax Credit Programs?** No

**If yes, provide estimated value of tax credits** \$

**Briefly summarize the financial obstacles to development that this project faces without ECIDA or other public assistance. Please provide the ECIDA with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without IDA and other tax credits included indicating below average return on investment rates compared to regional industry averages)**

**Briefly summarize the demonstrated support that you intend to receive from local government entities. Please provide ECIDA with documentation of this support in the form of signed letters from these entities**

**Please indicate other factors that you would like ECIDA to consider such as: structure or site presents significant public safety hazard and or environmental remediation costs, site or structure is located in a distressed census tract, structure presents significant costs associated with building code compliance, site has historical significance, site or structure is presently delinquent in property tax payments**

## Section VIII: Senior Citizen Rental Housing Projects

**Are you applying for tax incentives under the Senior Rental Housing policy?**

No

**Has the project received written support from the city, town or village government in which it is located?**

<BLANK>

**Describe the location of the project as it relates to the project's proximity to the town / village / city center or to a recognized hamlet.**

**Is the project consistent with the applicable municipal master plan?**

<BLANK>

**If yes, please provide a narrative identifying the master plan (by name) and describing how the project aligns with the plan details**

**Does the project advance efforts to create a walkable neighborhood and community in proximity to important local amenities and services?**

<BLANK>

**If yes, please provide a narrative describing the walkable nature of the project including access seniors would have to specific neighborhood amenities.**

**Has a market study shown that there is a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities?**

<BLANK>

**Is the project located in an area (defined as a 1 – 5 mile radius of the project site) where there are significant local resident populations that are at or below the median income level?**

<BLANK>

**If yes, please describe how you made this determination based upon census tract and other relevant third party data.**

**Does the project provide amenities that are attractive to seniors and differentiates the project from standard market rate housing?**

<BLANK>

**If yes, please describe these amenities (examples may include: community rooms, social / recreational activity areas, senior-oriented fixtures and safety amenities, security systems, call systems, on site medical services)**

**Are there impediments that hinder the ability to conventionally finance this project and /or negatively impact the project's return on investment?**

<BLANK>

**If yes, please briefly summarize the financial obstacles to development that this project faces without IDA or other public assistance. Please provide the IDA with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without IDA and other tax credits included indicating below average return on investment rates compared to regional industry averages)**

**Will the project target (and maintain during the incentive period) a minimum 50% occupancy rate of senior citizens whose income is at or below 60-80% of the median income for Erie County?**

<BLANK>

**If yes, please describe provide a narrative citing key facts that substantiate this finding.**

**Section IX: Retail Determination**

**Will any portion of the project (including that portion of the costs to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?** No

If yes, complete the Retail Questionnaire Supplement below.

**What percentage of the cost of the project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project?** 0 %

If the answer to this is **less than 33%** do not complete the remainder of the page and proceed to the next section (Section V: Inter-Municipal Move Determination).

If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:

**Will the project be operated by a not-for-profit corporation?** <BLANK>

**Is the project location or facility likely to attract a significant number of visitors from outside the economic development region (Erie, Niagara, Allegheny, Chautauqua and Cattaraugus counties) in which the project will be located?** <BLANK>

If yes, please provide a third party market analysis or other documentation supporting your response.

**Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality? Are services provided at the proposed project site needed because of a lack of reasonably accessible retail trade facilities offering such goods or services?** <BLANK>

If yes, please provide a market analysis supporting your response.

**Will the project preserve permanent, private sector jobs or increase the overall number of permanent private sector jobs in the State of New York?** <BLANK>

If yes, explain

**Is the project located in a Highly Distressed Area?** <BLANK>

**Niagara Wind Power, LLC - Steel Winds I Replacement Project  
Erie Wind, LLC - Steel Winds II Replacement Project  
\$21,464,287**

**SPECIAL INDUCEMENT RESOLUTION**

<b>ELIGIBILITY</b>
<ul style="list-style-type: none"> <li>• NAICS Section - 221115</li> </ul>
<b>COMPANY INCENTIVES</b>
<ul style="list-style-type: none"> <li>• 15-year Custom PILOT</li> </ul>
<b>EMPLOYMENT</b>
<ul style="list-style-type: none"> <li>• Retained Jobs - 3</li> <li>• Annual payroll: \$240,000</li> </ul>
<b>PROJECT HISTORY</b>
<ul style="list-style-type: none"> <li>• 11/18/2019 - Public hearing held. Transcript attached.</li> <li>• 11/20/2019 - Inducement Resolution presented to Board of Directors adopting a Negative Declaration in accordance with SEQRA.</li> <li>• 11/20/2019 - Lease/Leaseback Inducement Resolution presented to the Board of Directors</li> <li>• 12/16/2020 - Special Resolution presented to Board to allow ECIDA to execute mortgages being placed on the facility.</li> </ul>

Project Title: Niagara Wind Power, LLC - Steel Winds I Replacement Project  
Erie Wind, LLC - Steel Winds II Replacement Project

Project Address: 2303 Hamburg Turnpike  
Lackawanna, New York 14218  
(Lackawanna City School District)

**Amended Agency Request**

Special Resolution presented to Board to allow ECIDA to execute mortgages being placed on the facility

**Agency Request**

Approval of a custom 15 -year payment-in-lieu-of-tax (“PILOT”) Agreement.

	<b>Niagara Wind, LLC</b>	<b>Erie Wind, LLC</b>
Manufacturing Equipment	\$13,771,429	\$3,442,858
Soft Costs	\$ 1,000,000	\$ 250,000
Other Costs (Installation)	\$ 2,400,000	\$ 600,000
<b>Total Project Cost</b>	<b>\$17,171,429</b>	<b>\$4,292,858</b>
<b>85%</b>	<b>\$14,595,714</b>	<b>\$3,648,929</b>

**Company Description**

Niagara Wind Power, LLC and Erie Wind, LLC (“Niagara and Erie”) are the owners and operator of the existing Steel Winds I and Steel Winds II facilities located in the City of Lackawanna. Combined they account for ten 2.5 megawatt turbines at the former Bethlehem Steel site. Energy generated at the facility is sold into the New York Independent System Operator (“NYISO”) market.

**Project Description**

Niagara and Erie propose to extend the useful life of the wind turbines by engaging in a replacement project that would update the equipment and continue to generate real property taxes under a custom payment -in-lieu of tax (“PILOT”) arrangement.

Due to persistent maintenance issues with the existing turbines, which are no longer being manufactured, Niagara and Erie will replace the existing nacelle (enclosed engine housing), rotor, hub and blades for each turbine with new equipment from a different manufacturer without disrupting the existing tower, foundation and electrical equipment.

**Custom PILOT Terms**

Currently the existing turbines are generating \$80,000/year to the City of Lackawanna under a custom payment plan.

A new 15-year custom PILOT has been negotiated and for years 1-10 will provide \$10,000 per megawatt hour, per turbine - (\$10,000 x 2.5 mwh x 10 turbines = \$250,000). Years 11-15 will increase to \$10,500 per megawatt hour, per turbine. Under this arrangement which includes Erie County, the City of Lackawanna and the Lackawanna School District, the municipalities will share, on a pro rata basis, \$250,000 per year during years 1-10 and \$262,500 per year during years 11-15.



### New Tax Revenue Estimated

Current Yearly Taxes paid to City of Lackawanna Under Custom PILOT	Additional County Revenue over 15-year abatement period	Additional Local Revenue Over 15-year abatement period
\$80,000	\$302,565	\$3,509,936
Combined Tax Rate: \$82.66		

### Draft Recapture Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total project amount = \$21,464,287 85% = \$18,244,643
Employment	Same as recapture period	Maintain 100% of retained jobs Retained jobs: 3 Recapture Employment = 3
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Same as recapture period	Adherence to Policy
Unpaid Tax	Same as recapture period	Adherence to Policy
Recapture Period	Coincides with 15-year PILOT Term	Recapture of Real Property Taxes

Recapture applies to:  
Real Property Taxes

### Recapture

Pursuant to New York State General Municipal Law, the agency shall modify, recover, recapture or terminate any financial assistance taken by the company that is in violation of the GML.

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 3 FTE, iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
RESOLUTION**

*ERIE WIND, LLC, AND NIAGARA WIND POWER, LLC PROJECTS*

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, December 16, 2020 at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (I) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A MORTGAGE BETWEEN ERIE WIND, LLC, NIAGARA WIND POWER, LLC, THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AND THE TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY TO WELLS FARGO BANK, NATIONAL ASSOCIATION; AND (II) AUTHORIZING THE EXECUTION OF A PAYMENT-IN-LIEU-OF-TAX MORTGAGE AGREEMENT BY AND BETWEEN ERIE WIND LLC, NIAGARA WIND POWER, LLC AND THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AND RELATED DOCUMENTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

WHEREAS, pursuant to a resolution duly adopted on November 20, 2019, the Agency authorized Erie Wind, LLC, (“Erie Wind”) to undertake a certain project (the “EW Project”) consisting of : (i) the acquisition by the Agency of a leasehold interest in two (2) parcels of real property at 2303 Hamburg Turnpike in the City of Lackawanna, Erie County, New York (the “EW Parcels”) together with two (2) 2.5 megawatts (“MW”) wind turbines (the “EW Existing Improvements”), (ii) the replacement and upgrading of the Existing Improvements without changing the existing towers, foundations and electrical equipment (the “EW Improvements”), and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property necessary for the operation of the wind energy generation facility (the “EW Equipment”, and collectively with the EW Parcels, the EW Existing Improvements and the EW Improvements, the “EW Facility”); and

WHEREAS, pursuant to a resolution duly adopted on November 20, 2019, the Agency authorized Niagara Wind Power, LLC, (“Niagara Wind”) to undertake a certain project (the “NW Project”) consisting of: (i) the acquisition by the Agency of a leasehold interest in eight (8) parcels of real property at 2303 Hamburg Turnpike in the City of Lackawanna, Erie County,

New York (the “NW Parcels”) together with eight (8) 2.5 megawatts (“MW”) wind turbines (the “NW Existing Improvements”), (ii) the replacement and upgrading of the Existing Improvements without changing the existing towers, foundations and electrical equipment (the “NW Improvements”), and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property necessary for the operation of the wind energy generation facility (the “NW Equipment”, and collectively with the NW Parcels, the NW Existing Improvements and the NW Improvements, the “NW Facility”); and

WHEREAS, Erie Wind and Niagara wind are, hereinafter, collectively referred to as the “Company”; and

WHEREAS, the Agency has provided financial assistance, in the form of a partial real property tax abatement, to the EW Facility as memorialized by a certain Payment-in-Lieu-of-Taxes Agreement, dated as of November 1, 2020 (the “NW PILOT Agreement”), and has provided financial assistance, in the form of a partial real property tax abatement, to the NW Facility, as memorialized by a certain Payment-in-Lieu-of-Taxes Agreement, dated as of November 1, 2020 (the “NW PILOT Agreement”); and

WHEREAS, Erie Wind and Niagara Wind desire to enter into a mortgage in an amount not to exceed \$27,200,000.00 (the “Mortgage”) and, because of the Agency’s leasehold interest in the EW Facility and in the NW Facility, Erie Wind and Niagara Wind have requested the Agency to execute the Mortgage on a non-recourse basis; and

WHEREAS, the Agency is willing to enter into the Mortgage provided a certain PILOT Mortgage be placed upon the EW Facility and the NW Facility, prior to and senior to, the Mortgage, to provide security to the City of Lackawanna, the School District of the City of Lackawanna, and the County of Erie, in the event Erie Wind fails to make a payment under the EW PILOT Agreement and Niagara Wind fails to make a payment under the NW PILOT Agreement; and

WHEREAS, the Company failed to seek the authorization for the Agency to enter into the Mortgage at the time the Agency resolved to approve of the EW Project and the NW Project as heretofore described; and

WHEREAS, the Company is not seeking, and the Agency is not otherwise offering to provide, a mortgage recording tax exemption benefit with respect to the Mortgage; and

WHEREAS, pursuant to the applicable requirements of Article 8 of the New York Environmental Conservation Law, and the regulations promulgated therein at 6 N.Y.C.R.R. Part 617 (collectively referred to as “SEQRA”), the Agency must determine the potential environmental significance of the Agency’s entry into the Mortgage and execution of the PILOT Mortgage (collectively, the “Transaction”).

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that the Transaction is a “Type II action” as said quoted term is defined under 6 N.Y.C.R.R. 671.5(c)(23), and is not subject to further review under SEQRA.

Section 2. The Agency hereby authorizes, approves, consents to, ratifies, and confirms execution by the Agency of the Mortgage and the PILOT Mortgage and related documents.

Section 3. The negotiation and execution of the Mortgage, the PILOT Mortgage, and related documents, by the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency are hereby authorized, ratified, and confirmed.

Section 4. This Resolution shall take effect immediately.

Dated: December 16, 2020

TO: ECIDA Policy Committee

FROM: John Cappellino

DATE: December 8, 2020

REF: Zaepfel Development – Developer  
 First Source – Tenant  
 100 Pirson Parkway

History:

In 2013, ECIDA approved a sales tax, mortgage recording tax and real estate tax exemption for Zaepfel Development.

The benefits approved and received by the developer were/are as follows:

Mortgage Recording Tax	\$150,000
Sales Tax Savings	\$787,500
PILOT County and Town (2017-2026) School (2016/'17-2025/'26)	Appx. \$3,400,000 based on current values and rates

The project consisted of the construction of a 310,000 sq. ft. facility which would be leased to Wythe Will. They would utilize the facility as a warehouse, production, and office center. Upon completion, Wythe Will would consolidate 3 leased facilities into the newly constructed building. In 2016 Wythe Will became known as First Source.

The recapture terms associated with the approval were as follows:

- Investment equal to or greater than \$15,895,000 – confirmed
- Local Labor Reporting during construction period – confirmed
- Maintain 100% of First Source' 217 full time equivalents
- Hire an additional 29 employees

The investment into the project by Zaepfel was over \$18M and the tenant estimated 217 full time equivalent positions would be maintained and an additional 29 jobs created. Based on 2019-year end employment survey results, the average employment at the facility was 312 FTE's.

According to an article in the Business First (Jim Fink), *"a March 24 letter sent to vendors, and obtained by Buffalo Business First, First Source said it will be closing the 310,000-square-foot Pierson Parkway complex within the next 90 days. The letter cited a drop in sales related to the COVID-19 health crisis."* According to an e-mail Dawn received from the company, the last

day of operations was in July of this year. According to Zaepfel, First Source vacated the building without giving prior notice to the developer. It is our understanding First Source' main facility in Virginia is closed as well. Since that time, the developer has been seeking another suitable tenant to fill the space.

A Rochester-area based company, Jemko Transport, has agreed to lease the entire facility subject to the continuation of the PILOT. They would be utilizing the facility for the assembly, storage and distribution of finished goods and raw materials, an eligible use under IDA guidelines. They plan to create 20 full time and 2 part time positions and are looking to former First Source employees to fill those positions.

Request:

The developer recognizes that employment recapture terms apply to both the tenant and the developer and request these terms be modified considering First Source vacated the facility through no fault of the developer. The current PILOT benefit to the developer is substantial. They are currently paying on 20% of the improved value and last year's bill was in the approximate amount of \$117,698 to the various taxing jurisdictions. Should the exemption be removed that payment increases to \$461,000.

Possible Remedies:

- #1: Repay all benefits previously granted which would amount to approximately \$2,437,000.
- #2: Modify material terms for employment to consider new tenant and revise PILOT from a 10-year to a 7-year term.

The estimated impact of #2 above is as follows:

	Total PILOT/Taxes
Current PILOT schedule – 10 year PILOT payments paid over 10 years (est.)	\$1,219,970
Modified to a 7-year PILOT term with last 3 years as 100% taxes (est.)	\$2,208,700
Estimated additional revenue to municipalities	\$988,730
Note: The above estimates are based on today's tax rates and assessed values	

In addition, a one time payment of \$42,988 can be made to ECIDA and shared pro rata with each of the three taxing entities. This payment represents the additional payment due for the percentage difference of abatement between years 3 and 4 of 10%.

ECIDA, in compliance with New York Law, has a policy for the suspension or discontinuance of financial assistance, or the modification of any payments in lieu of taxes to require increased payments, based upon a violation of the terms and conditions of the Inducement as memorialized in the Project Agreement. The difference between the 10-year PILOT schedule benefit and the 7-year PILOT schedule benefit would have required that the Company make an additional payment of \$42,988 for the 2020 County/Town Tax Year and the 2019/2020 School District tax year. If this “additional payment” is required to be made, such “additional payment” should be submitted to the Agency, and the Agency would then submit such “additional payment” pro rata to the affected taxing jurisdictions.

**Zaepfel Development /Wythe Will Tzetzso**  
**\$18,700,000**  
**INDUCEMENT RESOLUTION**

**HIGHLIGHTS**

- Eligibility: NAICS Section - 53  
**real Estate**

**COMPANY INCENTIVES**

- Up to \$160,000 in mortgage tax savings.
- Approximately \$4,200,000 in real property tax benefits
- Approximately \$787,500 in sales tax benefits



Project Title: Zaepfel Development /Wythe Will Tzetzso  
 Project Address: A portion of 779 Two Mile Creek Road  
 Tonawanda, New York 14150  
 (Kenmore-TTN UFSD)  
 SIC/NAICS: 6513/531110

**Agency Request**

A sales tax, mortgage tax and real property tax exemption in connection with the construction of an approximately 310,000 sq. ft. facility for lease to Wythe Will Tzetzso.

Land	\$ 500,000
New Building Construction	16,000,000
Manufacturing Equipment	200,000
Non-Manufacturing Equipment	1,000,000
Soft Costs	750,000
Other	250,000
<b>Total Project Cost</b>	<b>\$18,700,000</b>

**Company Description**

Zaepfel Development was founded in 1974 by James Zaepfel and is a full-service real estate development firm located in Williams-ville, New York. The Zaepfel team has more than 30 years of real estate development, real estate services, property management, leasing and brokerage, and construction management experience. They are ranked as one of Western New York's top five development firms.

Zaepfel has developed, owned, managed, built or sold nearly five million square feet of office, warehouse, industrial and flex space in Western New York, Pennsylvania and the southeast. They are currently developing new construction and renovation projects for the commercial, industrial, educational and institutional sectors.

Major construction undertaken by the company in recent years has included such high profile projects as the West Valley Nuclear Containment Facility and corporate headquarters for Wegmans Food Markets Inc. and Corning Glass.

**Project Description**

Zaepfel is constructing a 310,000 sq. ft. facility for lease to Wythe Will Tzetzso ("WWT"). WWT plans to establish a warehouse, production and office center in the facility which will initially employ 270 full time and part time employees.

Once the project is complete, the company will consolidate its 3 leased facilities into the newly constructed building. These three leased facilities are located in Tonawanda—Military Road, Cheektowaga—Broadway and Buffalo—3rd party leased facility on Clinton Street.



# Zaepfel Development /Wythe Will Tzetzso

WWT was founded in 1961 and is based in Virginia. They are a national packager and distributor of branded, unbranded and private-label candy, confections and specialty foods. Some of their brands include Ghirardelli, Godiva, Jelly Belly and Harry and David.

WWT currently maintains locations throughout the country—Virginia—the company’s national headquarters—Tennessee—Operations Center and California. Once the project is complete, it is WWT’s intention to relocate its headquarters from Virginia to the new facility in Tonawanda. Manufacturing operations will remain in Virginia.

WWT has been approved by Empire State Development Corp. for the Excelsior Job Program which will provide tax credits in the amount of \$950,000.

## Project Benefits

The project is expected to retain 165 full time and 105 part time jobs and increase that number 20 additional full time and 30 additional part time jobs.

## Project Incentives

- An estimated \$950,000 in Excelsior Job Program tax credits.
- Real property tax savings of approximately \$4,200,000 over ten years
- Sales tax savings of approximately \$787,500
- Mortgage recording tax savings equal to 1% of final mortgage amount estimated up to \$160,000

## Impact on Taxes

Current Yearly Taxes	Estimated New Assessed Value	Additional Revenue to taxing jurisdictions over 10 year PI-LOT period.	Full taxes in first year after abatement period expires
\$0	\$6,345,000	\$1,300,000	\$555,000
Combined Tax Rate: \$87.53			

\*New assessment is determined by taking 73% of construction budget and applying equalization rate

## Employment

<u>Current:</u> 217 FTE's	<u>Year 2 (after completion of Project)</u> 252 FTE's
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## Material Terms

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total project Amount = \$18,700,000 85% = \$15,895,000
Employment	To coincide with PILOT term	100% of base (217 FTE) and 85% of projected (29) = 246
Local Labor	Construction period	Adherence to policy including quarterly reporting
PILOT	PILOT Term -10 years	Up to 100% recapture at Agency discretion
Recapture Period	Coincides with term of PILOT	Recapture of state and local sales taxes, mortgage recording trax and PI-LOT.

**Recapture**

**Recapture applies to:**

- State and Local Sales Taxes
- Mortgage Recording Taxes
- Payment in Lieu of Taxes

Pursuant to Section 875 of New York General Municipal Law, the agency may recover or recapture from the company any state sales tax and use tax exemption benefits taken by the company that are in violation of the GML.

In addition, it is the recommendation of the ECIDA’s Policy Committee to recapture the local share of sales tax and mortgage tax.

**Project History**

- 9/9/13 Public Hearing conducted.
- 9/16/13 The project is in compliance with the Town of Tonawanda Generic Environmental Impact Statement and no further SEQRA compliance is required by ECIDA Board.
- 9/16/13 Lease/Leaseback Inducement Resolution presented to Board.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**AUTHORIZING RESOLUTION**

*Zaepfel Development Co. – Tonawanda Pirson, LLC Project*

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, December 16, 2020, at 12:00 a.m.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE AMENDMENT TO A CERTAIN PILOT AGREEMENT ENTERED INTO WITH TONAWANDA PIRSON, LLC**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

WHEREAS, on September 16, 2013, the Agency accepted the application (the “Application”) submitted by, and authorized the provision of Financial Assistance, as defined under the Act, to Tonawanda Pirson, LLC (the “Company”) with respect to a certain project (the “Project”) consisting of: (i) a portion of land located at 779 Two Mile Creek Road, Tonawanda, New York (the "Land") to be improved thereon with a 310,000+/- SF facility comprising of 264,000+/- SF of climate-controlled warehouse space, 32,000+/- SF of production space for manufacturing and packaging of candies and confections, and 14,000+/- SF of general office space (the “Improvements”), and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the "Equipment," and collectively with the Land and Improvements, the "Facility"); and

WHEREAS, the Agency’s Project approval required that the Company maintain and create 246 full time equivalent employee positions at the Project Facility (the “Original Job Commitment”); and

WHEREAS, the Agency’s Project approval provided for a real property tax abatement benefit through a 10-year Payment-in-Lieu-of Tax agreement for the benefit of each municipality and school district having taxing jurisdiction over the Project, and

WHEREAS, on December 31, 2014, the Agency and the Company entered into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency acquired a leasehold interest in the Facility and subleased such interest in the Facility back to the Company (the “Straight Lease Transaction”) and also pursuant to which the Agency and the Company entered into that certain Payment-in-Lieu-of Tax Agreement (the “PILOT Agreement”), said benefits thereunder to run for a 10 year benefit period and expire upon the conclusion of the 2026 County of Erie (the “County”) and Town of Tonawanda (the

“Town”) tax year, and the 2025-2026 Kenmore-Town of Tonawanda Union Free School District (the “School District” and collectively with the County and the Town, the “Affected Tax Jurisdictions”) tax year; and

WHEREAS, on or about March 24, 2020, the Company’s tenant in the Project Facility ceased operations, such that no employees were and are currently working within the Facility; and

WHEREAS, the Company has informed the Agency that it is in negotiations with a prospective new tenant, Jemko Transport, that may occupy the entire Facility, and plans to create 20 full time and 2 part time positions (the “Revised Job Commitment”); and

WHEREAS, the Company has requested that the Agency, rather than terminate the existing Straight Lease Transaction and related PILOT Agreement due to the failure of the Company to meet its Original Job Commitment, instead amend the Straight Lease Transaction and related PILOT Agreement (collectively, the “Amendment”) to provide for a 7-year real property tax abatement benefit time period, instead of the ten-year real property tax abatement benefit time period, being the same benefit time period that the Company would have originally qualified for based upon the Revised Job Commitment had it committed to such New Job Commitment at the time it submitted its Application; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution authorizing the Amendment, subject to the following conditions (i) no additional financial assistance is being conferred through the proposed Amendment, (ii) the PILOT Agreement, as amended, will now terminate effective upon the conclusion of the 2023 County and Town tax year, and 2022-2023 School District tax year; (iii) the payment of \$42,988.00 by the Company, to the Agency, for the benefit of and distribution to the Affected Tax Jurisdictions being the difference between the payment due under the 10-year PILOT Agreement scheduled benefit and the 7-year PILOT Agreement scheduled benefit for the 2020 County and Town Tax Year and the 2019-2020 School District tax year, and (iv) the payment by the Company of all costs of the Agency to effectuate the foregoing; and

WHEREAS, pursuant to the applicable requirements of Article 8 of the New York Environmental Conservation Law, and the regulations promulgated therein at 6 N.Y.C.R.R. Part 617 (collectively referred to as “SEQRA”), the Agency must determine the potential environmental significance of the Amendment, as proposed herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that the Transaction is a “Type II action” as said quoted term is defined under 6 N.Y.C.R.R. 671.5(c)(23), and is not subject to further review under SEQRA.

Section 2. The occupancy of the Facility by Jemko Transport will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the “State”) to another

area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's proposed Amendment as described herein, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

Section 3. The Agency has complied with the Intermunicipal Move procedures as detailed in the Agency's Uniform Tax Exemption Policy, and hereby approves of the occupancy of the Facility by Jemko Transport.

Section 4. The Agency hereby authorizes the Amendment, subject to the following conditions: (i) no additional financial assistance is being conferred through the proposed Amendment, (ii) the PILOT Agreement, as amended, be revised to terminate effective upon the conclusion of the 2023 County and Town tax year, and the 2022-2023 School District tax year; (iii) the payment of \$42,988.00 by the Company, to the Agency, for the benefit of and distribution to the Affected Tax Jurisdictions being the difference between the payment due under the 10-year PILOT Agreement scheduled benefit and the 7-year PILOT Agreement scheduled benefit for the 2020 County and Town Tax Year and the 2019-2020 School District tax year, and (iv) the Company shall pay all costs of the Agency to effectuate the foregoing; and

Section 5. Subject to the terms of this Authorizing Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Chief Operating Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver: (A) an amended Project Agreement establishing a commitment to the Revised Job Commitment, (B) an amended PILOT Agreement, (C) amendments to the related Lease Agreement and Leaseback Agreement by and between the Company and the Agency, and (D) related documents, all of the foregoing with such changes, variations, omissions and insertions as the Chair, the Vice Chair, the President/Chief Executive Officer, the Chief Operating Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to negotiate, execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 6. These Resolutions shall take effect immediately.

Dated: December 16, 2020