



**Erie County Industrial Development Agency  
Meeting of the Membership  
November 29, 2023  
At 12:00 p.m.**

**701 Ellicott Street, Center of Excellence in Bioinformatics and Life Sciences (CBLS)  
The Event Space/Conference Room B2-205, located on the 2nd floor, Buffalo, New York 14203**

**1.0 Call to Order**

1.1 Call to Order Meeting of the Membership

**2.0 Approval of Minutes:**

2.1 Approval of Minutes of the October 25, 2023 Meeting of the Membership (Action Item) (Pages 2-6)

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

3.1 Financial Report (Informational) (Pages 7-10)

3.2 2023 Tax Incentive Induced/Closing Schedule (Informational) (Pages 11-12)

3.3 Approval of Resolution Authorizing the ECIDA to Contract Engineering Services for the Buffalo Southern Railroad Improvement Project (Action Item) (Pages 13-16)

3.4 Policy Committee Update (Informational) (Pages 17-20)

**4.0 Inducement Resolutions:**

	<b>ECIDA Incentives</b>	<b>Private Investment</b>	<b>Municipality</b>
4.1 1175 Delaware Place (Pages 21-67)	\$1,117,868	\$16,750,000	Buffalo
4.2 Lactalis American Group (Pages 68-111)	\$1,203,247	\$44,526,000	Buffalo

**5.0 Management Team Reports:**

5.1

**6.0 Adjournment- Next Meeting December 20, 2023**

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

**DATE AND PLACE:** October 25, 2023, at the Center of Excellence in Bioinformatics and Life Sciences (CBLs), 701 Ellicott Street, The Event Space/Conference Room B2-205, located on the 2nd floor, Buffalo, New York 14203.

**PRESENT:** Hon. Diane Benczkowski, Rev. Mark Blue, Hon. Joseph Emminger, Dottie Gallagher, Hon. Howard Johnson, Richard Lipsitz, Jr., Brenda McDuffie, Denise McGowan, Hon. Glenn R. Nellis, Hon. Mark Poloncarz, Kenneth A. Schoetz and Paul Vukelic

**EXCUSED:** Denise Abbott, Hon. Bryon W. Brown, James Doherty, Michael P. Hughes, Tyra Johnson, Hon. Brian Kulpa and Darius G. Pridgen

**OTHERS PRESENT:** John Cappellino, President & CEO; Beth O’Keefe, Vice President of Operations; Gerald Manhard, Chief Lending Officer; Atiqa Abidi, Accounting Manager; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Laurie Hendrix, Administrative Coordinator; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

**GUESTS:** Zachary Evans on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo; Jacob Tierney on behalf of Business First; Daniel Castle on behalf of the County; Michael Szukala on behalf of Erie County; Dennis Penman and Deep Katdare on behalf of Related Affordable; Pete Peterson and Eric Jefferson on behalf of MJ Peterson; and Rick Ganci on behalf of Joint School Construction Board (JSCB)

There being a quorum present at 12:05 p.m., the meeting of the members of the Erie County Industrial Development Agency (the “ECIDA” or “Agency”), was called to order by the Chair, Ms. McDuffie.

**MINUTES**

The minutes of the September 27, 2023, meeting of the members were presented. Mr. Lipsitz moved, and Mr. Nellis seconded to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

## REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Abidi presented the September financial reports. The balance sheet shows that the IDA ended the month with total assets of \$32.8M, which includes unrestricted cash of \$7.3M available for Agency operations, and net assets of \$20.3M. There were not any major shifts on the balance sheet line items from August. Operating revenue of \$276,000 was below the monthly budget by \$60,000, due mainly to less administrative fees collected during the month. Operating expenses were \$216,000 and below our monthly budget by \$13,000. After depreciation, there was net income of \$36,000 for the month. The year-to-date Income Statement revenues of \$2.3M, including administrative fee revenue of \$1.3M. We are at 74% of our 2023 administrative fee budget through September. Expenses of \$2.1M are slightly ahead of budget. Special project grant revenue nets to \$77,000. Net income before strategic investments and depreciation is \$218,000. There is currently a net loss of \$297,000 for the year. Ms. McDuffie directed that the report be received and filed.

At this point in time, Mr. Poloncarz joined the meeting.

Finance and Audit Committee Update. Mr. Szukala, Finance and Audit Committee Chair, updated members on most recent Finance & Audit Committee meeting, firming the committee recommended and approved of the Westchester and JSCB bond issuances. Ms. McDuffie directed that the report be received and filed.

Review of 2024 Budget Timetable and Approval of 2024 Proposed Budget. Ms. Abidi reviewed the budget review process. She stated that the Agency held two Budget Q&A sessions since the last Board meeting and had some good insights and conversation around the process. Ms. Abidi reviewed the proposed 2024 budget. Ms. Abidi reviewed the narrative discussing budget methodology and substantial changes from the prior year budget. She also reviewed the operational portion of the budget. When compared to the 2023 budget, the Agency is looking at a slight decrease for operating revenues and an increase in expenses in 2024. Operating revenues are budgeted at \$2.8M, which includes \$1.8M of administrative fees. The Agency is projecting around \$1.84M of administrative fee revenues for 2023. Total operating expenses are budgeted at \$2.9M, which is about a 2% increase over the 2023 budget. There is a budgeted operating loss of about \$103,900, which takes into account hiring of a new staff member. She reviewed the proposed and potential uses of funds already on hand for special projects. The reserves for future projects are noted simply for the possibility of future projects, should the opportunity arise. Including all of these possibilities, the bottom line budgeted net loss is \$1.4M. There haven't been any changes to the budgeted figures since we reviewed them last month. She also reviewed the 3-year forecast as required by the Authorities Budget Office, including the proposed 5-year capital budget, including IT and facilities at 143 Genesee and 95 Perry Street. There is \$180,000 included in the budget for 95 Perry for expanding the large conference room. The Finance & Audit Committee voted on September 21 to recommend approval of the proposed budget as presented. Mr. Poloncarz moved and Mr. Nellis seconded to approve of the proposed 2024 budget. Ms. McDuffie then called for the vote and the motion was unanimously approved.

2023 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

Approval of Resolution Authorizing the ECIDA to Hire a Consultant for Design & Engineering Services Related to the Industrial Rail (WYE Yard) Relocation Project. Mr. Cappellino reviewed the project and summarized the memorandum that was included in the Board package provided to members.

Mr. Poloncarz moved and Mr. Johnson seconded to approve of the hiring of a consultant for design and engineering services related to the Industrial Rail (WYE Yard) relocation project. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") AUTHORIZING THE AGENCY TO ENTER INTO AN AGREEMENT WITH C&S COMPANIES (C&S) IN AN AMOUNT NOT TO EXCEED \$600,000 TO BE UTILIZED FOR DESIGN AND ENGINEERING SERVICES IN RELATION TO THE AGENCY'S CONTEMPLATED REMOVAL AND EXPANSION OF CERTAIN RAILWAY FACILITIES LOCATED IN THE RENAISSANCE COMMERCE PARK

Policy Committee Update. Mr. Lipsitz, Chair of the Policy Committee, noted there was no meeting of the Policy Committee as there was no quorum.

## **BOND RESOLUTIONS**

Westchester Park Preservation, L.P., 55 Ralston Avenue, Tonawanda, New York 14217. Ms. O'Keefe reviewed this proposed tax-exempt bond, sales and use tax and mortgage recording tax benefits project involving the renovation of an existing 201 unit affordable property for seniors that consists of two buildings connected by a passageway on the ground floor. The first building is a five-story elevator serviced building and the second building is a two-story split level low-rise building without elevator access. The project consists of the modernization of 100% of units to include new bathrooms, kitchens, flooring and lighting, painting, landscaping, improvements, modernization of community space and adding free site wide Wi-Fi. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

Mr. Emminger spoke in favor of the project and moved to support the project.

Ms. Benczkowski disclosed she maintains a real estate license with MJ Peterson, the operator of the facility, but confirmed no financial or contractual relationship with the project.

Mr. Katdare then spoke on behalf of the applicant and briefly described the renovation project.

Mr. Lipsitz seconded the motion.

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, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment – the total investment made with respect to the Project at the time of Project completion equals or exceeds \$30,260,000 (which represents the product of 85% multiplied by \$35,600,000, being the total project cost as stated in the Application).
- (ii) Employment Commitment – that there are at least four (4) 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 years of Project Completion, the Company has maintained employment at the Facility equal to four (4) FTE employees, being the Baseline FTE employee position as stated in the Company’s Application. To confirm and verify the Company’s employment numbers, the Issuer requires that, at a minimum, the Company provide employment data to the Issuer on a quarterly basis, said information to be provided on the Issuer’s “Quarterly Employment Survey” form to be made available to the Company by the Issuer.
- (iii) Local Labor Commitment – that the Company adheres to and complies with the Issuer’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 Issuer’s Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Issuer’s Unpaid Real Property Tax Policy.

Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION (A) AUTHORIZING THE ISSUANCE, AND SALE OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY MULTIFAMILY HOUSING REVENUE BONDS (WESTCHESTER PARK PRESERVATION, L.P. PROJECT), IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000; (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND (C) MAKING A FINDING IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT.

Refinancing of the Agency's School Facility Refunding Revenue Bond (City School District of the City of Buffalo Project). Mr. Cappellino reviewed the City School District of the City of Buffalo project which will finance outstanding debt associated with the initial funding related to various public school facilities improvements including renovation, construction, and reconstruction of such existing facilities and equipping and furnishing of such public school facilities within the City of Buffalo.

Mr. Poloncarz moved and Ms. Gallagher seconded to approve the Project as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ISSUANCE OF REFUNDING BONDS TO REFUND ALL OR A PORTION OF THE SERIES 2013A BONDS WITH RESPECT TO ITS PROJECT FOR THE CITY SCHOOL DISTRICT OF THE CITY OF BUFFALO AND AUTHORIZING OTHER MATTERS IN CONNECTION THEREWITH

Approval of Resolution for Replacement of Remarketing Agent for Canisius High School – Series 2008 Bonds. Mr. Cappellino reviewed the request for the replacement of the remarketing agent relating to the ECIDA's Canisius High School variable rate demand civic facility revenue bonds.

Mr. Vukelic moved and Mr. Emminger seconded to approve the Project as proposed. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION (A) THE CONSENT OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "ISSUER") TO THE REPLACEMENT OF THE REMARKETING AGENT RELATING TO THE ISSUER'S VARIABLE RATE DEMAND CIVIC FACILITY REVENUE BONDS (THE CANISIUS HIGH SCHOOL OF BUFFALO, N.Y. PROJECT – LETTER OF CREDIT SECURED), SERIES 2008 ISSUED BY THE ISSUER ON JANUARY 30, 2008; (B) THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS; AND (C) MAKING A FINDING IN COMPLIANCE WITH THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:47 p.m.

Dated: October 25, 2023

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Elizabeth A. O'Keefe, Secretary

**Erie County Industrial Development Agency**  
**Financial Statements**  
As of October 31, 2023

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

**Balance Sheet**

October 31, 2023

	October 2023	September 2023	December 2022
<b>ASSETS:</b>			
Cash *	\$ 7,066,088	\$ 7,255,087	\$ 7,475,718
Restricted Cash & Investments *	16,758,117	17,765,738	20,449,260
Due from Affiliates	4,068,510	3,089,859	471,011
Due from Buffalo Urban Development Corp.	95,101	89,340	106,016
Other Receivables	92,202	105,265	94,679
Total Current Assets	<u>28,080,020</u>	<u>28,305,289</u>	<u>28,596,683</u>
Grants Receivable	2,591,378	2,591,378	644,183
Lease Receivable	462,493	479,112	643,927
Venture Capital Investments, net of reserves	506,886	506,886	506,886
Capital Assets	965,788	975,788	1,166,361
Total Long-Term Assets	<u>4,526,545</u>	<u>4,553,164</u>	<u>2,961,357</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 32,606,565</u></u>	<u><u>\$ 32,858,453</u></u>	<u><u>\$ 31,558,040</u></u>
<b>LIABILITIES &amp; NET ASSETS</b>			
Accounts Payable & Accrued Exp.	\$ 188,103	\$ 203,759	\$ 188,859
Lease Payable	-	-	126,166
Deferred Revenues	2,390,478	2,390,478	643,647
Funds Held on Behalf of Others	9,385,316	9,443,897	9,317,525
Total Liabilities	<u>11,963,896</u>	<u>12,038,134</u>	<u>10,276,196</u>
Deferred Inflows of Resources Related to Leases	462,493	479,112	643,927
Net Assets	<u>20,180,176</u>	<u>20,341,207</u>	<u>20,637,917</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><u>\$ 32,606,565</u></u>	<u><u>\$ 32,858,453</u></u>	<u><u>\$ 31,558,040</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 October 2023

	<b>Actual vs. Budget</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>REVENUES:</b>			
Administrative Fees	\$ 9,375	\$ 150,000	\$ (140,625)
Management Fees - Affiliates and Others	36,383	50,392	(14,008)
Interest Income - Cash & Investments	36,886	500	36,386
Interest Income - Leases	2,619	-	2,619
Rental Income	18,889	21,467	(2,578)
Other Income	-	250	(250)
<b>Total Revenues</b>	<b>104,152</b>	<b>222,608</b>	<b>(118,456)</b>
<b>EXPENSES:</b>			
Salaries & Benefits	\$ 170,849	\$ 169,800	\$ 1,049
General Office Expenses	22,333	23,267	(933)
Building Operating Costs	16,534	21,170	(4,636)
Professional Services	4,632	5,833	(1,201)
Public Hearings & Marketing	19,562	5,417	14,146
Travel, Mileage & Meeting Expenses	1,855	3,083	(1,228)
Other Expenses	816	729	87
<b>Total Expenses</b>	<b>236,582</b>	<b>229,299</b>	<b>7,283</b>
<b>SPECIAL PROJECT GRANTS:</b>			
Revenues	\$ -	\$ 48,209	\$ (48,209)
Expenses	(18,602)	(42,526)	23,924
	<u>(18,602)</u>	<u>5,683</u>	<u>(24,285)</u>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>			
	<u>(151,031)</u>	<u>(1,008)</u>	<u>(150,024)</u>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>			
Bethlehem Steel Industrial Park Grant	-	-	-
Angola Ag Park Grant	-	(8,333)	8,333
Other Strategic Initiatives	-	-	-
	<u>-</u>	<u>(8,333)</u>	<u>8,333</u>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>			
	<u><b>(151,031)</b></u>	<u><b>(9,341)</b></u>	<u><b>(141,690)</b></u>
Depreciation and amortization	(10,000)	(10,000)	-
<b>NET INCOME/(LOSS):</b>	<u><b>\$ (161,031)</b></u>	<u><b>\$ (19,341)</b></u>	<u><b>\$ (141,690)</b></u>

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

**Income Statement**

Year to Date: October 31, 2023

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
<b>REVENUES:</b>						
Administrative Fees	\$ 1,337,268	\$ 1,500,000	\$ (162,732)	\$ 1,337,268	\$ 1,129,661	\$ 207,606
Affiliate Management Fees	391,308	503,917	(112,608)	391,308	446,775	(55,467)
Interest Income - Cash & Investments	298,711	5,000	293,711	298,711	19,736	278,975
Interest Income - Leases	26,957	-	26,957	26,957	-	26,957
Rental Income	290,521	322,167	(31,645)	290,521	308,745	(18,223)
Other Income	32,376	27,250	5,126	32,376	24,510	7,866
<b>Total Revenues</b>	<b>2,377,142</b>	<b>2,358,333</b>	<b>18,809</b>	<b>2,377,142</b>	<b>1,929,427</b>	<b>447,716</b>
<b>EXPENSES:</b>						
Salaries & Benefits	1,704,950	1,697,997	6,954	1,704,950	1,667,276	37,675
General Office Expenses	246,702	232,667	14,036	246,702	234,617	12,086
Building Operating Costs	53,853	211,704	(157,851)	53,853	184,345	(130,492)
Professional Services	77,914	87,333	(9,419)	77,914	149,113	(71,198)
Public Hearings & Marketing	73,962	54,167	19,796	73,962	51,578	22,384
Travel, Mileage & Meeting Expenses	18,066	30,833	(12,767)	18,066	12,018	6,048
Other Expenses	193,361	7,292	186,069	193,361	8,239	185,122
<b>Total Expenses</b>	<b>2,368,809</b>	<b>2,321,993</b>	<b>46,816</b>	<b>2,368,809</b>	<b>2,307,186</b>	<b>61,623</b>
<b>SPECIAL PROJECT GRANTS:</b>						
Revenues	424,740	482,090	(57,351)	424,740	775,781	(351,041)
Expenses	(365,896)	(425,257)	59,361	(365,896)	(577,738)	211,842
	<b>58,844</b>	<b>56,833</b>	<b>2,010</b>	<b>58,844</b>	<b>198,042</b>	<b>(139,199)</b>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>						
	<b>\$ 67,177</b>	<b>\$ 93,174</b>	<b>\$ (25,997)</b>	<b>\$ 67,177</b>	<b>\$ (179,717)</b>	<b>\$ 246,894</b>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>						
Zero Net Energy costs (Z7+)	\$ -	\$ (521,597)	\$ 521,597	\$ -	\$ -	\$ -
Bethlehem Steel Industrial Park Grant	(164,061)	-	(164,061)	(164,061)	(8,055)	(156,007)
Angola Ag Park Grant	(46,270)	(100,000)	53,730	(46,270)	(49,183)	2,913
Bethlehem Steel Industrial Park Grant Reimb	-	150,000	(150,000)	-	103,625	(103,625)
Buffalo Urban Development Corporation	-	(100,000)	100,000	-	(100,000)	100,000
Other Strategic Initiatives	(103,975)	(125,000)	21,025	(103,975)	(75,000)	(28,975)
	<b>(314,306)</b>	<b>(696,597)</b>	<b>382,291</b>	<b>(314,306)</b>	<b>(128,613)</b>	<b>(185,694)</b>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>						
	<b>(247,129)</b>	<b>(603,423)</b>	<b>356,294</b>	<b>(247,129)</b>	<b>(308,330)</b>	<b>61,200</b>
Depreciation and amortization	(210,611)	(100,000)	(110,611)	(210,611)	(100,000)	(110,611)
<b>NET INCOME/(LOSS):</b>	<b>\$ (457,740)</b>	<b>\$ (703,423)</b>	<b>\$ 245,683</b>	<b>\$ (457,740)</b>	<b>\$ (408,330)</b>	<b>\$ (49,411)</b>

### Tax Incentives Approved - 2023

Approval Date	Project Name	Project City/Town	Private Investment/ Project Amount	Minimum Investment Commitment	FT Jobs Retained	PT Jobs Retained	FT Jobs to be Created	PT Jobs to be Created	Job Creation	Const Jobs	Spillover Jobs	Length of Term	Incentive Amount	Cost Benefit Ratio
Feb-23	356 Hertel Ave, LLC <sup>1</sup>	Buffalo	\$32,067,800	85% threshold \$27,257,630	0	0	42	0	85% - New 35 Jobs	212	150	project completion date + 2 yrs	\$612,500	1:47
Feb-23	Commitment 2000	Buffalo	\$8,623,800	85% threshold \$7,330,230	74	2	10	2	85% - New 35 Jobs	38	38	Period of PILOT 7 Years	\$420,215	1:89
Mar-23	Moog, Inc.	Elma	\$76,750,800	85% threshold \$65,237,500	180	0	0	0	0	335	320	Period of PILOT 10 Years	\$2,900,920	1:97
Apr-23	Wood and Brooks Properties, LLC <sup>1</sup>	Tonawanda	\$23,127,638	85% threshold \$19,658,492	0	0	1	2	85% - New 1 Job	161	92	project completion date + 2 yrs	\$1,164,447	1:14
May-23	TM Montante/50 Gates Circle <sup>1</sup>	Buffalo	\$3,465,838	85% threshold \$2,945,962	4	0	0	0	0	14	14	project completion date + 2 yrs	\$108,500	1:29
Jun-23	Rosina Food Products, Inc.	West Seneca	\$16,000,000	85% threshold \$13,600,000	274	2	15	0	85% - New 15 Jobs	70	536	Period of PILOT 10 Years	\$919,525	1:446
Jun-23	Stark Real Estate Holdings	Tonawanda	\$16,250,000	85% threshold \$2,945,962	50	0	120	10	85% - New 106 Jobs	43	257	project completion date + 2 yrs	\$454,375	1:854
Jul-23	BPS Commissary Kitchen	Buffalo	\$33,067,799	85% threshold \$28,107,629	16	35	0	15	85% - New 12 Jobs	151	137	Period of PILOT 10 Years	\$3,212,686	1:15
Jul-23	Trautman Associates/130 Pearl, LLC <sup>1</sup>	Buffalo	\$5,477,047	85% threshold \$4,655,489	0	0	0	2	0	36	19	project completion date + 2 yrs	\$153,750	1:21
Sep-23	IMA Life North America	Tonawanda	\$27,566,179	85% threshold \$23,422,752	120	0	30	0	85% - New 25 Jobs	110	356	Period of PILOT 10 Years	\$3,208,568	1:87
Oct-23	Westchester Park Preservation	Tonawanda	\$35,600,000	85% threshold \$30,260,000	0	4	1	0	0	162	79	project completion date + 2 yrs	\$694,500	1:21

**Totals:** Private Investment/  
Project Amount: \$64,138,323; FT Jobs Retained: 4; PT Jobs Retained: 0; FT Jobs Created: 43; PT Jobs Created: 4; Const Jobs: 423; Spillover Jobs: 275; Incentive Amount: #REF!

Adaptive Reuse Subtotal	4	\$64,138,323	4	0	43	4	4	4	423	275	#REF!
2023 Total	11	\$277,996,901	718	43	219	31	1332	1998	\$13,849,986		

<sup>1</sup> Adaptive Reuse

## Tax Incentives Closed - 2023

Closing Date	Project Name	Project City/Town	Project Amount at Closing	FT Jobs Retained	PT Jobs Retained	FT Jobs to be Created	PT Jobs to be Created	Inducement Date	Est. Project Completion Date
2/17/2023	Warehouse #2 @132 Dingens	Buffalo	\$8,951,635	0	0	18	0	12/21/2022	4/30/2023
3/1/2023	Great Point Studios Buffalo	Buffalo	\$15,318,753	0	0	17	0	8/26/2020	12/31/2023
3/28/2023	BLD VII, LLC/Reniassance 8, LLC	Lackawanna	\$14,570,786	0	0	41	0	4/28/2021	10/31/2023
4/12/2023	Perry's Ice Cream Alden NY Shop/Highway Rehab	Akron	\$18,000,000	363	0	14	0	7/27/2022	12/31/2023
6/2/2023	Corporation	Alden	\$5,225,000	67	0	15	0	12/21/2022	12/31/2023
6/16/2023	950 Broadway	Buffalo	\$11,653,862	0	0	34	4	9/28/2022	9/16/2023
8/31/2023	10 Dona Street/Renaissance 6, LLC	Lackawanna	\$15,906,429	0	0	41	0	11/30/2022	1/31/2025

**Totals:**      **Total # of Projects Closed**      **Project Amount at closing**      **FT Jobs Retained**      **PT Jobs Retained**      **FT Jobs Created**      **PT Jobs Created**

	7	\$89,626,465	430	-	180	4
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**MEMO:**

**Date:** November 29, 2023

**To:** Erie County Industrial Development Agency Board of Directors

**From:** ECIDA Staff

**RE:** Engineering Services for the Buffalo Southern Railroad Improvement Project

**Summary:**

In 2021, the Erie County Industrial Development Agency (ECIDA) applied for and was awarded a grant through the New York State Department of Transportation’s (NYSDOT) 2021 Passenger and Freight Rail Assistance Program (PFRAP), in the amount of **\$1,703,553.00**, for a total project cost of \$2,133,553, to restore a State of Good Repair to five bridges and 7-miles of track on the Buffalo Southern Railroad (BSOR) by replacing failing timber decks, missing stone ballast, and restore 7-miles of rail corridor to a Class One status.

To complete the project, the ECIDA issued a Request for Proposals (RFP) on August 23, 2023, seeking qualified Architectural and Engineering (“A/E”) firms to provide design, engineering, construction, and administration services to complete the improvements outlined in the scope referenced below. In response to the RFP, ECIDA received one (1) proposal from a highly qualified A/E firm. The proposal was thoroughly evaluated on October 18, 2023, by the six-member Consultant Selection Committee made up of ECIDA and Erie County staff as well as a representative from Buffalo Southern Railroad. As a result of the selection process, the ECIDA recommends awarding C&S Companies the design phase of the project in the amount of \$181,740. Once the design is complete, the ECIDA will issue bids for the construction phase of the project.

<b><u>Project Scope/Description</u></b>	<b><u>Est'd Cost</u></b>
Structural Rehabilitation	
Rehabilitate structures: Work shall include but is not limited to: Providing material, labor, equipment, and contracted services necessary for concrete rehabilitation, superstructure and deck rehabilitation, bearing and abutment rehabilitation or replacement, walkway replacement, approach timber replacement, additional or replacement of ballast and tie and timber replacement at including but not limited to the following locations: +/-MP's 13.94, 15.85, 22.25, 23.97, 32.90.	\$ 1,269,550 .00
Tie replacement: Work shall include but is not limited to: Providing material, labor, equipment, and contracted services necessary to furnish and install approximately 4,000 new ties, rehabilitate, or replace, approximately 2,000 joint bars or plates, between +/-MP25.0 to +/-MP 32.9	\$ 493,693.00
Furnish and Install Ballast: Work shall include but is not limited to: Providing material, labor, equipment, and contracted services necessary to furnish and install approximately 600 tons of ballast to support tie installation.	\$ 60,307.00
Engineering, Construction Inspection Services and Administration	\$ 310,003.00
<b>TOTAL PROJECT COST</b>	<b>\$ 2,133,553.00</b>
<b>TOTAL STATE SHARE OF ABOVE PROJECT</b>	<b>\$ 1,703,553.00</b>
<b>TOTAL LOCAL MATCH FOR ABOVE PROJECT</b>	<b>\$ 430,000.00</b>



**Requested Action:**

Seeking authorization to contract with C&S Companies, for an amount not to exceed \$181,740, for site planning, design, construction administration and inspection necessary to complete the Buffalo Southern Railroad (BSOR) Improvement Project and the approval to take all actions necessary to complete the project.

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
RESOLUTION**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, November 29, 2023 at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”) AUTHORIZING THE AGENCY TO ENTER INTO AN AGREEMENT WITH C&S COMPANIES (“C&S”) IN THE AMOUNT OF \$181,740 FOR DESIGN, ENGINEERING AND CONSTRUCTION ADMINISTRATION SERVICES IN RELATION TO THE AGENCY’S CONTEMPLATED RESTORATION OF CERTAIN RAILWAY FACILITIES

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 Agency was created as a public benefit corporation of the State 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 to prevent unemployment and economic deterioration; and

WHEREAS, the Agency currently holds a leasehold interest in certain railroad properties owned by the County of Erie (“County”), more commonly known as USRA 1424 and USRA 1246 (the “Railway Facilities”), which are part of the Buffalo Southern Railroad (“BSOR”); and

WHEREAS, in 2021, the Agency applied for and was awarded a grant through the New York State Department of Transportation’s (“NYSDOT”) 2021 Passenger and Freight Rail Assistance Program (“PFRAP”) in the amount of \$1,703,553 to restore five (5) bridges and seven (7) miles of track on the BSOR to a State of Good Repair by replacing failing timber decks, missing stone ballast, and restoring seven (7) miles of rail corridor to a Class One status (the “Railway Restoration”); and

WHEREAS, relative to same, the Agency requires design, engineering, and construction administration services to assist with the Railway Restoration (the “Railway Restoration Services”), and ancillary thereto, the Agency issued a Request for Proposals (“RFP”) on August 23, 2023, seeking a qualified architectural and engineering firm (“A/E Firm”) to provide the Railway Restoration Services; and

WHEREAS, in response to the RFP, the Agency received one (1) quality response from C&S, which was evaluated on October 18, 2023 by the Agency’s Consultant Selection Committee (the “Committee”), comprised of Agency and Erie County staff, as well as project stakeholders, including a representative of BSOR; and

WHEREAS, following a review of the proposal, the Committee has recommended C&S for the Railway Restoration Services, and the Agency desires to retain C&S for the Railway Restoration Services; and

WHEREAS, in compliance with Article 8 of the New York Environmental Conservation Law and the regulations adopted thereto at 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"), the Agency has determined that the Railway Restoration Services will not have a significant impact on the environment and are otherwise precluded from environmental review under SEQRA because the Railway Restoration Services involve the conducting of environmental, engineering, and feasibility or other studies preliminary to the formulation of a proposal for action and do not commit the agency to commence in such action related thereto pursuant to 6 N.Y.C.R.R. Part 617.5(c)(27).

**NOW THEREFORE BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:**

Section 1. Subject to the terms of this Resolution, the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, in consultation with Agency counsel, are hereby authorized, on behalf of the Agency, to negotiate and to enter into an agreement with C&S to provide the Railway Restoration Services in an amount not to exceed \$181,740, along with any appropriate change orders or scope additions as approved by the President/Chief Executive Officer, in consultation with the Agency Chair, to complete the Railway Restoration Services and to take all actions necessary to implement the Railway Restoration Services.

Section 2. 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 checks, 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 so acting, desirable and proper to effect the purposes of the foregoing resolution 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 3. Any and all actions heretofore taken or authorized by the Agency and/or its officers, employees and agents with respect to this resolution are hereby ratified, approved and confirmed in all aspects.

Section 4. These resolutions shall take effect immediately.

Dated: November 29, 2023



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

- DATE AND PLACE:** November 2, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4<sup>th</sup> Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott, Hon. Hon. A.J. Baines, April Baskin, Zachary Evans, Richard Lipsitz, Dr. Susan McCartney, Brenda W. McDuffie, Hon. Glenn Nellis, Laura Smith and Lavon Stephens
- EXCUSED:** Rev. Mark Blue, Hon. Byron W. Brown, David J. State, Hon. John Tobia and Paul Vukelic
- OTHERS PRESENT:** John Cappellino, President & CEO; Soma Hawramee, Compliance Portfolio Manager, Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Andrew Federick, Property & Business Development Officer, and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Trevor Griffis on behalf of the City of Buffalo; Pierre Lorieau, Jim Kourtis, Don Heins and Jeffrey McGiveron on behalf of Lactalis; Kevin Dagher on behalf of 1175 Delaware Place

There being a quorum present at 9:00 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the September 14, 2023, Policy Committee meeting were presented. Upon motion made by Mr. Blue to approve of the minutes, and seconded by Ms. McDuffie, the Policy Committee meeting minutes were unanimously approved.

**PROJECT MATRIX**

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

**PROJECT PRESENTATION**

1175 Delaware Capital LLC, 1175 Delaware Avenue, Buffalo, New York 14209. Mr. Cappellino presented this proposed sales and use tax, mortgage recording tax and real property tax abatement benefits project involving the rehab of a 58,000 sq. ft. facility into 83 apartment units and 1 commercial space incorporating New York's green initiative including energy efficient water usage, HVAC, appliances and sustainable building materials. Mr. Cappellino

confirmed that 1175 Delaware Capital LLC is seeking approximately \$1,117,868 in assistance including sales and use tax exemption, mortgage tax exemption and real property tax abatement benefits. The cost benefit is 1:10 so for every \$1 of incentives the community benefit is \$10 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$13 in community benefits. Mr. Cappellino confirmed the project doesn't qualify for the City's 485-a real property tax abatement and is seeking an ECIDA PILOT.

At this point in time, Ms. Baskin and Ms. Smith joined the meeting.

Mr. Cappellino noted the company is applying for and will be the first applicant opting to undertake MWBE contracting and related hiring and "best practice" initiatives for purposes of obtaining the real property tax abatements under the Agency's Economic Inclusion PILOT Program.

Ms. McDuffie queried if the company would be able to apply its 80% AMI criteria to set aside some of the one bedroom units in addition to the studio units. Mr. Dagher stated he would be willing to include some of the one-bedroom units at the 80% AMI level.

Ms. Baskin spoke in favor of the project and about the company's commitment to diversity and inclusion practices. Mr. Baines spoke in favor of the project.

Mr. Cappellino stated that in exchange for providing the sales and use tax, mortgage recording tax exemption 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 = \$16,759,000 85% = \$14,237,500
Employment	Coincides with recapture period	Maintain Base = 0 FTE Projected = 2 PTE Create 85% of Projected = 0 Recapture Employment = N/A
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with recapture period	Adherence to policy
Unpaid Tax	Coincides with recapture period	Adherence to policy
Recapture Period	Coincides with recapture period	Recapture of state and local sales taxes, mortgage recording tax and real property tax

Ms. Smith moved and Ms. Baskin seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz commented that this is the first project to make application for the Agency’s Economic Inclusion PILOT program, and also noted the Erie County IDA is the first in the state to offer such a program. Mr. Lipsitz called for the vote and the project was then unanimously recommended to be forwarded to the Board for approval.

Lactalis American Group, Inc., 2375 South Park Avenue, Buffalo, New York 14220. Mr. Cappellino presented this proposed sales tax benefits project involving infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, a new building addition for the whey evaporator and dryer equipment and regulatory plant-wide infrastructure upgrades.

Mr. Cappellino confirmed that Lactalis American Group, Inc. is seeking \$1,203,247 in incentives including sales tax exemption benefits. Total payroll is projected at \$22,277,956 for the direct and indirect jobs created including 195 construction jobs. The resulting cost benefit is 318:1 so for every \$1 of incentives the community benefit is \$318 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$557 in community benefits.

Mr. Cappellino stated that in exchange for providing the sales and use tax 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 = \$44,526,000 85% = \$37,847,100
Employment	2 years after project completion	Maintain Base = 375 FTE Create 85% of Projected Projected = 27 FTE 85% = 22 FTE Recapture Employment = 397 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	2 years after project completion	Adherence to policy
Unpaid Tax	2 years after project completion	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes

Ms. McDuffie spoke in favor of the project. Ms. Smith spoke in favor of the project and noted how important this project is for the dairy and agricultural sector.

Ms. McCarthy moved and Mr. Baynes 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 recommended to the Board for approved.

## **2024 MEETING SCHEDULE**

Mr. Cappellino reviewed the 2024 meeting schedule.

## **SODEXO/UNILAND UPDATE**

Mr. Cappellino briefly discussed, as reported in the Buffalo News, contemplated job losses at the Sodexo facility and confirmed the Agency is working with Uniland to obtain information to confirm job retention commitments as a material term related to the provision of the PILOT benefits. Mr. Cappellino noted Agency staff has reached out to Uniland to discuss the losses of employment, and will continue to review and report findings to the Policy Committee.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:50 a.m.

Dated: November 2, 2023

\_\_\_\_\_  
Elizabeth A. O'Keefe, Secretary

**1175 Delaware / Delaware Place / 1175 Delaware Capital, LLC**

**\$ 16,750,000**

**PRIVATE INVESTMENT INDUCEMENT RESOLUTION**

<b>ELIGIBILITY</b>
<ul style="list-style-type: none"> <li>• NAICS Section – 531390</li> </ul>
<b>COMPANY INCENTIVES</b>
<ul style="list-style-type: none"> <li>• Estimated Property Tax Savings of \$ 478,884</li> <li>• Up to \$ 547,286 in sales tax savings</li> <li>• 3/4 of 1% of the final mortgage amount up to \$ 91,698</li> </ul>
<b>JOBS &amp; ANNUAL PAYROLL</b>
<ul style="list-style-type: none"> <li>• Current / Retained Jobs: 0</li> <li>• Est. salary/yr. of jobs retained: \$0</li> <li>• Current Annual Payroll: \$ 0</li> <li>• Projected new jobs: 2 PT</li> <li>• Est. salary/yr. of jobs created: \$27,500</li> <li>• Total jobs after project completion: 2 PT</li> <li>• Construction Jobs: 124</li> </ul>
<b>PROJECTED COMMUNITY BENEFITS*</b>
<ul style="list-style-type: none"> <li>• Term: 7 yrs. from project completion</li> <li>• NET Community Benefits: \$10,440,516</li> <li>• Spillover Jobs: 58</li> <li>• Total Payroll: \$9,704,899</li> </ul>
<b>INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*</b>
<p>Incentives: \$1,083,934</p> <p>Community Benefit: 10,395,356</p> <p>Cost: Benefit Ratio</p> <ul style="list-style-type: none"> <li>• 1:10</li> </ul>

Project Title: Delaware Place

Project Address: 1175 Delaware Ave, Buffalo, NY 14209  
(Buffalo School District)

**Agency Request**

A property, sales and mortgage recording tax abatement in connection with the adaptive reuse of a 58,000 sq ft commercial building located in the Delaware / West Ferry neighborhood.

Building Acquisition	\$ 2,350,000
Building Renovation	\$ 9,700,000
Non- Manufacturing Equipment	\$ 434,700
Soft Costs/Other	<u>\$ 4,265,300</u>
<b>Total Project Cost</b>	<b>\$ 16,750,000</b>
 85%	 \$ 14,237,500

**Company Description**

The applicant, 1175 Delaware Capital, LLC is a limited liability company whose sole member is Dr Fadi Dagher. Dr Dagher and his son, Kevin are the founders of Cedarland Development Group, a rapidly growing new generation of real estate development companies in Buffalo, NY. For the past decade, Cedarland has focused on developing blighted properties on the City's East and lower West sides focusing on urban renewal and sustainable development efforts. Completed projects include: Creekview Apartments (19 unit E. Amherst apartment building) and The Grid (217 unit residential project in the City of Buffalo).

**Project Description**

Delaware Place is located at 1175 Delaware in the City of Buffalo. Most recently, the property was a nursing home operated by Emerald South. The building is 58,000 sq ft and will incorporate 83 apartment units and 1 commercial space. The project is a gut rehab that focuses on NY's green initiative incorporating energy efficient water usage, HVAC, appliances and sustainable building materials. A heavy focus will be on tenant quality of life with improved indoor air quality, green roof, bike storage and EV charging available. The 22 studio and 1 one-bedroom unit (28% of the total units) will be rented at rates that are within the HUD 80% Area Median Income (AMI) level. 30% of the units will be furnished to accommodate a growing demand by tenants who seek furnished units while they focus on their careers. The property is close to City highlights including Delaware Park, the Central Business District and the Buffalo Niagara Medical Campus.

# of Units	Sq Ft	Rent Range
22 studio	345 - 400	\$910 - \$1,200
57 one-bedroom	525 - 560	\$1,300 - \$1,775
4 two-bedroom	715 - 800	\$1,965 - \$2,000

\* Cost Benefit Analysis Tool powered by MRB Group

## Economic Impact: Inform Analytics Cost-Benefit Analysis

The Erie County Industrial Development Agency uses the Cost Benefit Analysis Tool powered by MRB Group to assess the economic impact of a project applying for incentives. A Cost-Benefit Analysis is required by Section 859-a (5)(b) of General Municipal Law. For the complete Cost Benefit Analysis – please see the attached MRB Cost Benefit Calculator.

### Cost: Incentives

COSTS	Tax Exemption	Amount
	Property	\$ 478,884
	Sales	\$ 547,286
	Mortgage Recording	\$ 91,698
	Total	\$1,117,868
	Discounted at 2%	\$1,083,934

### Benefit: Projected Community Benefit\*

BENEFITS	Region	Recipient	Revenue Type	\$ Amount**
	Erie County	Individuals	Payroll Construction	\$ 9,337,714
			Payroll Permanent	\$ 367,185
		Public	Property Taxes	\$ 119,724
			Sales Taxes	\$ 80,672
			Other - NFTA	\$ 30,566
	New York State	Public	Income Taxes	\$ 436,720
			Sales Taxes	\$ 67,934
			Total Benefits to EC + NYS***	\$10,440,516
			Discounted at 2%	\$10,395,356

\* Cost Benefit Analysis Tool powered by MRB Group \*includes direct & indirect \$ over project period \*\*\* may not sum to total due to rounding

Discounted Cost           \$ 1,083,934  
 Discounted Benefit       \$10,395,356  
 Ratio                         1:10

**Conclusion:** The Cost Benefit for this project is: 1:10 For every \$1 in costs (incentives), this project provides \$10 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$13 in benefits to the community.**

### New Tax Revenue Estimated

PILOT Type	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
7 Year Standard PILOT (note 8 <sup>th</sup> Year at Full Taxes)	\$29,900	\$4,825,000	\$19,237	\$69,306	\$ 115,415
			<u>+\$13,741</u>	<u>+ \$49,505</u>	
			\$32,977	\$118,811	
Economic Inclusion Program PILOT: abatement period = 8 years			\$19,237	\$69,306	
Combined Tax Rate: \$ 23.92					

**Retail Determination**

Project Use	Sq Ft	Cost	% Project Cost
Housing	57,700	\$16,665,000	99.5%
Retail / Commercial	300	\$ 85,000	0.5%
	58,000	\$16,750,000	100.0%

The retail component of the project is less than 30% of the project costs and therefore no sign off is required.

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount $\geq$ 85% of project amount. Total project amount = \$ 16,750,000 85% = \$ 14,237,500
Employment	Coincides with recapture period	Maintain Base = 0 Projected = 2 PT Create 85% of Projected = 0 Recapture Employment = n/a
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with recapture period	Adherence to Policy
Unpaid Tax	Coincides with recapture period	Adherence to Policy
<u>Recapture Period</u>	Coincides with 7-year PILOT	Recapture of Property Taxes, State & Local Sales Taxes and Mortgage Recording Tax

Recapture applies to: Property Taxes, State & Local Sales Taxes and 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 jobs (FTE) and created jobs (FTE), iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

**Project ECIDA History**

- 11/15/23: Public hearing to be held.
- Minor Site Plan Review City of Buffalo Planning Board Approval – No SEQRA compliance required.
- 11/29/23: Lease/Leaseback Inducement Resolution presented to the Board of Directors

**Company History**

- 9/28/2022: 950 Broadway, LLC: A sales tax and mortgage recording tax abatement (up to \$ 592,040) in connection with the adaptive reuse of a 40,570 sq ft commercial building located in the City of Buffalo's East Side.

**ADAPTIVE REUSE REPORT &  
EVALUATIVE CRITERIA  
1175 Delaware Capital LLC / Delaware Place**

Age of Structure (must be at least 20 years old and present functional challenges to redevelopment)	Structure is 50 years old. Functional challenges to redevelopment include:
Structure has been vacant or underutilized for a minimum of 3 years (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). Project promotes the elimination of slum and blight.	Property has been vacant for 4 years and is “an eyesore due to the dated façade in an otherwise nice (upscale) neighborhood.” Without this rehab, the building will fall into further disrepair and be even more challenging to rehab.
Structure is not generating significant rental income (defined as 50% or less than the market rate income average for that property class)	The structure is not generating rental income currently.
Project is in compliance with the investment and growth criteria of the Framework for Regional Growth. The redevelopment supports or aligns with Regional or Local Development Plans	This project aligns with the Framework for Regional Growth as it brings development to a vacant / underutilized site, is supported by public transportation and encourages walkable neighborhoods and mixed income housing.
Demonstrated evidence of financial obstacle to development without ECIDA or other public assistance (cash flow projections documenting costs, expenses and revenues indicating below average return on investment rate as compared to regional industry averages)	Financial obstacles to development include current market conditions (rising interest rates) severely affecting the feasibility of the project. The projected ROI is 3.7% with ECIDA assistance, 3.4% without. Both are below ROI comparisons per benchmark ROI for urban high- risk projects nationally.
Demonstrated support of local government entities	Letter of support from City of Buffalo Mayor
LEED/Renewable Resources	The rehab of this facility will focus on NY's Green Initiative focusing on incorporating energy efficient water usage, HVAC, appliances and sustainable building materials. Other features include improved indoor air quality, green roof, bike storage and EV charging stations.



## ADAPTIVE REUSE REPORT & EVALUATIVE CRITERIA

Building or site has historic designation	N/A
Site or structure has delinquent property or other local taxes	N/A
DEI Questionnaire	Has met required MWBE utilization for other projects such as 950 Broadway – as is required for ESD and other funding. Applicant will strive to continue similar level of utilization. Applicant is a participant in Erie County's Level Up Program – see further details per attached DEI Questionnaire.
Transit Oriented Development	Site is within 500 ft of bus lines #11 and #25. It is 3 blocks from bus line #8
<b>OTHER FACTORS TO CONSIDER:</b>	
Environmental/Safety Issues: Structure or site presents significant public safety hazard and or environmental remediation costs	N/A
Site or structure is located in a distressed census tract	Located within census tract 169 – adjacent to distressed census tracts.
Structure presents significant costs associated w/ building code compliance.	N/A

DATE OF INDUCEMENT: 11/29/23

# **ADAPTIVE REUSE REPORT & EVALUATIVE CRITERIA**

## **Return on Investment – 1175 Delaware Capital LLC**

Regional Return on Investment (ROI) numbers vary depending on the interest rate environment, investor availability and risk associated with a project.

The National Development Council, which has experience financing projects in higher risk urban areas across the Northeast, uses 10% - 12% as a benchmark rate of return for urban high-risk projects.

Empire State Development financing officials when reviewing similar projects in the City of Buffalo have used 12% as an acceptable ROI for development projects.

## **Adaptive Reuse Projects**

Many Adaptive Reuse Projects are hampered by upfront development costs that are not typical in new build green field development projects. These upfront costs can hinder the ability of the projects to attract financing and provide cash flow. The upfront costs associated with site contamination, asbestos removal, code compliance, structural deficiencies can make Adaptive Reuse projects difficult to undertake and attract private investment and financing, particularly in real estate markets where rental values are relatively low. Historically real estate projects in the region are difficult to undertake, local real estate developers have indicated that the typical ROI investors and developers seek to achieve in mixed use development projects are in the 10% - 12% range, although they can run higher for projects with significant risk.

## **Public Incentives Requested**

- ECIDA Real Property Tax Abatement in an approximate value of \$ 478,884
- Sales Tax Savings in the amount of \$ 547,286
- Mortgage Tax Savings in the estimated amount of \$ 91,698

## **ROI**

1175 Delaware Capital LLC has submitted a proforma documenting the expenses and revenues and ROI for the project.

Stated ROI for the project with ECIDA assistance is 3.7%

Stated ROI for the project without ECIDA assistance is 3.4%

**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-1175 Delaware – Cedarland Development (Standard 7 Yr PILOT)**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (City incl School Tax Rate/1000)
\$9,700,000	\$ 4,825,000	5.196888	18.723386

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Town PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	0.05	\$7,425	\$26,751	\$0	\$34,176	\$115,415	\$81,239
2	0.1	\$8,354	\$30,098	\$0	\$38,452	\$115,415	\$76,963
3	0.15	\$9,283	\$33,445	\$0	\$42,728	\$115,415	\$72,688
4	0.2	\$10,212	\$36,791	\$0	\$47,003	\$115,415	\$68,412
5	0.25	\$11,141	\$40,138	\$0	\$51,279	\$115,415	\$64,136
6	0.3	\$12,070	\$43,485	\$0	\$55,555	\$115,415	\$59,860
7	0.35	\$12,999	\$46,832	\$0	\$59,831	\$115,415	\$55,585
<b>TOTAL</b>		<b>\$71,483</b>	<b>\$257,540</b>	<b>\$0</b>	<b>\$329,023</b>	<b>\$807,907</b>	<b>\$478,884</b>

**\*\*\* 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.)
\$ 14,237,500	\$478,884	\$547,286	\$91,698	\$0

**Note: special district taxes are not subject to PILOT abatement**

**Calculate % = Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: 7.9%**

**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-1175 Delaware – Cedarland Development EIP 7 YR Enhanced**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (City incl School Tax Rate/1000)
\$9,700,000	\$ 4,825,000	5.196888	18.723386

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Town PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	0.05	\$7,425	\$26,751	\$0	\$34,176	\$115,415	\$81,239
2	0.05	\$7,425	\$26,751	\$0	\$34,176	\$115,415	\$81,239
3	0.1	\$8,354	\$30,098	\$0	\$38,452	\$115,415	\$76,963
4	0.1	\$8,354	\$30,098	\$0	\$38,452	\$115,415	\$76,963
5	0.2	\$10,212	\$36,791	\$0	\$47,003	\$115,415	\$68,412
6	0.25	\$11,141	\$40,138	\$0	\$51,279	\$115,415	\$64,136
7	0.3	\$12,070	\$43,485	\$0	\$55,555	\$115,415	\$59,860
8	0.35	\$12,999	\$46,832	\$0	\$59,831	\$115,415	\$55,585
<b>TOTAL</b>		<b>\$77,979</b>	<b>\$280,944</b>	<b>\$0</b>	<b>\$358,924</b>	<b>\$923,323</b>	<b>\$564,399</b>

**\*\*\* 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.)
\$ 14,237,500	\$478,884	\$547,286	\$91,698	\$0

**Note: special district taxes are not subject to PILOT abatement**

**Calculate % = Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: 7.9%**

# Erie County Industrial Development Agency

## MRB Cost Benefit Calculator



Date: September 22, 2023  
 Project Title: 1175 Delaware  
 Project Location: 1175 Delaware Ave, Buffalo, NY 14209

### Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

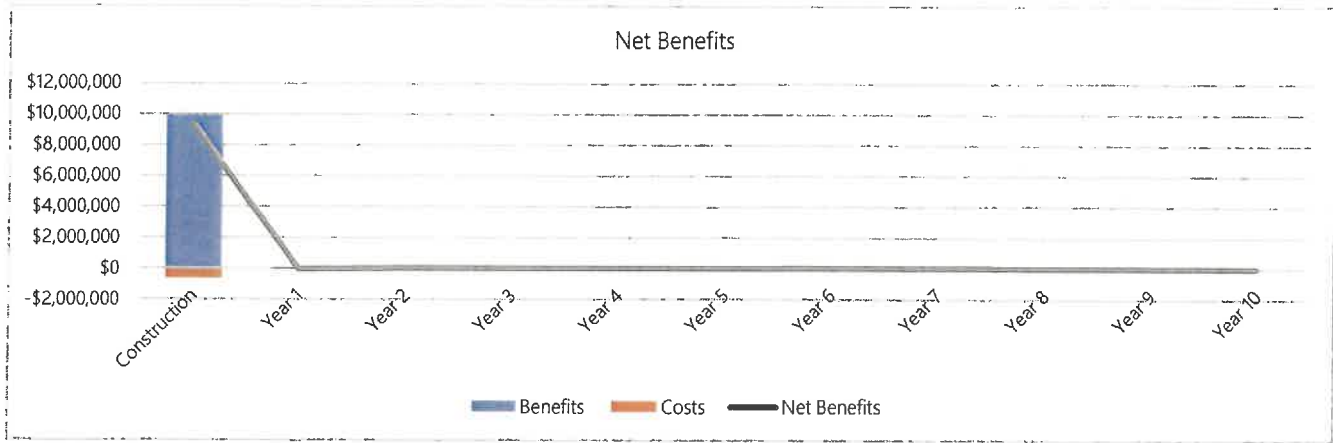
Project Total Investment  
 \$16,750,000

	Temporary (Construction)		
	Direct	Indirect	Total
Jobs	124	57	181
Earnings	\$6,045,589	\$3,292,126	\$9,337,714
Local Spend	\$14,405,000	\$10,192,573	\$24,597,573

	Ongoing (Operations)		
	Direct	Indirect	Total
Jobs	1	1	2
Earnings	\$170,611	\$196,574	\$367,185

Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

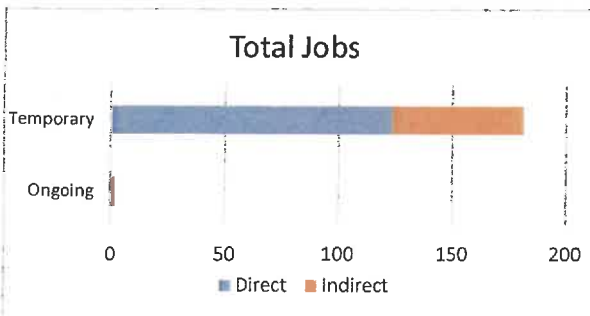
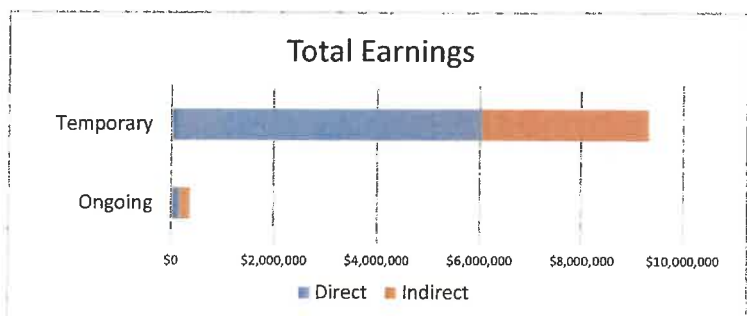


Figure 3



# Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

## Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$478,881	\$444,950
Sales Tax Exemption	\$547,286	\$547,286
Local Sales Tax Exemption	\$297,098	\$297,098
State Sales Tax Exemption	\$250,188	\$250,188
Mortgage Recording Tax Exemption	\$91,698	\$91,698
Local Mortgage Recording Tax Exemption	\$30,566	\$30,566
State Mortgage Recording Tax Exemption	\$61,132	\$61,132
<b>Total Costs</b>	<b>\$1,117,865</b>	<b>\$1,083,934</b>

## State and Local Benefits

	Nominal Value	Discounted Value*
<b>Local Benefits</b>	<b>\$9,935,861</b>	<b>\$9,892,336</b>
<b>To Private Individuals</b>	<b>\$9,704,899</b>	<b>\$9,673,457</b>
Temporary Payroll	\$9,337,714	\$9,337,714
Ongoing Payroll	\$367,185	\$335,742
Other Payments to Private Individuals	\$0	\$0
<b>To the Public</b>	<b>\$230,962</b>	<b>\$218,879</b>
Increase in Property Tax Revenue	\$119,724	\$108,502
Temporary Jobs - Sales Tax Revenue	\$77,620	\$77,620
Ongoing Jobs - Sales Tax Revenue	\$3,052	\$2,791
Other Local Municipal Revenue	\$30,566	\$29,967
<b>State Benefits</b>	<b>\$504,655</b>	<b>\$503,020</b>
<b>To the Public</b>	<b>\$504,655</b>	<b>\$503,020</b>
Temporary Income Tax Revenue	\$420,197	\$420,197
Ongoing Income Tax Revenue	\$16,523	\$15,108
Temporary Jobs - Sales Tax Revenue	\$65,364	\$65,364
Ongoing Jobs - Sales Tax Revenue	\$2,570	\$2,350
<b>Total Benefits to State &amp; Region</b>	<b>\$10,440,516</b>	<b>\$10,395,356</b>

## Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$9,892,336	\$772,614	13:1
State	\$503,020	\$311,320	2:1
<b>Grand Total</b>	<b>\$10,395,356</b>	<b>\$1,083,934</b>	<b>10:1</b>

\*Discounted at 2%

## Additional Comments from IDA

Does the IDA believe that the project can be accomplished in a timely fashion? Yes



# Diversity, Equity and Inclusion Questionnaire

## 1. MWBE Contractors - Construction

The ECIDA encourages applicants to utilize MWBE contractors and suppliers for their projects and when feasible, to set a goal for MWBE participation during the construction period of the project. Below are links to the NYS and Erie County certified MWBE lists, including contractors, that can assist you with your utilization goals:

- New York State MWBE Certified List: <https://ny.newnycontracts.com/>
- Erie County MWBE Certified List: <https://www3.erie.gov/eo/mbe-wbe-resource-list>

Please provide detailed information regarding your company's plan to utilize MWBE contractors and suppliers for your project. Please include your project's MWBE utilization goals, what process and resources you plan to use or have utilized in the past to find and hire MWBEs, a list of the specific MWBE firms used on previous projects and/or firms you plan to use on the current project, and any history the company has of setting and meeting MWBE goals on past projects. The company may also include details with respect to the foregoing related to any MWBE policy and utilization goals that its general contractor has committed to implementing for the project.

1175 Delaware Capital LLC and its affiliate, Cedarland Development LLC is an equal opportunity employer. We value the inclusion of MWBE contractors on our projects and are planning to utilize both contractors and suppliers for 1175 Delaware Ave. Our project at 950 Broadway has DRI, ESD, and HCR funding which is requiring a level of MWBE utilization. We have started construction at 950 Broadway and have satisfactorily hit the level of DEI utilization. We continue to strive for this level of utilization to benefit the Buffalo community at large at 1175 Delaware Ave and all our future projects. In addition we recognize the value in supporting not-for-profits and charitable community-based-organizations.

## 2. Minority & Women Employment - Current Workforce & Hiring Practices

The ECIDA encourages the hiring of a diverse workforce, especially for jobs created and retained as part of an ECIDA induced project. Below are some links to sites and organizations that will be helpful in achieving a diverse workforce:

- Northland Workforce Training Center: <https://northlandwtc.org/employers/>

- Workforce Buffalo: <https://www.workforcebuffalo.org/business-services/employer-services>
- New York State Job Bank: <https://myjobsny.usnlx.com/>
- Local Minority Newspapers: <https://www3.erie.gov/eo/minority-newspaper>

Please provide detailed information regarding your company's current workforce and hiring practices as it relates to minority and women employees, including, if applicable, the company's Diversity, Equity and Inclusion plan and goals, any strategic partnerships the company has with educational and/or workforce development entities, and company strategies regarding outreach to minorities and women with the dissemination of job openings to the public:

At Cedarland Development LLC, we pride ourselves on being at the forefront of DEI goals. Cedarland Development and its affiliates employee's come from a wide background and a significant portion are both women and minorities. We are active participants of Buffalo's Level Up program to utilize sub contractors that are registered with the program. We seek to empower our community at large through utilizing MWBE's skilled labor pool that is available to us in the Buffalo MSA.

### **3. Economic Inclusion Program**

The ECIDA's Economic Inclusion Program (EIP) is a voluntary "opt in" program providing an enhanced real property tax abatement to applicants who commit to implementing and meeting MWBE utilization and minority and women employment goals. The mission of the EIP is to enhance the beneficial public impact of projects receiving ECIDA assistance and to further the ECIDA's goal of advancing opportunities for MWBE businesses and minorities and women, in general, in the Erie County workforce. Please note, for a company to be considered an MWBE under the EIP it must be certified as an MWBE by New York State or Erie County.

Under the EIP, the standard ECIDA PILOT Agreement real property tax abatement schedules are enhanced by extending both the term and abatement percentages of the PILOT Agreement.

Please note the EIP is a *voluntary opt-in program* providing enhanced incentives in exchange for meeting MWBE utilization and minority and women employment goals. The applicant shall not engage in any unlawful discrimination against any employee or applicant by reason of race, creed, religion, color, age, disability, national origin, sex, gender, or any other characteristic protected by law, including, but not limited to, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in



Employment Act, the Genetic Information Nondiscrimination Act, the New York State Human Rights Law, and any other similar laws, rules, or regulations. Applicants may bypass the EIP while still pursuing the ECIDA's standard PILOT Agreement.

Please check the box indicating that you have read the Economic Inclusion Program summary above and the attached FAQ document that can be found at the end of the questionnaire.

Please check the box if you are interested in tentatively opting into the Economic Inclusion Program (nonbinding) and would like further, detailed information on the program and process from your ECIDA business development officer.



CITY OF BUFFALO  
OFFICE OF THE MAYOR

BYRON W. BROWN  
MAYOR

October 31, 2023

Mr. John Cappellino  
Chief Executive Officer  
Erie County Industrial Development Agency  
95 Perry Street, Suite 403  
Buffalo, New York 14203

RE: 1175 Delaware Ave Adaptive Reuse

Dear Mr. Cappellino:

The City of Buffalo supports Cedarland Development Group's application to the Erie County Industrial Development Agency (ECIDA) to receive property tax incentives as well as mortgage and sales recording tax benefits for its planned adaptive reuse project at 1175 Delaware Ave. We believe that this project will strengthen the City of Buffalo's appeal to new residents in West Buffalo.

Once complete, the mixed-use development project will transform a former nursing home into eighty-three apartment units and one commercial space. Twenty-two of the residential units will be income restricted for those making under 80% of Area Median Income (AMI). Additionally, the development will incorporate energy efficient water usage, HVAC, appliances, and sustainable building materials. This development project aligns with my Administration's vision to create high quality, affordable housing that is sustainable and climate resilient.

Housing demand throughout the City of Buffalo continues to rise as more workers seek out live, work, play communities. Over the past few years, the growth of the Buffalo Niagara Medical Campus and Buffalo's Central Business district has and continues to spur new economic development in neighboring communities. This project is a welcome addition to the impressive revitalization efforts that continue to contribute to the growth of our local economy.

Sincerely,

A handwritten signature in cursive script that reads "Byron W. Brown".

Byron W. Brown  
Mayor

## PUBLIC HEARING SCRIPT

**1175 Delaware Capital LLC and/or  
Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or  
to be formed on its behalf Project**

Public Hearing to be held on November 15, 2023 at 9:00 a.m.  
at the Agency's offices, at 95 Perry Street, Suite 403, Buffalo, NY 14203

### ATTENDANCE:

Kevin Daghler – Cedarland Development  
Beth O'Keefe – 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 9:02 a.m. My name is Andy Federick. I am the Property and Business Development Officer for the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this 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).

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

*Hearing Officer:* We are here to hold the public hearing on the 1175 Delaware Capital LLC and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf 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 Thursday, November 2, 2023.

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

*Hearing Officer:* The proposed project consists of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 1175 Delaware Avenue, City of Buffalo, Erie County, New York and all other lands in the City of Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the "Land"), (ii) the rehabilitation and renovation of an existing 58,000+/- SF former nursing home building into 83 new residential units and one commercial unit (the "Improvements"), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption benefits, mortgage recording 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 in attendance are required to register by signing the sign-in sheet at the front of the room; you will not be permitted to speak unless you have registered. Everyone who has 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, you may leave it at this public hearing, submit it on the Agency's website or deliver it to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes at 4:00 p.m. on November 28, 2023. There are no limitations on written statements or comments.

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

*Hearing Officer:* If anyone is interested in making a statement or comment, please raise your hand, state 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 Officer calls on those who raise their hand.**

Our company has a proven track record of success of reviving blighted properties in the City of Buffalo. Our project at 1175 Delaware will revive a prominent blighted building located across the street from Canisius High School that has been vacant since 2019. It was previously the Emerald South Nursing Home. With an expected budget of \$16.75M the building will be completely gutted and renovated for 83 much needed quality apartment units as well as a commercial space. The Studios will be at 80% AMI enhancing affordable housing options as well as a 1-bedroom unit at 80% AMI. The building will feature such amenities as a gym, sauna, rooftop lounge and parking onsite. The project is expected to create 2 PT jobs. The project will focus on bringing a unique living environment for residents including green initiatives such as sustainable building materials energy efficient appliances, lighting, EV charging stations, bike storage, live plants throughout to improve indoor air quality and filtered water throughout the building to promote less plastic waste.

Cedarland is committed to involving MWBE in the project as a participant in the Erie County Level-Up program as a construction partner. We are excited to offer high quality housing that emphasizes efficiency and resident health in an area that is close to Delaware Park, Buffalo Central Business District, and the Buffalo Niagara Medical Campus. Currently we are facing challenges in development as some of the lenders have decided to take a break from lending and at the same time we are seeing the highest interest rates in many years along with higher construction costs. This makes it very challenging to afford this project. ECIDA's assistance will help offset these issues. I look forward to answering any questions that you may have.

**6. ADJOURNMENT:**

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 9:06 a.m.

**SIGN IN SHEET  
PUBLIC HEARING**

November 15, 2023 at 9:00 a.m.  
at the Agency's offices, at 95 Perry Street, Suite 403, Buffalo, NY 14203  
regarding:

**1175 Delaware Capital LLC and/or Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 1175 Delaware Avenue, Buffalo, New York 14209

<b>Name</b>	<b>Company and/or Address</b>	<b>X box to speak/ comment</b>
Kevin Daghler	Cedarland Development 60 Lakefront Blvd., Suite 120 Buffalo, New York 14202	X
Beth O'Keefe	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	
Brian Krygier	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
INDUCEMENT RESOLUTION**

**1175 DELAWARE CAPITAL LLC, 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, November 29, 2023 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 1175 DELAWARE CAPITAL 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) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) 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 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 (v) 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**, 1175 DELAWARE CAPITAL LLC or on behalf of an affiliated entity formed or to be formed (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 by the Agency of a leasehold interest in certain property located on 1175 Delaware Avenue, City of Buffalo, Erie County, New York and all other lands in the

City of Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the "Land"), (ii) the rehabilitation and renovation of an existing 58,000+/- SF former nursing home building into 83 new residential units and one commercial unit (the "Improvements") consisting of 22 studio units to be within the 80% AMI level and at least one of the one-bedroom units to also be offered at the 80% AMI level, and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on September 25, 2023 at 9:00 a.m. at the Agency's offices, at 95 Perry Street, Suite 403, Buffalo, New York 14203, 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**, 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, (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a partial abatement from real property taxes benefit consistent with the Agency's Economic Inclusion PILOT Policy, dated as of April 26, 2023 (the "EIP Policy") through a seven (7) year Tier 1 "payment in lieu of tax agreement" (the "PILOT Agreement") with the Company 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 PILOT Agreement, are hereinafter collectively referred to as the "Financial Assistance"); 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 of and recommendations related to the Project and its November 2, 2023 resolution to recommend Agency approval of the Project subject to the terms and conditions as described herein, the Policy Committee and Agency board

member review of the Project's cost benefit ratio, the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits, 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 (the "UTEP"); 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 satisfactorily 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 of the Act; and



(I) The Project involves a “Type II action” as said term is defined in under the State Environmental Quality Review Act (“SEQRA”) and therefore no other determination or procedures under SEQRA are required; and

(J) The Project is compliant with the Countywide IDA Eligibility Policy, constitutes a commercial facility as defined in the General Municipal Law and will promote employment opportunities and prevent economic deterioration in the City of Buffalo. The Agency has reviewed the opinion of the State Comptroller (OSC Op. 85-51) and hereby specifically finds that the Project will create temporary construction jobs and create two part-time jobs and, by adaptively reusing a vacant, declining and aged structure and rehabilitating it for residential use, will be a physical and economic improvement to this sensitive area of the City of Buffalo; and

(K) The Project qualifies for Agency Financial Assistance as it meets the Agency’s evaluative criteria established by the Agency as required under General Municipal Law Section 859-a(5), as evidenced by the following:

(i) *Age of Structure (must be at least 20 years old and present functional challenges to redevelopment):* Structure is 50 years old. Functional challenges to redevelopment include:

(ii) *Structure has been vacant or underutilized for a minimum of 3 years (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). Project promotes the elimination of slum and blight:* Property has been vacant for 4 years and is “an eyesore due to the dated facade in an otherwise nice (upscale) neighborhood.” Without this rehab, the building will fall into further disrepair and be even more challenging to rehab.

(iii) *Structure is not generating significant rental income (defined as 50% or less than the market rate income average for that property class):* The structure is not generating rental income currently.

(iv) *Project is in compliance with the investment and growth criteria of the Framework for Regional Growth. The redevelopment supports or aligns with Regional or Local Development Plans:* This project aligns with the Framework for Regional Growth as it brings development to a vacant/underutilized site, is supported by public transportation and encourages walkable neighborhoods and mixed income housing.

(v) *Demonstrated evidence of financial obstacle to development without ECIDA or other public assistance (cash flow projections, documenting costs, expenses and revenues indicating below average return on investment rate as compared to regional industry averages):* Financial obstacles to development include current market conditions (rising interest rates) severely affecting the feasibility of the project. The projected ROI is 4.1% with ECIDA assistance, 3.7% without. Both are below ROI comparisons per benchmark ROI for urban high-risk projects nationally.

(vi) *Demonstrated support of local government entities:* Letter of support has been received from City of Buffalo Mayor Brown.

(vii) *LEED/Renewable Resources*: The rehab of this facility will focus on NY's Green Initiative, focusing on incorporating energy efficient water usage, HVAC, appliances and sustainable building materials. Other features include improved indoor air quality, green roof, bike storage and EV charging stations.

(viii) *Building or site has historic designation*: N/A.

(ix) *Site or structure has delinquent property or other local taxes*: N/A.

(x) *DEI Questionnaire*: The Company has met required MWBE utilization for other projects such as 950 Broadway – as is required for ESD and other funding sources. The Company will strive to continue similar level of MWBE utilization. The Applicant is a participant in Buffalo's Level Up Program – see further details per attached DEI Questionnaire in Board package.

(xi) *Transit Oriented Development*: Site is within 500 feet of bus lines #11 and #25. It is three blocks from bus line #8.

(xii) *Site or structure is located in a distressed census tract*: Located within census tract 169 – adjacent to distressed census tracts.

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 authority to appoint the Company to act as agent of the Agency, if said appointment is not duly made, as herein expressed, 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 \$6,254,700, 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 \$547,286, 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 \$91,698; 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 \$329,023, resulting in estimated total PILOT payments of \$478,884 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 partial abatements 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 partial abatements 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 (x) subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below in (C)(i)-(v) and/or (y) subject to the potential modification of the EIP Policy Tier 1 seven (7) year PILOT Agreement to provide for the standard seven year PILOT Schedule as described within the EIP Policy for failure to meet the commitments and thresholds as described below in (C)(vi) and (vii) , 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 made with respect to the Project at the time of Project completion equals or exceeds \$14,237,500 (which represents the product of 85% multiplied by \$16,750,000, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 2 existing part time equivalent (“PTE”) employees located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline PTE”); and
  - the number of current employees in the then current year at the Facility; and
  - that within two (2) years of Project completion, the Company has maintained and created PTE employment at the Facility equal to 2 PTE employees. 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.
- (vi) Construction Period Commitment – that the Company, in accordance with the EIP Policy, meets a 30% MWBE (25% MBE and 5% WBE) utilization rate, based upon total construction contract value, for construction activities.
- (vii) Post Construction Period Commitment – that the Company meets a 30% minority and women (minimum 20% minority and at least 30% minorities or women) job creation requirement within two years after Project completion and maintains those hires/percentages during the term of the applicable PILOT Agreement and

on an annual basis completes/implements at least two (2) of the EIP Policy Best Practices as described therein during the term of the applicable PILOT Agreement.

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, (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: November 29, 2023



## 1175 Delaware

[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

<b>Project Name</b>	Delaware Place
<b>Project Summary</b>	1175 Delaware is a gut rehab of an old nursing home that will result in 83 apartment units and one commercial unit. This development will bring much needed units to a vacant and blighted building. The building has sat vacant since Emerald South nursing home left in 2019.
<b>Applicant Name</b>	1175 Delaware Capital LLC
<b>Applicant Address</b>	
<b>Applicant Address 2</b>	
<b>Applicant City</b>	Buffalo
<b>Applicant State</b>	New York
<b>Applicant Zip</b>	14209
<b>Phone</b>	(716) 880-7395
<b>Fax</b>	
<b>E-mail</b>	kevindag@cedarlanddev.com
<b>Website</b>	
<b>NAICS Code</b>	531390

#### Business Organization

**Type of Business**  
Limited Liability Company

**Year Established**  
2022

**State**  
New York

**Indicate if your business is 51% or more (Check all boxes that apply)**

[No] Minority Owned  
 [No] Woman Owned

**Indicate Minority and/or Woman Owned Business Certification if applicable (Check all boxes that apply)**

[No] NYS Certified  
 [No] Erie County Certified

Individual Completing Application

**Name** Kevin Dagher  
**Title** CEO  
**Address** 60 Lakefront Blvd Suite 120  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14216  
**Phone** (716) 275-2766  
**Fax**  
**E-Mail** kevindag@cedarlanddev.com

Company Contact- Authorized Signer for Applicant

**Contact is same as individual completing application** No  
**Name** Kevin Dagher  
**Title** CEO  
**Address** 60 Lakefront Blvd  
**Address 2** Suite 120  
**City** Buffalo  
**State** New York  
**Zip** 14202  
**Phone** (716) 880-7395  
**Fax**  
**E-Mail** kevindag@cedarlanddev.com

Company Counsel

**Name of Attorney** Steve Ricca  
**Firm Name**  
**Address** 60 Lakefront Blvd Suite 120  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14216  
**Phone** (716) 698-8595  
**Fax**  
**E-Mail** sricca@cedarlanddev.com

Benefits Requested (select all that apply).

**Exemption from Sales Tax** Yes  
**Exemption from Mortgage Tax** Yes



<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. Also list all stockholders, members, or partners with % ownership greater than 20%.**

Cedarland Development Group is a rapidly growing example of the new generation of real estate development companies in Buffalo, New York. Founded by Dr. Fadi Dagher, a Lebanese immigrant and former transplant surgeon, and his son Kevin Dagher, Cedarland has focused on blighted properties on Buffalo's East and Lower West sides for the past decade. Dr. Dagher's and Kevin's shared belief in the City of Buffalo and expertise in real estate finance has spurred Cedarland's successful urban renewal and sustainable development efforts and passion for delivering social and economic change where the City of Buffalo needs it most. Cedarland's sound working relationships with state and local government officials and commitment to collaboration with community stakeholders help to maximize its positive impact in the historically disadvantaged East Side of Buffalo, the Broadway-Fillmore District in particular. We specialize in developing and restabilizing property in the Buffalo area. A couple of projects we have completed in recent years are Creekview Apartments and The Grid. Creekview was one of the first projects we completed, and it was a 19-unit suburban apartment building that was completed in 2019. The Grid was a 217-Unit project that was the largest residential project to date in Buffalo. We were able to convert the site of the old Buffalo Motor Lodge into a dynamic residential building serving young professionals and students. Dr. Dagher is the sole member of 1175 Delaware LLC which provides him with 100% ownership of the entity.

<b>Estimated % of sales within Erie County</b>	95 %
<b>Estimated % of sales outside Erie County but within New York State</b>	5 %
<b>Estimated % of sales outside New York State but within the U.S.</b>	0 %
<b>Estimated % of sales outside the U.S.</b>	0 %

(\*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?**

95

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

It is anticipated that the construction materials and the soft costs to be incurred would be from firms based in Erie County. Our GC is Cedarland Construction, the Architect is Elev8, the contractors for the building are locally based.

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

### Project Location

**Address of Proposed Project Facility**

1175 Delaware Avenue

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

Buffalo

**School District of Project Site**

Buffalo School District

**Current Address (if different)****Current Town/City/Village of Project Site (if different)****SBL Number(s) for proposed Project**

100.31-1-28.111

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

30,399

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

Land

\$ 0

Building(s)

\$ 0

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?**

Yes

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

Existing building that is currently a vacant, the previous use was a commercial nursing home

**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)**

Delaware Place is in the Delaware-West Ferry neighborhood directly across the street from Canisius High School. The building has been vacant since 2019 when Emerald South nursing home moved out, it was purchased by Cedarland Development Group in late 2022. The building is 58,000 SF and will incorporate 83 units and one commercial space. The commercial space is one office and the residential units are split between 22 studios, 57 1-bedroom, and 4 2-bedroom units. The commercial space will be ideal for a small professional office, someone that is requiring a small space in order to maximize their revenue through a low cost space. The project will be a gut rehab that focuses on New York's green initiative. It will incorporate energy efficient water usage, HVAC, appliances, and sustainable building materials. We are focusing heavily on tenant quality of life with improved indoor air quality, green roof, bike storage, and EV charging. On top of these high quality amenities, we will offer competitive rental rates. The competitive rates will include all of the studio units and some of the 1-bedroom units will fall below the 80% AMI rate. Some of these affordable units will be furnished to attract tenants that can focus on their careers. Of the 83 units, we will be furnishing 30% of them to accommodate the growing demand that we have seen at our other properties. We are excited to offer high quality housing that emphasizes energy efficiency and tenant health in a high demand area that is close to Delaware Park, Buffalo's CBD, and the Buffalo Niagara Medical Campus. Since Delaware Place is centrally located within the city of Buffalo, it offers tenants limited travel times for both work and play. The tenants we are looking to attract will come from various employment fields and backgrounds throughout the city of Buffalo. This will be achieved through offering competitive rental rates that are under 80% AMI for the studio units and furnishing some of the units to attract tenants that can focus on their careers. We are aiming to appeal to a tenant that values New York's green initiatives towards energy reduction while improving the overall tenant experience.

**Municipality or Municipalities of current operations**

Buffalo

**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?**

No

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

**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 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)**

Currently the project is less feasible as time goes on due to market conditions. The increasing interest rate environment and the construction cost increases for the project are severely affecting the feasibility of the project. Currently the project is funded through equity and debt and the rising interest rates are forcing concessions that are making the viability of the project come into question. Without this assistance there will be an increased risk that the project will need to be abandoned due to the rising costs.

**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?**

1175 Delaware is located in a desirable location but the current market conditions of increasing interest rates and construction costs make renovating the vacant building challenging. Without financial assistance the project could be abandoned and the property sit vacant losing with the neighborhood losing out on 83 units that would help address the limited housing options for applicants that fall below the 80% AMI rate.

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Site Characteristics

**Is your project located near public transportation?**

Yes

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

The site is located with 500 feet of bus line #11 & #25. Three blocks West from bus line #8.

**Has your local municipality and/or its planning board made a determination regarding the State Environmental Quality Review (SEQR) for your project?**

No

**If YES indicate in the box below the date the SEQR determination was made. Also, please provide us with a copy of the approval resolution and the related Environmental Assessment Form (EAF) if applicable.**

**If NO indicate in the box below the date you anticipate receiving a SEQR determination for your project. Also, please insure that the ECIDA has been listed as an "involved agency" on the related EAF submitted to the appropriate municipality and/or planning department.**

This project qualifies as a Type II action exempt from SEQR review under 6 N.Y.C.R.R. § 617.5(c)(2). As the Erie County Industrial Development Agency (ECIDA) and its general counsel have acknowledged, no SEQRA review or determination is required.

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

Yes

**Describe the present zoning/land use**

N-2R- Residential

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

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

**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?**

Yes

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?**

No

**If yes, describe the efficiencies achieved**

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?**

No





**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:

<b>Equity (excluding equity that is attributed to grants/tax credits):</b>	\$ 4,523,500
<b>Bank Financing:</b>	\$ 12,226,500
<b>Tax Exempt Bond Issuance (if applicable):</b>	\$ 0
<b>Taxable Bond Issuance (if applicable):</b>	\$ 0
<b>Public Sources (Include sum total of all state and federal grants and tax credits):</b>	\$ 0
<b>Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources)</b>	
<b>Total Sources of Funds for Project Costs:</b>	\$16,750,000
<b>Have you secured financing for the project?</b>	No

Mortgage Recording Tax Exemption Benefit:

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

<b>Mortgage Amount (include sum total of construction/permanent/bridge financing).</b>	12,226,500
<b>Lender Name, if Known</b>	
<b>Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%):</b>	\$91,698

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.

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

Yes

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

No

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Employment Plan (Specific to the proposed project location)

The Labor Market Area consists of the following six counties: Erie, Niagara, Chautauqua, Cattaraugus, Wyoming and Genesee.

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).

	<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 FT and PT jobs to be retained</b>	<b>If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 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 FT and PT jobs to be created upon 24 months (2 years) after project completion **</b>
<b>Full time</b>	0	0	0	0
<b>Part time</b>	0	0	2	2
<b>Total</b>	0	0	2	

Salary and Fringe Benefits for Jobs to be Retained and Created

<b>Job Categories</b>	<b># of Full Time Employees retained and created</b>	<b>Average Salary for Full Time</b>	<b>Average Fringe Benefits for Full Time</b>	<b># of Part Time Employees retained and created</b>	<b>Average Salary for Part Time</b>	<b>Average Fringe Benefits for Part Time</b>
<b>Management</b>	0	\$ 0	\$ 0	1	\$ 30,000	\$ 0
<b>Professional</b>	0	\$ 0	\$ 0	0	\$ 0	\$ 0
<b>Administrative</b>	0	\$ 0	\$ 0	0	\$ 0	\$ 0
<b>Production</b>	0	\$ 0	\$ 0	0	\$ 0	\$ 0
<b>Independent Contractor</b>	0	\$ 0	\$ 0	0	\$ 0	\$ 0
<b>Other</b>	0	\$ 0	\$ 0	1	\$ 25,000	\$ 0
<b>Total</b>	0			2		

\*\* 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.

Yes **By checking this box, I certify that the above information concerning the current number of jobs at the proposed project location or to be relocated to the proposed project location is true and correct.**

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

<b>Address</b>			
<b>Full time</b>	0	0	0
<b>Part time</b>	0	0	0
<b>Total</b>	0	0	0

Payroll Information

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

55,000

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

0

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



0

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

0

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

27,500

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

<b>From (Full Time)</b>	0	<b>To (Full Time)</b>	0
<b>From (Part Time)</b>	25,000	<b>To (Part Time)</b>	30,000

### **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**

1175 Delaware Avenue Buffalo, NY 14209

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

1175 Delaware Capital LLC 50 Lakefront Blvd Suite 103 Buffalo, NY 14202

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

The premises is a 1.02 acre site in a highly developed residential area in the city of Buffalo. There are no wetlands or waterbodies at this site, the nearest waterbody is the Scajaquada Creek located approx. 0.5 miles north of the site

##### **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 is an existing vacant 4 floor commercial building with a shed present on the site. The main building was constructed in 1973 making it 50 years old.

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

According to a December 6 2021 Phase I ESA prepared by Turnkey Environmental Restoration, LLC (Turnkey), the site history is as follows: The first known owners were Frank Tripi, the use was suspected to be commercial and residential. The current building was constructed in 1973. From 1978 to 2109 the premise was used as a commercial health facility with past owners/occupants including: Tri Del Nursing Center; St. Luke's Presbyterian Nursing Center; Presbyterian Homes of WNY; Hawthorn Health Multicare Center; Emerald Nursing & Rehabilitation Center.

##### **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?**

Yes

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

On Premise: Spill # 0751202 dated December 10, 2007 involved the removal of an 8,000 gallon fuel oil underground storage tank. Three first sized holes were discovered and approx. 220 tons of petroleum impacted soil was removed and disposed. Off Premise: 1165 Delaware Ave Spill # 0908502 dated October 28, 2009 involved a mixture of hydraulic oil and water. Speedy dry was used to clean up the sheen.

##### **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**

N/A

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

N/A

**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**

N/A

**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**

N/A

**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

Previous 8,000 gallon fuel tank was removed in 2007 and spill was remediated at time of removal.

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

Yes

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

Spill # 0751202 dated December 10, 2007 involved the removal of an 8,000 gallon fuel oil underground storage tank. Three first sized holes were discovered and approx. 220 tons of petroleum impacted soil was removed and disposed.

### 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?

Yes

If yes, please identify the materials

12"x12" Floor Tile Black Mastic of Floor Tile in sub-basement Transite Energy Panel Door Caulking Fire Door & Elevator Doors Infill Valve packing of gate valves Flange gaskets on pipe Sink undercoat Interior Window Bedding

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

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

Multi-Tenant Facility

Multi-Tenant Facility (to be filled out by developer)

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

The community is highly sought after for its proximity to the CBD, Buffalo Niagara Medical Campus, and Elmwood Village. Similar buildings have low vacancy rates and our market research shows we're inline and below on our projected rental rates. This building will emphasize the growing demand of green initiatives and world class amenities.

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

No

If yes, please list below and provide square footage (and percent of total square footage) to be leased to tenant and NAICS Code for tenant and nature of business

<b>Tenant Name</b>	<b>Current Address (city, state, # of sq ft and % of total to be zip)</b>	<b>SIC or NAICS-also briefly describe type of business, products services, % of sales in Erie Co.</b>
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\*fill out table for each tenant and known future tenants

## **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. **If no, proceed to the next section.**

## 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?**

Yes

**What is the age of the structure (in years)?** 50

**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)**

Yes

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

4

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

0

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

N/A

**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)**

No

**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
<b>1 Bedroom</b>	57	525- 560	\$1,300- \$1,775
<b>2 Bedroom</b>	4	715- 800	\$1,965- \$2,000
<b>3 Bedroom</b>		-	\$- \$
<b>Other</b>	22	345- 400	\$910- \$1,200

**Does the site have historical significance?**

No

**If yes, please indicate historical designation**

**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)**

Currently the project is less feasible as time goes on due to market conditions. The increasing interest rate environment and the construction cost increases for the project are severely affecting the feasibility of the project. Currently the project is funded through equity and debt and the rising interest rates are forcing concessions that are making the viability of the project come into question. Without this assistance there will be an increased risk that the project will need to be abandoned due to the rising costs.

**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**

**Indicate other factors that you would like the Agency to consider such as: structure or site presents significant public safety hazard and or environmental remediation costs, structure presents significant costs associated with building code compliance**

N/A

**Indicate census tract of project location**

Census track 169

**Indicate how project will eliminate slum and blight**

This building has sat vacant for 4 years, the building is currently an eye sore due to the dated façade in an otherwise nice neighborhood. The development has the potential for adding affordable housing by providing 22 studio apartments that fall below the 80% AMI threshold. Without the incentives, the building will fall into further disrepair and be even more challenging to rehab in the future.

**If project will be constructed to LEED standards indicate renewable resources utilized**

N/A



## **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**

**City/Town**

**State**

**Zip Code**

**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:**

N/A

**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**

N/A

**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.**

## **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

## **Section X: Tax Exempt Bonds**

In order to receive the benefits of a tax-exempt interest rate bond, private borrowers and their projects must be eligible under one of the federally recognized private active bond categories (Fed Internal Rev Code IRC sections 142-144, and 1394).

**Are you applying for tax exempt bonds / refinancing of bonds related to a residential rental facility project?**

No

**Lactalis American Group, Inc**  
**\$44,526,000 total project**  
**PRIVATE INVESTMENT INDUCEMENT RESOLUTION**

<b>ELIGIBILITY</b>	Project Title: Plant Modernization & Infrastructure Upgrades – Western NY														
<ul style="list-style-type: none"> <li>• NAICS Section – 3115</li> </ul>															
<b>COMPANY INCENTIVES</b>	Project Address: 2375 South Park Ave, Buffalo, NY 14220 (City of Buffalo School District)														
<ul style="list-style-type: none"> <li>• Approximately \$ 1,203,247 in sales tax savings</li> </ul>															
<b>JOBS &amp; ANNUAL PAYROLL</b>	<b>Agency Request</b>														
<ul style="list-style-type: none"> <li>• Current Jobs: 375 FT, 1 PT</li> <li>• Est. salary/yr. of FT jobs retained: \$77,112</li> <li>• Annual Payroll: \$ 22,277,956</li> <li>• Projected new jobs: 27 FT</li> <li>• Est. salary/yr. of jobs created: \$47,515</li> <li>• Total jobs after project completion: 402 FT</li> <li>• Construction Jobs: 195</li> </ul>	<p>A sales tax abatement in connection with the modernization and revitalization of the Buffalo, NY manufacturing facility.</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Building Addition</td> <td style="text-align: right;">\$ 1,075,000</td> </tr> <tr> <td>Reconstruction / Renovation</td> <td style="text-align: right;">\$19,002,212</td> </tr> <tr> <td>Manufacturing Equipment</td> <td style="text-align: right;">\$21,607,000</td> </tr> <tr> <td>Infrastructure</td> <td style="text-align: right;">\$ 2,841,788</td> </tr> <tr> <td><b>Total Project Cost</b></td> <td style="text-align: right;"><b>\$44,526,000</b></td> </tr> <tr> <td> </td> <td></td> </tr> <tr> <td>85%</td> <td style="text-align: right;">\$37,847,100</td> </tr> </table>	Building Addition	\$ 1,075,000	Reconstruction / Renovation	\$19,002,212	Manufacturing Equipment	\$21,607,000	Infrastructure	\$ 2,841,788	<b>Total Project Cost</b>	<b>\$44,526,000</b>	 		85%	\$37,847,100
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<b>Total Project Cost</b>	<b>\$44,526,000</b>														
85%	\$37,847,100														
	<b>Company Description</b>														
	<p>Lactalis American Group, Inc is a subsidiary of Group Lactalis – a global dairy company that owns and operates dairy manufacturing plants around the world including 11 manufacturing plants operating in the U.S. Other U.S. locations include: CA, AZ, ID, WI, VT and NH. Lactalis Buffalo employs 684 employees - 376 within the manufacturing plant.</p> <p>More than 700MM pounds of milk is collected at the Buffalo plant each year for dairy product production – supporting hundreds of farms (97% of all milk processed at Lactalis Buffalo comes from NYS dairy farms). The plant produces Galbani Ricotta and mozzarella cheeses, along with Whey Powder, Galbani Provolone and President Cut-and-Wrap Brie. The site consists of two distinct plants: the cheese plant and the whey plant. The cheese plant houses the equipment to produce mozzarella, provolone, brie and ricotta cheese. A key by-product of the cheese making process – whey, is then pumped from the cheese plant to the whey plant. The whey plant primarily consists of the evaporator and dryer equipment responsible for processing the whey liquid into whey powder</p>														
<b>PROJECTED COMMUNITY BENEFITS*</b>	<b>Project Description</b>														
<ul style="list-style-type: none"> <li>• Term: 2 yrs. from project completion</li> <li>• NET Community Benefits: \$397,007,342</li> <li>• Spillover Jobs: 1722</li> </ul> <p>Total Payroll: \$374,424,843</p>	<p>The Lactalis Buffalo manufacturing plant’s future economic viability needs a production capacity increase of 30%. This requires key infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, a new building addition for the whey evaporator and dryer equipment and regulatory plant-wide infrastructure upgrades. Most of the manufacturing facilities and processing equipment within the Buffalo plant dates back to the 1970s. The Buffalo production facility faces mounting pressures to maintain operations of the plant while competing with other Lactalis manufacturing facilities within the US.</p>														
<b>INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*</b>															
<p>Incentives: \$1,203,247</p> <p>Community Benefit: \$382,712,974</p> <p>Cost: Benefit Ratio</p> <ul style="list-style-type: none"> <li>• 1:318</li> </ul>															

\* Cost Benefit Analysis Tool powered by MRB Group

## Economic Impact: Inform Analytics Cost-Benefit Analysis

The Erie County Industrial Development Agency uses the Cost Benefit Analysis Tool powered by MRB Group to assess the economic impact of a project applying for incentives. A Cost-Benefit Analysis is required by Section 859-a (5)(b) of General Municipal Law. For the complete Cost Benefit Analysis – please see the attached MRB Cost Benefit Calculator.

### Cost: Incentives

COSTS	Tax Exemption	Amount
	Property	0
	Sales	\$1,203,247
	Mortgage Recording	0
	Total	\$1,203,247
	Discounted at 2%	\$1,203,247

### Benefit: Projected Community Benefit\*

BENEFITS	Region	Recipient	Revenue Type	\$ Amount **
	Erie County	Individuals	Payroll Construction	\$ 28,572,681
			Payroll Permanent	\$345,852,163
		Public	Property Taxes	\$ 0
			Sales Taxes	\$ 3,112,406
			Other Muni Revenue (NFTA)	\$ 0
	New York State	Public	Income Taxes	\$ 16,849,118
			Sales Taxes	\$ 2,620,974
			<b>Total Benefits to EC + NYS***</b>	<b>\$397,007,342</b>
			Discounted at 2%	<b>\$382,712,974</b>

\* Cost Benefit Analysis Tool powered by MRB Group \*\*includes direct & indirect \$ over project period \*\*\* may not sum to total due to rounding

Discounted Cost	\$ 1,203,247
Discounted Benefit	\$ 382,712,974
Ratio	1:318

**Conclusion:** The Cost Benefit for this project is: 1:318. For every \$1 in costs (incentives), this project provides \$318 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$557 in benefits to the community.**

## 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 = \$44,526,000 85% = \$37,847,100
Employment	2 years after project completion	Maintain Base = 375 FTE Create 85% of Projected Projected = 27 FTE 85% = 22 FTE Recapture Employment = 397 FTE
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	2 years after project completion	Adherence to Policy
Unpaid Tax	2 years after project completion	Adherence to Policy
<u>Recapture Period</u>	2 years after project completion	Recapture of state and local sales taxes

Recapture applies to: State and Local Sales 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 375 FTE jobs and created 27 FTE jobs, iii) confirm adherence to local labor policy during construction and iv) its adherence to unpaid tax/pay equity policies for recapture term.

### Project ECIDA History

- 10/25/23: Public hearing held.
- 11/29/23: Inducement Resolution presented to the Board of Directors

### Company History

- 1/26/22: property and sales tax incentives associated with \$1.44 M construction and renovation project (office space). Project status = inactive / Lactalis will not move forward with project and no ECIDA benefits were taken.
- 10/13/99: property and sales tax incentives associated with \$7.76 M construction project: 86K sq ft cooler/warehouse, 91K sq ft parking lot, renovations to an existing facility and the purchase of machinery & equipment.
- 8/12/98: property & sales tax incentives associated with \$1.8 M construction project: 7K sq ft addition to an admin bldg.
- 2/12/97: property & sales tax incentives associated with \$2.83 M construction project: 16K sq ft addition existing bldg.

**EVALUATIVE CRITERIA**  
**AGRICULTURAL, FOOD PROCESSING**  
**Project: Lactalis / Plant Modernization - WNY**

Evaluative Criteria	Notes
Wage Rates (above median wage for area)	Average salaries for existing jobs: \$77,112 and for created jobs: \$47,515
Regional Wealth Creation (% of sales/customers outside area)	97% of sales are outside Erie County (breakdown: 6% elsewhere in NYS, 89% outside NYS but in the U.S. and 2% outside the U.S.)
In Region Purchases (% of purchases from local growers)	15% of purchases are in region. Major purchases include: raw materials (milk = company's largest expense), various local service providers and contractors for capital investment projects, cold storage facilities in Erie County and National Traffic Safety that manages logistics invoices and payments.
Research & Development Activities	R&D accounts for 7% – 10% of total operating expenses.
Investments in Energy Efficiency	The modernization work includes the installation of new heating and cooling units that will be of higher efficiency. Energy efficiencies will be further improved with additional insulation, better system design, improved SEER ratings, etc. The installation of new equipment (whey plant) replaces the energy source resulting in a reduction of carbon emissions.
Locational Land Use Factors, Proximity to Supporting Local Agricultural Production	Annually, this plant uses 700MM pounds of milk for dairy product production – 97% of raw milk comes from NYS dairy farmers.
LEED/Renewable Resources	N/A
Retention/Flight Risk	Risk = Lactalis choosing to expand at an existing facility in the U.S. or build new elsewhere.
MBE/WBE Utilization	See attached DEI Questionnaire that includes 1) MWBE Contractor goals for construction and 2) current workforce & hiring practices related to Diversity Equity & Inclusion
Workforce Access – Proximity to Public Transportation	Project site is located along a major bus route and serviced by NFTA bus route #s: 14, 16, 42

DATE OF INDUCEMENT: November 29, 2023

# Erie County Industrial Development Agency

## MRB Cost Benefit Calculator



Date: October 16, 2023  
 Project Title: Plant Modernization & Infrastructure Upgrades – Western NY  
 Project Location: 2375 South Park Ave., Buffalo, NY 14220

### Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

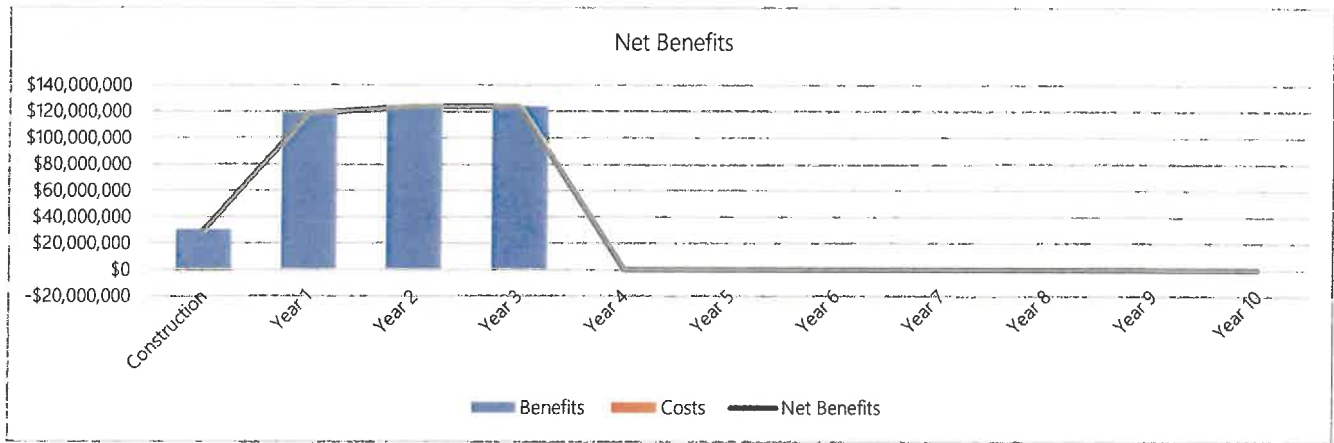
Project Total Investment  
 \$44,526,000

		Temporary (Construction)		
		Direct	Indirect	Total
Jobs		195	177	372
Earnings		\$18,413,138	\$10,159,542	\$28,572,681
Local Spend		\$44,526,000	\$31,524,243	\$76,050,243

		Ongoing (Operations) Aggregate over life of the PILOT		
		Direct	Indirect	Total
Jobs		402	1545	1947
Earnings		\$89,316,810	\$256,535,353	\$345,852,163

Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

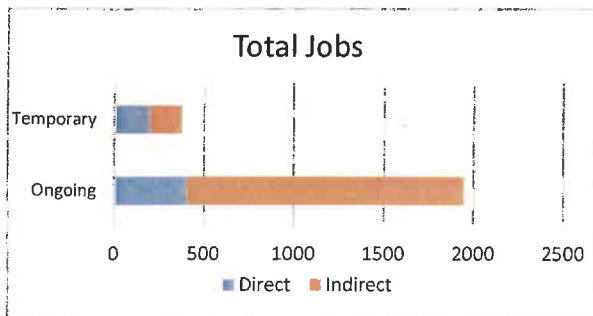
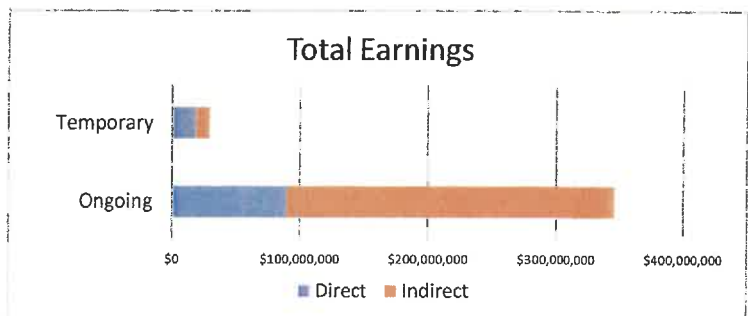


Figure 3



Ongoing earnings are all earnings over the life of the PILOT.



# Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

## Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$0	\$0
Sales Tax Exemption	\$1,203,247	\$1,203,247
Local Sales Tax Exemption	\$653,191	\$653,191
State Sales Tax Exemption	\$550,056	\$550,056
Mortgage Recording Tax Exemption	\$0	\$0
Local Mortgage Recording Tax Exemption	\$0	\$0
State Mortgage Recording Tax Exemption	\$0	\$0
<b>Total Costs</b>	<b>\$1,203,247</b>	<b>\$1,203,247</b>

## State and Local Benefits

	Nominal Value	Discounted Value*
<b>Local Benefits</b>	<b>\$377,537,250</b>	<b>\$363,943,909</b>
<b>To Private Individuals</b>	<b>\$374,424,843</b>	<b>\$360,943,565</b>
Temporary Payroll	\$28,572,681	\$28,572,681
Ongoing Payroll	\$345,852,163	\$332,370,885
Other Payments to Private Individuals	\$0	\$0
<b>To the Public</b>	<b>\$3,112,407</b>	<b>\$3,000,343</b>
Increase in Property Tax Revenue	\$0	\$0
Temporary Jobs - Sales Tax Revenue	\$237,510	\$237,510
Ongoing Jobs - Sales Tax Revenue	\$2,874,896	\$2,762,833
Other Local Municipal Revenue	\$0	\$0
<b>State Benefits</b>	<b>\$19,470,092</b>	<b>\$18,769,065</b>
<b>To the Public</b>	<b>\$19,470,092</b>	<b>\$18,769,065</b>
Temporary Income Tax Revenue	\$1,285,771	\$1,285,771
Ongoing Income Tax Revenue	\$15,563,347	\$14,956,690
Temporary Jobs - Sales Tax Revenue	\$200,009	\$200,009
Ongoing Jobs - Sales Tax Revenue	\$2,420,965	\$2,326,596
<b>Total Benefits to State &amp; Region</b>	<b>\$397,007,342</b>	<b>\$382,712,974</b>

## Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$363,943,909	\$653,191	557:1
State	\$18,769,065	\$550,056	34:1
<b>Grand Total</b>	<b>\$382,712,974</b>	<b>\$1,203,247</b>	<b>318:1</b>

\*Discounted at 2%

## Additional Comments from IDA

Does the IDA believe that the project can be accomplished in a timely fashion? Yes



## Diversity, Equity and Inclusion Questionnaire

### 1. MWBE Contractors - Construction

The ECIDA encourages applicants to utilize MWBE contractors and suppliers for their projects and when feasible, to set a goal for MWBE participation during the construction period of the project. Below are links to the NYS and Erie County certified MWBE lists, including contractors, that can assist you with your utilization goals:

- New York State MWBE Certified List: <https://ny.newnycontracts.com/>
- Erie County MWBE Certified List: <https://www3.erie.gov/eo/mbe-wbe-resource-list>

Please provide detailed information regarding your company's plan to utilize MWBE contractors and suppliers for your project. Please include your project's MWBE utilization goals, what process and resources you plan to use or have utilized in the past to find and hire MWBEs, a list of the specific MWBE firms used on previous projects and/or firms you plan to use on the current project, and any history the company has of setting and meeting MWBE goals on past projects. The company may also include details with respect to the foregoing related to any MWBE policy and utilization goals that its general contractor has committed to implementing for the project.

SEE ATTACHED

### 2. Minority & Women Employment - Current Workforce & Hiring Practices

The ECIDA encourages the hiring of a diverse workforce, especially for jobs created and retained as part of an ECIDA induced project. Below are some links to sites and organizations that will be helpful in achieving a diverse workforce:

- Northland Workforce Training Center: <https://northlandwtc.org/employers/>

- Workforce Buffalo: <https://www.workforcebuffalo.org/business-services/employer-services>
- New York State Job Bank: <https://myjobsny.usnlx.com/>
- Local Minority Newspapers: <https://www3.erie.gov/eo/minority-newspaper>

Please provide detailed information regarding your company's current workforce and hiring practices as it relates to minority and women employees, including, if applicable, the company's Diversity, Equity and Inclusion plan and goals, any strategic partnerships the company has with educational and/or workforce development entities, and company strategies regarding outreach to minorities and women with the dissemination of job openings to the public:

SEE ATTACHED

### **3. Economic Inclusion Program**

The ECIDA's Economic Inclusion Program (EIP) is a voluntary "opt in" program providing an enhanced real property tax abatement to applicants who commit to implementing and meeting MWBE utilization and minority and women employment goals. The mission of the EIP is to enhance the beneficial public impact of projects receiving ECIDA assistance and to further the ECIDA's goal of advancing opportunities for MWBE businesses and minorities and women, in general, in the Erie County workforce. Please note, for a company to be considered an MWBE under the EIP it must be certified as an MWBE by New York State or Erie County.

Under the EIP, the standard ECIDA PILOT Agreement real property tax abatement schedules are enhanced by extending both the term and abatement percentages of the PILOT Agreement.

Please note the EIP is a *voluntary opt-in program* providing enhanced incentives in exchange for meeting MWBE utilization and minority and women employment goals. The applicant shall not engage in any unlawful discrimination against any employee or applicant by reason of race, creed, religion, color, age, disability, national origin, sex, gender, or any other characteristic protected by law, including, but not limited to, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in

Employment Act, the Genetic Information Nondiscrimination Act, the New York State Human Rights Law, and any other similar laws, rules, or regulations. Applicants may bypass the EIP while still pursuing the ECIDA's standard PILOT Agreement.

Please check the box indicating that you have read the Economic Inclusion Program summary above and the attached FAQ document that can be found at the end of the questionnaire.

Please check the box if you are interested in tentatively opting into the Economic Inclusion Program (nonbinding) and would like further, detailed information on the program and process from your ECIDA business development officer.

# **Diversity, Equity and Inclusion Questionnaire - Attachment**

## **1. MWBE Contractors - Construction**

The applicant's internal practices include use of MBE/WBE companies when available. Their Project managers and Purchasing team are required to utilize the NYS MBE/WBE maintained list of certified contractors prior to publishing jobs for bid. This helps ensure certified companies are included in the RFP and bid process. They also require via contract terms and conditions that all of our contractors in NYS engage MBE/WBE to work on their projects to the maximum extent possible. Up until recently, and yet to be finalized for the proposed project, a prime contractor for their previous project had a policy that required all of their local (Erie County) contracts include MWBE suppliers or subcontractors for approximately 9%-11% of its contract prices. This has been a standard practice for this contractor for a number of years. The applicant is dedicated to building a diverse, inclusive, and authentic workplace, and they make every effort to engage with suppliers and vendors that make conscious efforts to promote the same.

## **2. Minority & Women Employment - Current Workforce & Hiring Practices**

Lactalis America Group's Diversity, Equity & Inclusion company statement states:

We believe each and every individual within the organization provides value. When we encourage and include the voices of all diverse backgrounds and perspectives, we open doors to unforeseen growth and allow individuals to bring their full authentic selves to work. In order to celebrate the uniqueness of our people and the communities in which we operate, we are committed to cultivating a fair and inclusive workplace that fosters real belonging for all.

To that end, the applicant has a signed partnership agreement with Circa (also known as DiversityJobs), a talent acquisition company committed to promoting the applicant's open positions to minority and underrepresented groups. All job postings include diversity language inviting candidates from all different backgrounds, cultures, and experiences, to apply and become part of the applicant's diverse, inclusive, and authentic workplace. Furthermore, the applicant encourages candidates with past experiences that do not perfectly align with every qualification in the job posting to still apply for the position and share their story, passion and expertise on why they would be the perfect candidate for the job. Finally, the Applicant's parent company has recently established a USA DE&I Council that will establish and oversee DE&I programs across all plants in the U.S.

<b>LACTALIS</b> USA	<b>Distribution:</b>		
Human Resources Policy & Procedural Manual	<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	Procedure No.	PAGE 1 OF 2
		Date Effective:  01/01/2004	Revision Date:  01/01/2022

<b>TABLE OF CONTENTS</b>	1.0 Purpose 2.0 Scope and Application 3.0 Responsibility 4.0 Policy
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<b>PURPOSE</b> 1.0	<p>1.1 To establish a policy and guidelines regarding the Equal Employment Opportunity (EEO) Policy which has been designed to:</p> <ul style="list-style-type: none"> <li>a. Ensure continued administration of all Human Resources policies and practices for all employees and applicants without regard to discrimination based on race, religion, color, sex, national origin, marital status, disability, genetic information or veteran status and accordance with applicable policies pertaining to age or any other prohibited discrimination prohibited by EEO or Department of Labor (DOL) state or local laws.</li> <li>b. Promote employee understanding and acceptance of the principle of affirmative action, as applicable in assuring the provisions of equal employment opportunities.</li> <li>c. Place positive emphasis on employment and development of women and minority group employees.</li> </ul>
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<b>SCOPE AND APPLICATION</b> 2.0	2.1 This policy applies to all employees of the Company. For purposes of this policy, any reference to the "Company" will mean the specific U.S. subsidiary that employs you.
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<b>RESPONSIBILITY</b> 3.0	3.1 The Vice President of Human Resources is responsible for the content and maintenance of this document.
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<b>POLICY</b> 4.0	<p>4.1 Policy</p> <p>The Company has a continuing policy to ensure that equal employment opportunities are extended to all persons without regard to race, color, religion, gender, national origin, age disability, sexual orientation or veteran status. This policy applies to all terms and conditions of employment, including but not limited to hiring, selection, promotion, layoff, and compensation.</p> <p>The Company expressly prohibits and will not tolerate any form of unlawful employee discrimination or harassment based upon race, color, religion, gender, national origin, age, disability, sexual orientation, or veteran status.</p> <p>Although the Company is committed to the above actions through federal, state and local laws, we would like to make clear to all potential and existing employees of the Company our fundamental support for this statement. We fully intend to continue fostering a work environment that values employees as individuals, rewards performance and holds employees accountable for their actions.</p>
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<b>LACTALIS</b> USA	<b>Distribution:</b>	
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<b>Human Resources Policy &amp; Procedural Manual</b>	<b>EQUAL EMPLOYMENT OPPORTUNITY</b>	Procedure No.	PAGE 2 OF 2
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<b>POLICY</b> <b>4.0</b>	<p>4.2 To implement these policies our Company will continue to:</p> <ol style="list-style-type: none"> <li>1. Recruit, hire, train, and promote persons in all job classifications without regard to race, color, religion, sex, national origin, marital status, genetic information, age, disability, or veteran status. The Company does not discriminate on the basis of national origin or citizenship status as provided under the Immigration Reform and Control Act of 1986.</li> <li>2. Make employment decisions so as to further the principle of equal employment opportunity.</li> <li>3. Ensure the promotional decisions are in accordance with the principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.</li> <li>4. Ensure that all personnel actions (including but not limited to compensation, benefits, transfers, layoffs, Company sponsored training education, tuition assistance, social and recreational programs) are administered without regard to race, color, religion, sex, national origin, age, disability, or veteran status.</li> </ol> <p>The V.P. of Human Resources for the Company is the EEO compliance officer. This person is responsible for the compliance with state and federal equal opportunity laws and for implementing the Affirmative Action Program to the extent applicable. This responsibility includes equal employment practices, monitoring and internal reporting. Employees believing they have not been treated in accordance with this policy are encouraged to contact the Human Resources Department.</p>
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<b>Name</b>	Reviewed By:	Approved By:	Authorized By:
<b>Title</b>	<i>[Divisional General Counsel]</i>	<i>[Divisional Chief Executive Officer]</i>	<i>[Company Name] Board of Directors by written consent on [Date] [To be adopted by Board if this is a new policy]</i>
<b>Signature</b>			
<b>Date</b>			

## PUBLIC HEARING SCRIPT

**Lactalis American Group, Inc. and/or  
Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or  
to be formed on its behalf Project**

Public Hearing to be held on October 25, 2023 at 9:00 a.m.,  
at the Erie County Industrial Development Agency's offices located at 95 Perry Street,  
Suite 403, Buffalo, NY 14203

### ATTENDANCE:

Don Heins – Lactalis American Group, Inc.  
Jeff McGiveron – Lactalis American Group, Inc.  
Brian Krygier – ECIDA

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

*Hearing Officer:* Welcome. This public hearing is now open; it is 9:00 a.m. My name is Grant Lesswing. I am the Director of Business Development of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this 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).

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

*Hearing Officer:* We are here to hold the public hearing on the Lactalis American Group, Inc. and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf 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 Friday, October, 13, 2023.

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

*Hearing Officer:* The proposed project consists of: (i) the upgrading of the 60,000+/- sq. ft. production areas for Galbani Ricotta and Mozzarella Cheeses as well as upgrades to the pasteurization equipment and packaging equipment to reliably handle the increased input, along with Whey Powder, Galbani Provolone and President Cut-and-Wrap Brie processing production lines, installation of new mozzarella and ricotta cheese production equipment, a new 6,000+/- sq. ft. building addition for the whey evaporator and dryer equipment, as well as plant wide infrastructure upgrades such as repairing, restoring and upgrading the existing plant infrastructure including the replacement of an end-of-life milk silo, constructing a receiving bay catwalk for improved worker safety, repair and replacement of failing roof



system, repair to aging electrical infrastructure (the “Improvements”), and (ii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the “Equipment”; and collectively with the Improvements, the “Facility”). The Facility will be initially operated and/or managed by the Company.

The proposed financial assistance contemplated by the Agency includes New York State and local sales and use tax exemption 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 in attendance are required to register by signing the sign-in sheet at the front of the room; you will not be permitted to speak unless you have registered. Everyone who has 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, you may leave it at this public hearing, submit it on the Agency’s website or deliver it to the Agency at 95 Perry Street, Suite 403, Buffalo, New York 14203. The comment period closes on November 28, 2023. There are no limitations on written statements or comments.

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

*Hearing Officer:* If anyone is interested in making a statement or comment, please raise your hand, state 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.

Good morning my name is Don Heins, Manager of US Communications for Lactalis. I am Jeff McGiveron, Tax director for Lactalis. Don Hines - I will be making a statement on behalf of Lactalis. Lactalis American Group's South Park Dairy processing facility has continued to be a pillar of the community since we acquired the plant in the early 1990's, which was originally owned by the Russo family. The plant is a subsidiary of Groupe Lactalis, which is a global dairy company that owns and operates dairy manufacturing plants in over 50 countries, including 11 manufacturing facilities operating in the United State. Our Buffalo plant on South Park Avenue employs 376 workers with a combined total of 616 employees at both the plant and our corporate headquarters on South Park Avenue. An additional 59 employees work at our corporate office on Seneca Street. Lactalis has a total of 675 employees based in Buffalo, NY. The Buffalo manufacturing plant produces mozzarella, ricotta, provolone, brie cut and wrap, and whey. On average, this plant processes 750 million lbs. of raw milk annually from 230 dairy farms located throughout Western NY. This translates into more than \$145 Million in annual milk purchases from Western NY dairy farms. 97% of raw milk used in this plant is produced in New York State.

Lactalis proposes to modernize and revitalize the plant to meet market demands over the next several years that will result in 27 net new jobs, with an estimated investment of \$44 Million. There are mounting pressures to ensure that the South Park manufacturing facility remains competitive within the Lactalis group of companies and in the region. First, the post-Covid

economic conditions within the dairy sector are challenging given supply chain issues, recent sharp rises in interest rates, decreased access to capital, and the increase in the cost of goods. These conditions will invariably put further pressures on the aging Buffalo plants whose building structures and production equipment date back to the 1970's. Second, increased competition in the region will also create pricing pressures for locally sourced raw milk, and labor talent. Should the attempts to modernize and revitalize the plant fail to come to fruition, the South Park site risks scaling down production volumes, and production capacity could either be absorbed into one of the Lactalis' other plants located outside the state, or the possible construction of an entirely new facility at a different location.

This project is being approached in a phased manner with the objective to retain production operations at the Buffalo plant, while allowing Lactalis to investigate potential alternatives should the economic realities in future years prevent the project's completion.

The Erie County Industrial Development Agency (ECIDA) financial assistance has the potential of reducing the project's timeline by up to 18 months. This would result in the plant increasing its targeted 30% production capacity sooner. Lactalis forecasts that, at a minimum, there would be 27 new full-time positions within 24 months following the project's completion, all of which will be local hires that will add to the current 376 employees at the facility. Presently, the proposed project is the initial phase of an overall capacity and efficiency improvement initiative at the Buffalo plant. The total cost of total project phases is estimated to be over \$100 Million. All planning for subsequent phases critically depends on the success of these initial phases and key learnings gained from the completion of the proposed project. We would like to thank the ECIDA for considering our request for financial assistance to help make our modernization project a success.

Thank you.

**6. ADJOURNMENT:**

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 9:07 a.m.

**SIGN IN SHEET  
PUBLIC HEARING**

October 25, 2023, at 9:00 a.m.  
at the Erie County Industrial Development Agency's offices located at 95 Perry Street,  
Suite 403, Buffalo, NY 14203, regarding:

**Lactalis American Group, Inc. and/or Individual(s) or Affiliate(s),  
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 2375 South Park Avenue, Buffalo, New York 14220

Name	Company and/or Address	X box to speak/ comment
Don Heins,	Lactalis American Group, Inc. 2375 South Park Avenue Buffalo, New York 14220	X
Jeff McGiveron	Lactalis American Group, Inc. 2375 South Park Avenue Buffalo, New York 14220	
Brian Krygier	ECIDA 95 Perry Street, Suite 403 Buffalo, New York 14203	

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
INDUCEMENT RESOLUTION**

**LACTALIS AMERICAN GROUP, 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, November 29, 2023 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 LACTALIS AMERICAN GROUP, 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) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iii) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT; AND (iv) AUTHORIZING THE NEGOTIATION AND EXECUTION OF 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**, LACTALIS AMERICAN GROUP, INC., or on behalf of an affiliated entity formed or to be formed (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 upgrading of the 60,000+/- sq. ft. production areas for Galbani Ricotta and Mozzarella Cheeses as well as upgrades to the pasteurization equipment and packaging equipment to reliably handle the increased input, along with Whey Powder, Galbani Provolone and President Cut-and-Wrap Brie processing production lines, installation of new mozzarella and ricotta cheese production equipment, a new 6,000+/- sq. ft. building addition for the whey evaporator and dryer equipment, as well as plant wide infrastructure upgrades such as repairing, restoring and upgrading the existing plant infrastructure including the replacement of an end-of-life milk silo, constructing a receiving bay catwalk for improved worker safety, repair and replacement of failing roof system, repair to aging electrical infrastructure (the "Improvements"),

and (ii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and collectively with the Improvements, the "Facility"). The Facility will be initially operated and/or managed by the Company; and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on October 25, 2023, at 9:00 a.m., at the Agency's offices, at 95 Perry Street, Suite 403, Buffalo, NY 14203, 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**, 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) provide Financial Assistance to the Company in the form of 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 ("Financial Assistance"); and

**WHEREAS**, the Agency must comply with Article 8 of the New York Environmental Conservation Law and the regulations adopted thereto (collectively referred to as "SEQR"), and determine whether or not the Project presents a potential significant adverse environmental impact requiring the preparation of an environmental impact statement pursuant to SEQR; and

**WHEREAS**, the Company has submitted an Environmental Assessment Form to the Agency (the "EAF") to assist in undertaking the required SEQR review; and

**WHEREAS**, on April 23, 2023, the City of Buffalo Planning Board (the "Planning Board") determined that the Project was an Unlisted Project as so defined pursuant to SEQER, undertook uncoordinated review pursuant to SEQR, determined that the Project will not have a significant adverse effect on the quality of the environment, that no further environmental review will be conducted and a Draft Environmental Impact Statement will not be prepared, and issued a Negative Declaration (the "Planning Board Negative Declaration") as so related thereto; 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 of and recommendations related to the Project and its November 2, 2023 resolution to recommend Agency approval of 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 of the Act; and

(I) The Project involves an “Unlisted Action” as said term is defined pursuant to 6 N.Y.C.R.R. Section 617.2(al) of the SEQR regulations. The Agency has conducted an uncoordinated review of the Project pursuant to 6 N.Y.C.R.R. Section 617.6(b)(4)(i). Based upon a comprehensive and thorough review by the Agency of the EAF and related documents delivered by the Company to the Agency, the Planning Board Negative Declaration, the criteria set forth in 6 N.Y.C.R.R. Section 617.7 of the SEQR regulations, and the additional representations made by the Company to the Agency in connection with the Project, the Agency: (i) hereby finds that the Project constitutes an “Unlisted Action” within the meaning of SEQR and a coordinated review is optional; (ii) the Agency has conducted an uncoordinated review of the Project under SEQR; (iii) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (iv) construction related impacts are short term and do not have a significant magnitude or effect; (v) the Project will not have a “significant effect on the environment” as such quoted term is defined in SEQR; and (vi) no “environmental impact statement” as such quoted term is defined in SEQR, need be prepared for this action. The Agency thus issues a “negative declaration” as that term is defined pursuant 6 N.Y.C.R.R. Section 617.2(z); and

(J) The Project qualifies for Agency Financial Assistance as it meets the Agency’s evaluative criteria established by the Agency as required under General Municipal Law Section 859-a(5), as evidenced by the following:

(i) *Wage Rate (above median wage for area):* Average salaries for existing jobs: \$77,112 and for created jobs: \$47,515.

(ii) *Regional Wealth Creation (% sales/customers outside area):* 97% of sales are outside Erie County (breakdown: 6% elsewhere in NYS, 89% outside NYS but in the U.S. and 2% outside the U.S.).

(iii) *In Region Purchases (% of overall purchases):* 15% of purchases are in region. Major purchases include: raw materials (milk = company’s largest expense), various local service providers and contractors for capital investment projects, cold storage facilities in Erie County and National Traffic Safety that manages logistics invoices and payments.

(iv) *Research & Development Activities:* R&D accounts for 7% - 10% of total operating expenses.

(v) *Investment in Energy Efficiency:* The modernization work includes the installation of new heating and cooling units that will be of higher efficiency. Energy efficiencies will be further improved with additional insulation, better system design, improved SEER ratings, etc. The installation of new equipment (whey plant) replaces the energy source resulting in a reduction of carbon emissions.

(vi) *Locational Land Use Factors, Brownfields or Locally Designated Development Areas:* Annually, this plant uses 700MM pounds of milk for dairy product production – 97% of raw milk comes from NYS dairy farmers.

(vii) *Retention/Flight Risk*: Risk = Lactalis choosing to expand at an existing facility in the U.S. or build new elsewhere.

(viii) *MBE/WBE Utilization*: The Company has committed to MWBE Contractor goals for construction and its current workforce and hiring practices are related to Diversity Equity & Inclusion practices.

(ix) *Workforce Access-Proximity to Public Transportation*: Project site is located along major bus route and serviced by NFTA bus route numbers: 14, 16, 42.

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 \$13,751,400, 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 \$1,203,247, 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.

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, 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 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, 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 conclusion of the later of two (2) years following either (i) the construction completion date, or (ii) the termination of the Agent 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 \$37,847,100 (which represents the product of 85% multiplied by \$44,526,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 375 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 397 FTE employees [representing the sum of (x) 375 Baseline FTE and (y) 22 FTE employees, being the product of 85% multiplied by 27 (being the 27 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, on behalf of the Agency, the Agent Agreement, a sales tax exemption letter (the "Sales Tax Exemption Letter"), a bill of sale (the "Bill of Sale") whereby the Agency at the completion of the installation period transfers to the Company title to the Equipment acquired during the installation period by the Company as agent of the Agency, and related documents.

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. 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 7. 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: November 29, 2023



## Plant Modernization - Western NY

[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

<b>Project Name</b>	Plant Modernization & Infrastructure Upgrades- Western NY
<b>Project Summary</b>	The purpose of the multi-year multi-phase plant project is to modernize and revitalize the Applicant's Buffalo, NY manufacturing facility. Much of the building structure and equipment in the plant date back to the 1970's. Some building components, such as load bearing columns, roofs, etc. have come into disrepair, while the aging manufacturing equipment, such as the whey plant evaporator and dryer equipment cannot keep up with current capacity demands. The plant's future economic viability needs a production capacity increase of 30%, which requires the construction of an entirely new whey plant building, and infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, including required regulatory plant wide infrastructure upgrades.
<b>Applicant Name</b>	Lactalis American Group, Inc.
<b>Applicant Address</b>	2375 South Park Avenue
<b>Applicant Address 2</b>	
<b>Applicant City</b>	Buffalo
<b>Applicant State</b>	New York
<b>Applicant Zip</b>	14220
<b>Phone</b>	(647) 784-5567
<b>Fax</b>	
<b>E-mail</b>	jim.kourtis@ca.lactalis.com
<b>Website</b>	LactalisAmericanGroup.com
<b>NAICS Code</b>	3115

#### Business Organization

##### **Type of Business**

Corporation

##### **Year Established**

1980

##### **State**

Delaware

**Indicate if your business is 51% or more (Check all boxes that apply)**

[No] Minority Owned

[No] Woman Owned

**Indicate Minority and/or Woman Owned Business Certification if applicable (Check all boxes that apply)**

[No] NYS Certified

[No] Erie Country Certified

Individual Completing Application

**Name** Jim Kourtis  
**Title** Government Funding & Industry Relations,  
North America  
**Address** 2376 South Park Avenue  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14220  
**Phone** (647) 784-5567  
**Fax**  
**E-Mail** Jim.KOURTIS@ca.lactalis.com

Company Contact- Authorized Signer for Applicant

**Contact is same as individual completing application** No  
**Name** Jeffrey McGiveron  
**Title** Director- Tax & Insurance  
**Address** 2376 South Park Avenue  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14220  
**Phone** (716) 823-6262  
**Fax**  
**E-Mail** Jeffrey.mcgiveron@us.lactalis.com

Company Counsel

**Name of Attorney** Brendan Lillis  
**Firm Name** N/A (in-house counsel)  
**Address** 2376 South Park Avenue  
**Address 2**  
**City** Buffalo  
**State** New York  
**Zip** 14220  
**Phone** (716) 823-6262  
**Fax** (716) 823-6454

E-Mail brendan.lillis@us.lactalis.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>	No
<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. Also list all stockholders, members, or partners with % ownership greater than 20%.**

The Applicant is a subsidiary of Group Lactalis, which is a global dairy company that owns and operates dairy manufacturing plants around the world, including 11 manufacturing plants operating in the U.S. The Buffalo, NY location is one of the Applicant's and its affiliated 11 manufacturing plants. This manufacturing plant employs 376 manufacturing employees for a combined workforce of more than 684 employees in Buffalo, NY, which includes 184 employed at the headquarters site. The Buffalo manufacturing plant produces mozzarella, ricotta, provolone, brie, and whey. On average this plant processes 750 million lbs of raw milk annually from 230 dairy farms located throughout WNY. This translates into more than \$145MM in annual milk purchases from WNY dairy farms. 97% of raw milk used in this plant is produced in NYS. Applicant is 100% owned by LAG Holding, Inc., a subsidiary of Group Lactalis.

<b>Estimated % of sales within Erie County</b>	3 %
<b>Estimated % of sales outside Erie County but within New York State</b>	6 %
<b>Estimated % of sales outside New York State but within the U.S.</b>	89 %
<b>Estimated % of sales outside the U.S.</b>	2 %

(\*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?**

15

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

Lactalis America Group that belongs to a global family of companies, and having a national footprint, purchases goods and services locally, nationally and at a global level to leverage its buying power and gain economies of scale. As of the beginning of 2022, the company's annual operating expenses from this Buffalo location is estimated at over \$750MM, outside of payroll expenses for more than 675 employees. \$750MM is spent within Erie County. Outside of payroll expense, the company's largest expense is milk, which is sourced from around 40 dairy farmers in WNY. The company uses a variety of local service providers and contractors for their capital investment projects. They have cold storage facilities in Erie County where they spend more than \$650K annually. A major service provider in WNY is National Traffic Safety, which is used to manage their logistics invoices and payments. This vendor processes more than \$120MM in freight invoices annually.

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

Project Location

**Address of Proposed Project Facility**

2375 South Park Avenue

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

Buffalo

**School District of Project Site**

Buffalo

**Current Address (if different)**

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

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

133.78-3-2.113, 133.78-3-9, 133.78-3-10, 133.78-3-11, 133.78-3-12

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

\$100,319.92

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

Land

\$ 0

Building(s)

\$ 0

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.)**

More than 700MM pounds of milk is collected at the Buffalo plant each year for dairy product production. Supporting hundreds of farms, 97% of all milk processed at Lactalis in Buffalo comes from New York State dairy farmers. The plant produces Galbani Ricotta and Mozzarella Cheeses, along with Whey Powder, Galbani Provolone and Président Cut-and-Wrap Brie. Lactalis produces all its Galbani Ricotta Cheese for the United States in this facility, representing \$33+MM in annual retail sales. Galbani is the No. 1 Ricotta brand in the country. Both Galbani and President are premier global brands. The site consists of two distinct plants- the cheese plant and the whey plant. The cheese plant houses the production equipment to produce mozzarella, provolone, brie, and ricotta cheese. A key by-product of the cheese making process - whey- is then pumped from the cheese plant to the whey plant. The whey plant primarily consists of the evaporator and the dryer equipment responsible for processing the whey liquid into whey powder. The site also has shipping/receiving bays to receive raw milk, and other raw materials, and to ship the finished cheese and whey products, all transported solely by truck. There are a number of large vats and silos in the plants, as well as ambient and refrigerated warehouses. Finally, the site also houses an R&D facility.

**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)**

The South Park Dairy processing facility plans to modernize the production areas and processing lines because they date back to the 1970's. Some building components, such as loadbearing columns, roofs, etc. have come into disrepair, and the aging manufacturing equipment cannot keep up with current capacity/market demands. The purpose of the proposed project is to upgrade the production areas for Galbani Ricotta and Mozzarella Cheeses, along with Whey Powder, Galbani Provolone and Président Cut-and-Wrap Brie processing production lines for the remainder of 2023, 2024, and into the future. The plant's future economic viability needs a production capacity increase of 30%, requiring key infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, a new building addition for the whey evaporator and dryer equipment, and important regulatory plant wide infrastructure upgrades. The total project costs for the new mozzarella and ricotta cheese capacity expansion project is estimated to cost \$22.5MM in new additions and renovations, manufacturing equipment purchases and infrastructure work. The work that's in scope for the cheese plant measures approximately 60,000 sq ft. The Whey plant project, measuring 6000 sq ft, is estimated to cost \$19.5MM in building renovations, manufacturing equipment purchases and infrastructure work. The Whey plant project will include the installation of a new evaporator to perform the initial moisture reduction of the liquid whey by-product from the cheese making process; and the subsequent installation of the dryer equipment to completely dry the liquid whey into a dry powder to be used as a high protein food ingredient. An additional \$2.5MM in estimated costs are proposed to address the repairing, restoring, and upgrading the existing plant infrastructure, such as the replacement of an end-of-life milk silo, constructing a receiving bay catwalk for improved worker safety, repair and replacement of failing roof system in the cheese plant, and major work on the aging electrical infrastructure to reliably and safely function in conjunction with all the electrical upgrades that are part of the aforementioned subprojects. The mozzarella and ricotta cheese capacity expansion projects will also require upgrades to the pasteurization equipment and the packaging equipment to reliably handle the increased throughput. The manufacturing plant currently employs 376 staff of which 375 are full time employees, with 1 part time employee. Within 24 months post project completion, the Applicant expects to hire an additional 27 FT staff and retaining all their current 376 employees.

**Municipality or Municipalities of current operations**

Buffalo, NY; Walton, NY; Nampa, ID; Merrill, WI; Belmont, WI; Wausau, WI; Turlock, CA; Tulare, CA; Battleboro, VT; Londonderry, NH; Casa Grande, AZ

**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?**

Yes

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

The Applicant is facing mounting pressures as it strives to maintain operations of the Buffalo plant. The post-Covid economic conditions have been challenging given supply-chain issues, recent sharp rise in interest rate, decreased access to capital, increase in the cost of goods, etc. Furthermore, it was discovered that a competitor is constructing a new plant in New York State within 60 miles of the Buffalo plant. This will invariably put further pressures on the aging Buffalo plant whose building structures and production equipment date back to the 1970's. The increased competition will also put pricing pressure for locally sources raw milk, and labor talent. Should the attempts to modernize and revitalize the plant fail to come to fruition the site risks scaling down production volumes, and production capacity would either be absorbed into one of the Applicant's other plants across the U.S., or the possible construction of an entirely new facility at a different location. This project is being approached in a phased manner with the objective to retain production operations at the Buffalo plant, while allowing the Applicant to investigate potential alternatives should the economic realities in future years prevent the project's completion.

**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**

Lactalis has had preliminary discussions with Ms. Lorrie Abounader, Sr. Project Manager, Western NY, Empire State Development regarding government grant programs for equipment. No applications have been started and an no anticipated funding to be received.

**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 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)**

A majority of the manufacturing facilities and the processing equipment date back to the 1970's. Some building components, such as load bearing columns, roofs, etc. have come into disrepair, and the aging manufacturing equipment, cannot keep up with current capacity demands. The plant's future economic viability needs a production capacity increase of 30%, requiring key infrastructure upgrades for the installation of new mozzarella and ricotta cheese production equipment, new building addition for the whey evaporator and dryer equipment, and important regulatory plant wide infrastructure upgrades. The Applicant also faces mounting pressures as it strives to maintain operations of the Buffalo plant and is competing with other manufacturing facilities within Lactalis USA for limited capital investment funds. The financial assistance and support from local government agencies play a key part in determining the future roadmap of any given facility when determining where to make capital investments. The financial assistance sought from the Agency will have a significant impact in reducing the large capital investment forecasted to modernize and revitalize the Buffalo plant. The Applicant estimates the Agency's financial assistance has the potential of reducing the projects timeline by up to 18-months. This would result in the plant increasing their targeted 30% production capacity increase sooner. The Applicant forecasts that at a minimum there would be 27 new full time positions within 24 months following the project completion, all of which will be local hires; which will already add to the current 376 employees at the existing location and supported by an additional 308 employees at corporate office and distribution center locations. Presently, the proposed project is the initial phase in an overall capacity and efficiency improvement initiative at the Buffalo plant. The total cost of all project phases is slated to be over \$100MM. All planning for subsequent phases critically depend on the success of this initial phases and key learnings gained from the completion of the proposed project.

**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?**

Lactalis USA operates 11 dairy processing facilities in California, Arizona, Idaho, Wisconsin, Vermont, New Hampshire and New York. In assessing the feasibility of major capex investments, and ultimately awarding major project dollars to a facility, the company looks at many factors including the extent to which local government agencies act as partners to support these future investments. There is a real risk that failure by the Erie County to support our future projects at the South Park facility may result in either indefinite postponement of the project phases or the termination of such projects in favor of relocating needed capex dollars to another state/plant. The company, which presently has 45 unfilled position and forecasts adding an additional 27 positions at completion of the project phase in 2025, may need to considerably scale back or even eliminate hiring as it reassess the future viability of the plant and the 376 employees that currently work there. The proposed \$22MM in project costs for construction, which would invariably utilized local construction workers and locally sourced material, would also fail to materialize. Finally, the success of the proposed project, which is the initial phase of the the plant's overall initiative to increase production capacity, will have major influence on whether the subsequent phases of the project would proceed. All future phases are forecasted to cost over \$100MM, and anticipated to occur between 2026 and 2030. Understandably, this first phase, that will take place between in 2024 and 2025, will provide the company key takeaways on how to plan and execute future project phases, including how the local government agencies supported the company's project efforts.

**Will project include leasing any equipment?**

No

If yes, please describe equipment and lease terms.

Site Characteristics

**Is your project located near public transportation?**

Yes

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

Project is located on South Park Avenue, a major bus route with major connections in close proximity. NFTA bus routes #14, #16, & #42.

**Has your local municipality and/or its planning board made a determination regarding the State Environmental Quality Review (SEQR) for your project?**

Yes

**If YES indicate in the box below the date the SEQR determination was made. Also, please provide us with a copy of the approval resolution and the related Environmental Assessment Form (EAF) if applicable.**

**If NO indicate in the box below the date you anticipate receiving a SEQR determination for your project. Also, please insure that the ECIDA has been listed as an "involved agency" on the related EAF submitted to the appropriate municipality and/or planning department.**

Apr-10-2023

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

Yes

**Describe the present zoning/land use**

The parcels on South Park Ave. primarily are zoned D-IL. The land use primarily falls under property type code 710: Manufacturing & Processing with some portion of the site classified under property type code 331: Commercial vacant land with minor improvements

**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**

The modernization work includes the installation of new heating and cooling units that will be of higher efficiency compared to the existing equipment, which is over 20 years ago. The energy efficiencies will be further improved with additional insulation, better system design, improved SEER ratings, etc. The project also includes installation of new production equipment for new whey plant where the energy source will be replaced from natural gas to electricity to drive the large electric fans. This will have a positive impact in reducing our carbon emissions.

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 Applicant allocates approximately 7% to 10% of the total operating expenses for research and development activities.

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.



**3.) New Building addition(s)**

\$ 1,075,000 6,000 square feet

**4.) Reconstruction/Renovation**

\$ 19,002,212 60,000 square feet

**5.) Manufacturing Equipment**

\$ 21,607,000

**6.) Infrastructure Work**

\$ 2,841,788

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

\$ 0

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

\$ 0

**9.) Other Cost**

\$ 0

**Explain Other  
Costs**

**Total Cost** \$ 44,526,000

Construction Cost Breakdown:

<b>Total Cost of Construction</b>	\$ 22,919,000 (sum of 2, 3, 4 and 6 in Project Information, above)
<b>Cost of materials</b>	\$ 13,751,400
<b>% sourced in Erie County</b>	70%

Sales and Use Tax:

<b>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</b>	\$ 13,751,400
<b>Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):</b>	\$ 1,203,247

\*\* 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:

<b>Equity (excluding equity that is attributed to grants/tax credits):</b>	\$
<b>Bank Financing:</b>	\$ 0
<b>Tax Exempt Bond Issuance (if applicable):</b>	\$ 0
<b>Taxable Bond Issuance (if applicable):</b>	\$ 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, ESD, other public sources)**

**Total Sources of Funds for Project Costs:** \$0

**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).**

**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.

**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)

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).

<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 FT and PT jobs to be retained</b>	<b>If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 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 FT and PT jobs to be created</b>
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### 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**

2375 South Park Avenue, Buffalo, NY 14220

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

Sorrento Lactalis, Inc. 2376 South Park Avenue, Buffalo, NY 14220

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

Premises is located on South Park Avenue, in a mixed use commercial district. The existing manufacturing site is approx. 16.0 acres or 697,339 Sq ft with the manufacturing facility taking up approx. 5.0 acres / 216,000 Sq ft one-story. The site also houses a distribution center approx. 1.6 acres or 70,000 Sq ft and has some ancillary parking. There are no wetlands, coastlines, rivers, etc.

##### **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**

Originally, Sorrento Cheese was founded by Louis Russo in 1947. That company moved to current plant location in 1960 and produced mozzarella and ricotta cheese. Sorrento Cheese was acquired by Besnier (Group Lactalis) in 1991. A major plant expansion project was undertaken in 1993 for retail mozzarella production. In 1997, the plant was expanded to house the shred department. Ricotta Production volume were doubled in 1997. Lactalis US Operations took the name Sorrento Lactalis in 1999, and established their corporate headquarters in Buffalo. DC Warehouse expansion was completed in 2000 and autopalletization was implemented in 2007. The company added the cut & wrap (Brie) department in 2012, a new whey bagger line in 2015 and two new packaging line- Mozzarella & Provolone in 2016.

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

The primary use of the plant is for the production of cheese.

##### **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**

N/A

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

N/A

**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**

N/A

**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**

Waste water discharge under Buffalo Sewer Authority BPDES Permit No. 21-03-BU080. Storm drain

**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**

N/A

**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 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** Lactalis American Group, Inc.  
**Address** 2376 South Park Avenue, Buffalo, NY 14220  
**Contact Person** Jim Kourtis  
**Phone** (647) 784-5567  
**Fax**  
**E-Mail** jim.kourtis@ca.lactalis.com  
**Federal ID #**  
**SIC/NAICS Code** 3115

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## **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. **If no, proceed to the next section.**

## **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**

**City/Town**

**State**

**Zip Code**

**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**

<BLANK>

**Within Erie County**

<BLANK>

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

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

<BLANK>

**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.)**

**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?**

<BLANK>

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

**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 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

## **Section X: Tax Exempt Bonds**

In order to receive the benefits of a tax-exempt interest rate bond, private borrowers and their projects must be eligible under one of the federally recognized private active bond categories (Fed Internal Rev Code IRC sections 142-144, and 1394).

**Are you applying for tax exempt bonds / refinancing of bonds related to a residential rental facility project?**

No