

Erie County Industrial Development Agency
Meeting of the Membership
February 22, 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 Minutes of the December 21, 2022 Meeting of the Membership (Action Item) (Pages 2-7)

3.0 Reports / Action Items / Information Items:

- 3.1 Financial Report (Informational) (Pages 8-10)
- 3.2 Finance & Audit Committee Update
 - a) Public Sector Banking Services RFP (Action Item) (Pages 11-14)
- 3.3 Governance Committee Update (Informational)
- 3.4 2022 Tax Incentives Induced/Closing Schedule (Informational) (Pages 15-16)
- 3.5 Start-up NY Affiliation Agreement (Action Item) (Pages 17-21)
- 3.6 Conference Room Expansion (Action Item) (Pages 22-24)
- 3.7 Policy Committee Update (Informational) (Pages 25-28)

4.0 Inducement Resolution(s):

		ECIDA Incentives	Private Investment	Municipality
4.1	356 Hertel Avenue, LLC (Pages 29-76)	\$612,500	\$32,067,800	Buffalo
4.2	Commitment 2000/Father Sam's Bakery (Pages 77-117)	\$420,215	\$ 8,623,800	Buffalo

5.0 Management Team Report:

5.1

6.0 Adjournment - Next Meeting – March 22, 2023 @ 12:00 p.m.

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

- DATE AND PLACE:** December 21, 2022, at the Northland Workforce Training Center, 683 Northland Avenue, Community Room, Buffalo, New York 14211
- PRESENT:** Denise Abbott, Rev. Mark E. Blue, Hon. Joseph Emminger, Dottie Gallagher, Michael P. Hughes, Hon. Brian Kulpa, Tyra Johnson, Richard Lipsitz, Jr., Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz and Kenneth A. Schoetz
- EXCUSED:** Hon. Diane Benczkowski, Hon. Bryon W. Brown, James Doherty, Hon. Howard Johnson, Denise McCowan, Hon. Darius G. Pridgen and Paul Vukelic
- OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Atiqa Abidi, Senior Accountant; Gerald Manhard, Chief Lending Officer/Secretary; Grant Lesswing, Director of Business Development; Andrew Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager, Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Laurie Hendrix, Administrative Coordinator; Robbie Ann McPherson, Director of Marketing & Communications; Robert G. Murray, Esq., General Counsel/Harris Beach PLLC and Christopher Canada, Bond Counsel/Hodgson Russ.
- GUESTS:** Zachary Evans on behalf of Erie County; Alex Carducci on behalf of the City of Buffalo; Tom Colella on behalf of Highway Rehabilitation; James Panepinto on behalf of 132 Dingens Street, LLC and Adam Pratt on behalf of A. Pratt Holdings/Sherex Fastening Solutions

There being a quorum present at 12:10 p.m., the meeting of the members of the Erie County Industrial Development Agency (the "ECIDA" or "Agency"), was called to order by Chair, Ms. McDuffie.

MINUTES

The minutes of the November 30, 2022 meeting of the members were presented. Mr. Kulpa moved and Mr. Hughes 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. Profic presented the November 2022 financial report. The balance sheet shows the month ended with total assets of \$30.2M and net assets of \$20.4M. The largest change in the balance sheet line items from October was a cash decrease of \$141,000, due to expenses exceeding revenue last month. Operating revenue of \$87,000 was below the monthly budget by \$135,000, due mainly to \$7,000 of administrative fees collected during the month. Operating expenses were \$213,000 and overall below our monthly budget by \$15,000. After depreciation, there was net loss of \$134,000 for the month. The year-to-date Income Statement shows revenues of \$2.0M, including administrative fee revenue of \$1.1M. We are at 61% of our 2022 administrative fee budget through November. In December we've received \$255,000 of administrative fees and should receive an additional \$130,000 before the end of the year. This will bring us to about \$1.5M or 82% of our budgeted fee revenue for 2022. Expenses of \$2.5M are \$72,000 under budget for the year. Special project grant revenue nets to \$199,000. After strategic investments and depreciation, there is currently a net loss of \$543,000 for the year. Ms. McDuffie directed that the report be received and filed.

2022 Tax Incentive Induced/Closing Schedule. Mr. Cappellino presented this report to the members. Ms. McDuffie directed that the report be received and filed.

PFRAP Grant Approval. Mr. Cappellino described the \$2,100,000 grant award from New York State Department of Transportation ("NYSDOT") to repair certain portions of the Buffalo Southern Railroad Inc., said line owned by Erie County, leased to the Agency, who manages the line for the benefit of Erie County, and sub-leases said line to Buffalo Southern Railroad.

Mr. Poloncarz moved to enter into the grant agreement and undertake the maintenance work. Mr. Nellis seconded the motion. General discussion ensued. Ms. McDuffie called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE AGENCY TO NEGOTIATE AND ENTER INTO A GRANT AGREEMENT BETWEEN THE AGENCY AND THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION (THE "DOT") RELATIVE TO CERTAIN RAILROAD INFRASTRUCTURE IMPROVEMENTS, CONSTRUCTION AND MAINTENANCE ACTIVITIES TO BE UNDERTAKEN AT THE RENAISSANCE COMMERCE PARK IN AN AMOUNT OF \$1,703,553

Policy Committee Update. Mr. Lipsitz updated members on the most recently completed Policy Committee meeting, noting the Policy Committee unanimously approved the two projects on today's agenda for approval. Ms. McDuffie directed that the report be received and filed.

INDUCEMENT RESOLUTIONS

132 Dingens Street, LLC, 132 Dingens Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax abatement benefit project which consists of the construction of an approximately 81,000 sq. ft. addition to a newly constructed spec warehouse intended for both warehouse and light manufacturing uses.

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.

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

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$7,905,000 (which represents the product of 85% multiplied by \$9,300,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 18 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 15 FTE employees [being the product of 85% multiplied by 18 (being the 18 new FTE employee positions proposed to be created by the Company as stated in its Application)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.

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

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY: (i) ACCEPTING THE APPLICATION OF 132 DINGENS ST, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Highway Rehabilitation Corporation, 11061 Walden Avenue, Alden, New York. Mr. Cappellino reviewed this proposed sales tax exemption, mortgage recording tax exemption and real property tax benefit project which consists of the construction of a 23,000 sq. ft. building that will be used to manufacture and maintain equipment.

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.

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

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$4,441,250 (which

represents the product of 85% multiplied by \$5,225,000, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment – that there are at least 67 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 79 FTE employees [representing the sum of (x) 67 Baseline FTE and (y) 12 FTE employees, being the product of 85% multiplied by 15 (being the 15 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

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

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

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

MANAGEMENT TEAM REPORTS

Mr. Cappellino thanked all members for their outstanding efforts during 2022 and for supporting the Agency and its staff.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:28 p.m.

Dated: December 21, 2022

Elizabeth A. O'Keefe, Secretary

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

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("ECIDA")

Balance Sheet

January 31, 2023

	January 2023	December 2022 (Unaudited)
ASSETS:		
Cash *	\$ 7,307,746	\$ 7,475,718
Restricted Cash & Investments *	19,842,819	20,449,260
Due from Affiliates	1,139,997	471,011
Due from Buffalo Urban Development Corp.	111,465	106,016
Other Receivables	203,295	94,679
Total Current Assets	<u>28,605,322</u>	<u>28,596,683</u>
Grants Receivable	644,183	644,183
Venture Capital Investments, net of reserves	506,886	506,886
Capital Assets	1,045,749	1,055,749
Total Long-Term Assets	<u>2,196,818</u>	<u>2,206,818</u>
TOTAL ASSETS	<u><u>\$ 30,802,140</u></u>	<u><u>\$ 30,803,501</u></u>
LIABILITIES & NET ASSETS		
Accounts Payable & Accrued Exp.	\$ 169,701	\$ 188,859
Deferred Revenues	647,147	643,647
Funds Held on Behalf of Others	9,320,707	9,317,525
Total Liabilities	<u>10,137,555</u>	<u>10,150,030</u>
Net Assets	<u>20,664,585</u>	<u>20,653,471</u>
TOTAL LIABILITIES & NET ASSETS	<u><u>\$ 30,802,140</u></u>	<u><u>\$ 30,803,501</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

Year to Date: January 31, 2023

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
REVENUES:						
Administrative Fees, net of refunds	\$ 131,452	\$ 150,000	\$ (18,548)	\$ 131,452	\$ 101,000	\$ 30,452
Affiliate Management Fees	50,183	50,392	(208)	50,183	44,850	5,333
Interest Income - Cash & Investments	29,879	500	29,379	29,879	308	29,571
Rental Income	21,508	21,467	42	21,508	19,789	1,719
Other Income	6,000	6,250	(250)	6,000	5,000	1,000
Total Revenues	239,023	228,608	10,414	239,023	170,947	68,075
EXPENSES:						
Salaries & Benefits	166,774	169,800	(3,025)	166,774	164,914	1,861
General Office Expenses	28,844	23,267	5,578	28,844	21,406	7,438
Building Operating Costs	16,234	21,170	(4,936)	16,234	21,621	(5,387)
Professional Services	3,500	9,333	(5,833)	3,500	7,505	(4,005)
Public Hearings & Marketing	59	5,417	(5,358)	59	256	(197)
Travel, Mileage & Meeting Expenses	1,957	3,083	(1,127)	1,957	930	1,026
Other Expenses	1,059	729	330	1,059	1,219	(160)
Total Expenses	218,428	232,799	(14,371)	218,428	217,851	577
SPECIAL PROJECT GRANTS:						
Revenues	520	48,209	(47,689)	520	120	400
Expenses	-	(42,526)	42,526	-	(6,837)	6,837
	520	5,683	(5,163)	520	(6,717)	7,237
NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS & DEPRECIATION:						
	\$ 21,115	\$ 1,492	\$ 19,622	\$ 21,115	\$ (53,621)	\$ 74,736
OTHER STRATEGIC INVESTMENTS AND INITIATIVES:						
Zero Net Energy costs (Z7+)	\$ -	\$ (52,160)	\$ 52,160	\$ -	\$ -	\$ -
Angola Ag Park Grant	-	(100,000)	100,000	-	-	-
Bethlehem Steel Industrial Park Grant Reimb	-	150,000	(150,000)	-	-	-
Buffalo Urban Development Corporation	-	(100,000)	100,000	-	-	-
Other Strategic Initiatives	-	(125,000)	125,000	-	-	-
	-	(227,160)	227,160	-	-	-
NET INCOME/(LOSS) BEFORE DEPRECIATION:						
	21,115	(225,667)	246,782	21,115	(53,621)	74,736
Depreciation	(10,000)	(10,000)	-	(10,000)	(10,000)	-
NET INCOME/(LOSS):						
	\$ 11,115	\$ (235,667)	\$ 246,782	\$ 11,115	\$ (63,621)	\$ 74,736

MEMORANDUM

TO: ECIDA, RDC and ILDC Boards of Directors
FROM: Mollie Profic, Vice President
SUBJECT: Public-Sector Banking Services RFP
DATE: February 22, 2023

The ECIDA's Professional Services Request for Proposals (RFP) Process requires proposals for Banking Services to be solicited at least every 5 years. Proposals were last solicited in 2017, after which a banking relationship was established with M&T Bank. In November 2022, ECIDA and its affiliated entities, and Western Region Corporation conducted a joint RFP for banking services.

Request for Proposal Process:

The RFP was submitted directly to the top ten largest banks in Erie County per the 2022 Business First book of Lists and any banks that had proposed in 2017. Ads were also placed in The Buffalo News, the Buffalo Criterion, and Challenger Community News stating the Agency issued an RFP for these services. In addition, the RFP was posted on ECIDA's website. Proposals were due November 15, 2022. Five proposals were received.

Evaluation Process:

Proposals were evaluated by Mollie Profic, CFO, Atiqa Abidi, Senior Accountant, and Patricia Smith, Bookkeeper and points were assigned based on the following criteria as stated in the RFP:

- 1) Proposed Account Structure / Investment Program. (40%)
- 2) Qualifications and public sector banking experience of the individuals to be assigned. (25%)
- 3) Experience of the bank in providing similar services to local governments, CRA rating and local branch network. (25%)
- 4) Scope of services offered including degree of automation. (10%)

Based on the first-round score ratings, a short-list of three banks was developed: Evans Bank, Key Bank, and M&T Bank. The staff committee requested additional information and/or demonstration as needed.

Results:

While all of the respondents were capable and suitable partners, M&T Bank was the top-rated bank:

- M&T offers competitive interest rates, the highest earnings credit rate, and there is no requirement for non-interest-bearing accounts to support services.
- M&T has a dedicated government banking team headquartered in Buffalo. The Senior Relationship Manager for M&T Bank has over 17 years of government banking experience. Clients include IDAs, state agencies, counties, and public authorities.
- M&T has received an “outstanding” CRA rating since 1989.
- Forty branches throughout Erie County are convenient for staff tasked with making deposits.
- M&T offers a suite of anti-fraud services, including but not limited to: positive pay/reverse positive pay, ACH monitor, ACH debit block and check block. Multi-factor authentication (MFA) is required to log in to the bank’s Treasury Center. A smart phone app is also available.
- M&T is a community leader in Diversity, Equity and Inclusion initiatives, investment in technology, and is the leading small business lender in the Buffalo-Rochester market for 2022.

On January 10, 2023, the Joint Finance & Audit Committee reviewed the RFP results and recommended that their respective Boards approve the retention of M&T Bank as the prime bank of the ECIDA, RDC and ILDC.

Recommendation:

Per the following resolution, I am requesting that Boards approve the retention of M&T Bank as the prime bank of the ECIDA, RDC and ILDC to the respective Boards for the calendar years 2023-2025, with an option of retaining the bank for the 2026-2027 calendar years.

**RESOLUTION OF THE
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
REGARDING DEPOSITS OF MONEY AND THE INVESTEMENT OF FUNDS**

WHEREAS, the Erie County Industrial Development Agency (the “Agency”) desires to adopt a resolution which will provide the necessary authority for the Agency to fully comply with the applicable provisions of Section 10 and Section 11 of the New York General Municipal Law, as applicable, with respect to deposits and investments of public money in the name of the Agency for use in normal business operations, in the furtherance of the corporate purposes of the Agency; and

WHEREAS, in accordance with the Agency’s Professional Services Requests for Proposals Process and Policy, the Agency issued an RFP for Banking Services, entitled “Public Sector Banking Services” (hereinafter referred to as the “Banking Services RFP”); and

WHEREAS, the Banking Services RFP was submitted to the ten largest banks located in Erie County, noticed on the Agency’s website, and placed in the Buffalo News, the Buffalo Criterion, and the Challenger Community News; and

WHEREAS, staff of the Agency reviewed and scored the Banking Services RFP responses and based on initial scoring of the RFP responses, Evans Bank N.A., KeyBank N.A. and M&T Bank were selected for follow-up and additional requests for information; and

WHEREAS, Agency staff recommends M&T Bank as the prime bank, to provide banking, cash management, and investment services to the Agency; and

WHEREAS, on January 10, 2023, the Agency’s Finance & Audit Committee reviewed the Banking Services RFP process, the Agency’s staff memorandum regarding the recommendation of M&T Bank, and unanimously resolved to recommend to the Agency that M&T Bank be chosen as the prime bank to provide banking, cash management, and investment services to the Agency.

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

Section 1: The Agency hereby affirms that it is hereby authorized to open and close such bank and investment accounts and to maintain such banking relations as may be determined by the President/Chief Executive Office (“CEO”), from time to time, to be necessary or appropriate for the transaction of the Agency’s business.

Section 2: Effective with the adoption of this resolution, the Agency hereby finds, in comparison to the other Banking Services RFP respondents, that M&T requires no service charges, has greater governmental banking experience, an “outstanding” CRA rating, and a dedicated project management team to assist with the banking transition as well as web-based banking, transaction services and positive pay features superior to the other Banking Services

RFP respondents and as such, hereby designates M&T Bank as the Agency's official depository of funds and to provide cash management and investment services as described within the Banking Services RFP, said engagement to be for an initial three year term (2023 – 2025), with retention for 2026 and 2027 if approved by the Agency's Finance and Audit Committee.

Section 3. Each bank and investment account authorized by this resolution shall provide that no withdrawals shall be made from such accounts nor shall any checks be drawn thereon unless withdrawal slips or checks (as applicable) are signed by such individual or individuals as may be designated by both the Chair and the CEO.

Section 4. Each bank and investment account authorized by this resolution shall adhere to the current Investment and Deposit Policy as approved by the Agency.

Section 5. This Resolution shall take effect immediately and shall remain in effect and be binding until revoked by written notice given by the Agency to M&T Bank.

ADOPTED: February 22, 2023

Tax Incentives Approved - 2022

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
Jan-22	791 Washington Street, LLC ³	Buffalo	\$107,950,000	85% threshold \$91,800,000	0	0	5	0	85%-New 4 jobs	571	433	Period of PILOT 10 Years	\$3,719,000	1:20
Jan-22	Arbor Multifamily Lending, LLC	Tonawanda	\$2,100,000	85% threshold \$1,785,000	168	0	25	0	85%-New 21 jobs	0	158	project completion date + 2 yrs	\$183,750	1:304
Jan-22	Broadway Development & Management ¹	Buffalo	\$12,500,000	85% threshold \$10,625,000	2	0	8	0	85%-New 7 jobs	56	55	project completion date + 2 yrs	\$693,500	1:14
Jan-22	Lactalis American Group, Inc.	Buffalo	\$1,436,697	85% threshold \$1,221,192	394	0	27	0	85%-New 22 jobs	5	1390	project completion date + 2 yrs	\$126,793	1:994
Mar-22	471 Elmwood, LLC ¹	Buffalo	\$3,590,000	85% threshold \$3,051,500	0	0	1	0	85%-New 1 job	20	10	project completion date + 2 yrs	\$122,500	1:18
Apr-22	Workport, Ltd.	West Seneca	\$15,006,887	85% threshold \$12,755,854	0	0	6	10	85%-New 9 jobs	30	33	project completion date + 2 yrs	\$103,562	1:67
Jul-22	380 Vulcan	Tonawanda	\$7,145,000	85% threshold \$6,073,250	4	2	3	2	85%-New 3 jobs	25	26	Period of PILOT 7 Years	\$1,610,699	1:6
Jul-22	Perry's Ice Cream	Akron	\$18,000,000	85% threshold \$15,300,000	365	14	15	0	85%-New 12 jobs	79	690	Period of PILOT 7 Years	\$684,891	1:490
Jul-22	Sprauling Business Park	Tonawanda	\$2,055,000	85% threshold \$1,746,750	0	0	20	0	85%-New 17 jobs	8	24	Period of PILOT 7 Years	\$403,241	1:27
Jul-22	A & A Union Road, LLC	West Seneca	\$3,110,729	85% threshold \$2,644,119	12	1	2	0	85%-New 1 job	13	33	Period of PILOT 7 Years	\$521,790	1:51
Aug-22	Laborers Way 1	Buffalo	\$27,800,000	85% threshold \$23,630,000	0	0	20	34	85%-New 37 jobs	119	141	Period of PILOT 15 Years	\$1,087,290	1:28
Sep-22	950 Broadway, LLC ¹	Buffalo	\$11,653,862	85% threshold \$9,905,783	0	0	34	4	85%-New 30 jobs	55	51	project completion date + 2 yrs	\$592,040	1:25
Oct-22	Ellicott Park Townhomes ²	Buffalo	\$54,664,295	85% threshold \$46,664,295	2	1	2	2	85%-New 3 jobs	210	161	project completion date + 2 yrs	\$1,280,856	1:22
Oct-22	Tonawanda Towers ³	City of Tonawanda	\$25,040,720	85% threshold \$21,284,612	3	1	0	1	85%-New 1 PT Job	59	47	project completion date + 2 yrs	\$89,003	1:98
Nov-22	40 Dona Street/Uniland Development	Lackawanna	\$19,692,754	85% threshold \$16,738,840	0	0	41	0	85%-New 34 jobs	84	95	Period of PILOT 10 Years	\$3,090,403	1:14
Dec-22	132 Diggins Street, LLC	Buffalo	\$9,300,000	85% threshold \$7,905,000	0	0	18	0	85%-New 15 jobs	41	45	Period of PILOT 7 Years	\$985,798	1:13
Dec-22	Highway Rehabilitation Corri.	Alden	\$5,225,000	85% threshold \$4,441,250	67	0	15	0	85%-New 12 jobs	20	95	Period of PILOT 7 Years	\$700,857	1:14

Totals: Private Investment/
Project Amount: \$135,693,862 FT Jobs Retained: 2 PT Jobs Retained: 0 FT Jobs Created: 48 PT Jobs Created: 4 Const Jobs: 702 Spillover Jobs: 549 Incentive Amount: \$5,127,040

Adaptive Reuse Subtotal	4	\$135,693,862	2	0	48	4	702	549	\$5,127,040
2022 Total	17	\$326,270,944	957	19	242	53	1395	3487	\$17,995,973

¹ Adaptive Reuse
² Bond \$33,000,000
³ Bond \$19,000,000

Tax Incentives Closings - 2022

Project Name	Project Amount at Closing	FT Jobs at App	Projected Year 2 FT Jobs	PT Jobs at App	Projected Year 2 PT Jobs	Project City	Induced Date	Est. Project Completion Date
Unifrax Line 7	\$ 36,000,000	27	37	0	0	Tonawanda	3/27/2019	12/31/2021
Laborers Way I	\$ 27,800,000	0	20	0	34	Buffalo	8/24/2022	12/31/2024
Workspport	\$ 15,666,887	0	6	0	10	West Seneca	4/27/2022	12/31/2027
Calspan Corporation	\$ 15,092,000	143	163	3	3	Cheektowaga	6/1/2022	12/31/2022
Sucro Real Estate, LLC	\$ 7,625,000	5	50	0	0	Lackawanna	1/27/2021	4/30/2023
380 Vulcan/Carrier Terminal Services	\$ 7,145,000	5	7	2	2	Kenmore	7/27/2022	12/31/2024
Eastman Machine Company	\$ 1,749,062	126	129	0	0	Buffalo	2/24/2021	12/21/2023
	\$ 111,077,949	306	412	5	49			
Projects Closed = 7								
FT Projected New Jobs = 106								
PT Projected New Jobs = 44								



MEMORANDUM
February 22, 2023

To: Board of Directors
Re: Start-UP NY, Verivend Inc.

Background:

The Start-UP NY program was enacted in 2013 to allow for the provision of certain incentives to support businesses that partner with higher education institutions. The program allows businesses to locate on or in higher educational properties and facilities. Additionally, through an affiliation agreement with an IDA, off campus properties can be entered into the program.

The University of Buffalo has requested that the affiliation agreement which was entered into by the ECIDA in March of 2017 with the University of Buffalo and Zion Holdings for the facility located at 599 Delaware Avenue in the City of Buffalo, be amended to allow for a new tenant Verivend Inc. to locate in the Start-UP NY portion of the facility.

The March 2017 affiliation agreement allowed Circuit Clinical, a tenant at the Delaware Avenue facility to operate in a certified Start-UP NY site. In June of 2020 Circuit Clinical vacated the Start-UP NY site, and Verivend Inc., a Buffalo based financial tech. software development company has been approved for the Start-UP NY program and is proposing to occupy the space at 599 Delaware.

This action will not result in any ECIDA benefits being provided to Verivend or Zion Holdings.

Requested Action:

Approval of the modification and assignment of affiliation and license agreement for the Start-UP NY program project to terminate the 2017 Circuit Clinical agreement and approve the Verivend Start-UP NY subject agreement to allow for Verivend Inc. to take residency in the Zion Holdings facility located at 599 Delaware Avenue in the City of Buffalo.

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

RESOLUTION

(Termination of Lease Agreement, Leaseback Agreement and PILOT Agreement relative to Zion Holdings, LLC Start-Up NY Program Project, and approval of Amended and Restated Affiliation Agreement and License Transactions related to Verivend Start-Up NY Project Facility)

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, February 22, 2023, at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO (i) THE TERMINATION OF CERTAIN AGREEMENTS WITH RESPECT TO THE EXISTING CIRCUIT START-UP NY PROJECT FACILITY; AND (ii) ESTABLISHING THE VERIVEND START-UP NY PROJECT FACILITY

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

WHEREAS; the State University of New York, acting on behalf of The University at Buffalo, State University of New York (the “University”) as part of the “Start-Up NY program” (the “Start-Up NY Program”), created under Chapter 68 of the Laws of 2013 (as amended from time to time, the “Start-Up NY Act”), is sponsoring Tax-Free NY areas to, among other things, foster job creation by permitting certain designated businesses to operate within such Tax-Free NY areas completely tax-free, including no income tax for employees and no sales, property or business tax, while partnering with higher education institutions, for up to ten years (the “Tax Benefit Period”); and

WHEREAS, Zion Holdings LLC (“Zion Holdings”) owns certain real property and improvements located at 599 Delaware Avenue, City of Buffalo, Erie County, New York (the “Property”); and

WHEREAS, on or about April 3, 2006, Zion Holdings conveyed fee title to the Property to the Agency via warranty deed recorded in the Erie County Clerk’s Office on April 5, 2006 at Liber 11111, Page 9277 (the “Deed”), and thereafter Zion Holdings and the Agency entered into a certain Lease Agreement as of April 1, 2006, whereby Zion Holdings leased the Property back from the Agency (the “Original Lease”), and further entered into a certain PILOT Agreement dated as of April 1, 2006 (the “Original PILOT”); and

WHEREAS, on or about January 1, 2013, the Agency reconveyed the Property to Zion Holdings via quitclaim deed reserving a leasehold estate for the Agency, recorded in the Erie County Clerk's Office on February 12, 2013 at Liber 11239, Page 3902 (the "Leasehold Deed"); and

WHEREAS, the University and Zion Holdings desired for a portion of the Property to be designated as a Tax-Free NY Area under the Start-Up NY Program; and

WHEREAS, Emperican PRN, Inc. d/b/a Circuit Clinical. ("Circuit"), a Buffalo-based company engaged in the business of providing management and professional services relative to clinical trials, was approved by the University to participate in the Start-Up NY Program through the Tax Benefit Period expiring on March 31, 2026, and as such, Circuit desired to occupy a the Tax-Free NY Area portion of the Property (the "Circuit Project Facility") as the tenant of Zion Holdings; and

WHEREAS, effective as of March 24, 2017, the University, Zion Holdings, and the Agency entered into a certain Affiliation Agreement, as required by the regulations interpreting the Start-Up NY Program, by which the University confirmed its affiliation with the Agency; and

WHEREAS, related thereto, effective as of March 1, 2017, Zion Holdings and the Agency entered into a certain First Amendment to Lease Agreement and to Leaseback Agreement (the "First Amendment to Lease and Leaseback"), and thereafter, also dated effective as of March 1, 2017, Zion Holdings and the Agency entered into that certain First Amendment to Payment in Lieu of Tax Agreement ("First Amendment to PILOT") to ensure compliance with the terms of the Affiliation Agreement; and

WHEREAS, as of December 19, 2018, Zion Holdings sub-leased the Circuit Project Facility to Circuit; and

WHEREAS, Zion Holdings and the University established the Circuit Project Facility as a designated Tax-Free NY Area for purposes of the Start-Up NY Program (the "Circuit Start-Up NY Project Facility") to allow Circuit to occupy and undertake its operations within the Start-Up NY Project Facility so that Circuit could obtain the benefits of the Start-Up NY Program; and

WHEREAS, as of June 24, 2020, Circuit vacated the Circuit Start-Up NY Project Facility, and is no longer a sub-tenant of Zion Holdings; and

WHEREAS, pursuant to the Original Lease and Original PILOT, the Original Lease Term and Original PILOT Term were set to expire as of December 31, 2022; and

WHEREAS, Verivend, Inc. (the "Company"), a Buffalo-based company engaged in the business of fintech software development, has been approved by the University to participate in the Start-Up NY Program through the Tax Benefit Period expiring on October 4, 2030, and as such, the Company desires to occupy a portion of the Property (the "Verivend Project Facility") as the tenant of Zion Holdings; and

WHEREAS, the Company has notified the Agency (i) confirming that the Company desired to occupy the Verivend Project Facility, and (ii) requesting that the Agency either amend the Affiliation Agreement, or enter into a new, as appropriate, Affiliation Agreement as so herein described, all in an effort to continue to allow the Company to benefit from the Start-Up NY Program (the “Amended and Restated Affiliation Agreement”); and

WHEREAS, the University and Zion Holdings desire that the Verivend Project Facility is designated as a Tax-Free NY Area under the Start-Up NY Program for purposes of allowing the Company to occupy and undertake its operations within the Start-Up NY Project Facility so that the Company can obtain the benefits of the Start-Up NY Program; and

WHEREAS, the regulations associated with Start-UP NY Program permit the University to establish the Verivend Project Facility as a Start-UP NY Facility for the benefit of the Company; and

WHEREAS, to establish the Verivend Project Facility as a Start-UP NY Project Facility for the benefit of the Company (the “Verivend Start-Up NY Project Facility”), the University, Zion Holdings, and the Agency are required to enter into the Amended and Restated Affiliation Agreement by which the University reaffirms its affiliation with the Agency under the regulations interpreting the Start-Up NY Program and thereafter, Zion Holdings must license the Verivend Start Up-NY Project Facility to the Agency, and the Agency must thereafter sub-license the Verivend Start-Up NY Project Facility to Zion Holdings, and thereafter, Zion Holdings must sub-sublicense the Verivend Start Up-NY Project Facility, which shall be designated as Start-Up NY Project Facility, to the Company (the “License Transactions”); and

WHEREAS, the Agency desires to encourage Zion Holdings and the Company in their efforts to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Erie County, New York by facilitating the establishment of the Verivend Start-Up NY Project Facility and believes that its execution of the Amended and Restated Affiliation Agreement, as amended, and related License Transactions will help to achieve such goals; and

WHEREAS, no new “financial assistance” within the meaning of the Act is being granted by the Agency to Zion Holdings or to the Company pursuant to the Amended and Restated Affiliation Agreement or the related License Transactions; and

WHEREAS, the action contemplated by the Agency constituted a “Type II” action under Article 8 of the New York Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQR") and therefore no further action is required under SEQR.

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

Section 1. The action contemplated herein is a "Type II" action under SEQR.

Section 2. The Agency hereby approves of and consents to the termination of the First Amendment to Lease and Leaseback and First Amendment to PILOT, said termination to be effective as of December 31, 2022.

Section 3. The Agency hereby approves of and consents to the Amended and Restated Affiliation Agreement, to allow for the Company to benefit from the Start-Up NY Program, with such revisions and amendments as may be required and as so approved by the Chair, the Vice Chair, the President/Chief Executive Officer, the Treasurer/Chief Financial and/or the Assistant Treasurer (collectively, the “Authorized Officers”), in consultation with Agency Counsel, provided that the Verivend Start-UP NY Project Facility is only sub-sublicensed to the Company as contemplated herein.

Section 4. The Agency hereby (i) approves and authorizes the License Transactions, and (ii) authorizes the Authorized Officers, in consultation with Agency Counsel, to negotiate and execute the form and substance of the license agreement and the related sub-license agreement, and any related agreements or documents necessary and incidental thereto.

Section 5. The foregoing approvals are conditioned upon the payment by the Company and/or Zion Holdings of Agency expenses, including reasonable counsel fees, which may be incurred by the Agency in connection therewith.

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 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. These resolutions shall take effect immediately.

Dated: February 22, 2023



MEMORANDUM
February 22, 2023

To: Board of Directors
Re: Conference Room Expansion and Renovation

Background:

Due to a recent reorganization and renovation of the 5th floor office space, the 5th floor conference room will no longer be available to accommodate our in-person board and committee meetings. The main ECIDA conference room on the 4th floor is presently not large enough to accommodate our board members, guests and members of the public that attend our meetings.

As a result, ECIDA proposes expanding the current 4th floor conference room, to allow us to accommodate our board and other meetings in our offices. This will eliminate the need to go off site to conduct our meetings. The project will entail making the conference room both longer and wider, and improvements to the HVAC, soundproofing, seating and furniture. We also plan to upgrade the audio, visual and computer technology in the room for better quality and efficiency of livestreaming operation for our meetings.

The work will be done as part of our current tenant relationship with Empire State Development (ESD) and Savarino Properties. We will work with Savarino Properties for a tenant fit-out allowance credit as part of our overall lease agreement and with ESD for some cost sharing as we would make the room available for their use as well.

Requested Action:

Seeking Board approval to spend up to \$180,000 from the ECIDA General Fund reserves to expand, renovate, and equip the 4th floor conference room and to approve all required contracts and agreements for such expansion, renovation and equipping. This expenditure was approved as part of the 2023 ECIDA Capital Budget.

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

RESOLUTION

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, February 22, 2023, at 12:00 p.m.

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

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING THE AGENCY TO IMPROVE AND EXPAND ITS 4TH FLOOR CONFERENCE ROOM, INCLUDING THE PURCHASE OF CERTAIN EQUIPMENT AND FURNISHINGS, TO ACCOMMODATE ON-SITE AND IN-PERSON PUBLIC HEARINGS AND PUBLIC MEETINGS

WHEREAS, the Agency was created in 1970 as a public benefit corporation by act of the New York State Legislature to promote and assist private sector/business development thereby advancing job opportunities for and the economic welfare of the people of Erie County; and

WHEREAS, for purposes of conducting its operations, the Agency is no longer able to utilize a common area meeting space/conference space located upon the 5th floor within the 95 Perry Street, Buffalo, New York, facility (the "Facility"), for purposes of conducting on-site, and in-person, public hearings and meetings; and

WHEREAS, to eliminate the need to utilize conference/meeting space off-site, the Agency has determined it is able to improve and expand its existing 4th floor conference room to accommodate in-person public meetings and desires to make improvements to this 4th floor conference room by making the existing conference room longer and wider and related thereto, the Agency must also make certain HVAC and soundproofing improvements and purchases and also make related purchases of, and install, seating components and furniture, audio, visual, and computer related technology, to allow for better quality and efficiency of livestreaming of Agency meetings (collectively, the "Conference Room Project"); and

WHEREAS, the undertaking of the Conference Room Project will be done as part of the Agency's current tenant relationship with Empire State Development ("ESD") and Savarino Properties, and as a result, the Agency will be working with Savarino Properties for a tenant fit-out allowance credit as part of the Agency's overall lease agreement and with ESD for cost sharing as the improved 4th Floor conference/meeting room will be made available for ESD's use as well; and

WHEREAS, the undertaking of the Conference Room Project constitutes a Type II action under applicable regulations pursuant to the New York State Environmental Quality Review Act, Article 8 of the New York Environmental Conservation Law and associated regulations, including 6 N.Y.C.R.R. 617.1 et seq.; and

WHEREAS, Agency staff and Savarino Properties have studied and designed the contemplated Conference Room Project and the Agency desires to spend up to \$180,000.00 from the Agency's general fund reserves, which amount was included within the Agency's 2023 capital budget, and to approve all required contracts and agreements related thereto to undertake the Conference Room Project.

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

Section 1. The Agency hereby authorizes and approves the undertaking of the Conference Room Project.

Section 2. 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, are hereby authorized, on behalf of the Agency, to negotiate and execute contracts and agreements related thereto in an amount not to exceed \$180,000 along with any appropriate change orders or scope additions as approved by the President/Chief Executive Officer, in consultation with the Agency Chair.

Section 3. 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 4. Any and all prior actions taken by the Agency with respect to the contents of this Resolution are hereby ratified and confirmed.

Section 5. These Resolutions shall take effect immediately.

Dated: February 22, 2023

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

- DATE AND PLACE:** January 5, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203
- PRESENT:** Denise Abbott; Hon. April Baskin; Rev. Mark E. Blue; Zachary Evans; Richard Lipsitz, Jr.; Brenda W. McDuffie; Hon. Glenn R. Nellis; David J. State¹, and Lavon Stephens
- EXCUSED:** Hon. Bryon W. Brown; Colleen DiPirro; Laura Smith, Hon. John Tobia and Paul Vukelic
- OTHERS PRESENT:** John Cappellino, Chief Executive Officer; Beth O'Keefe, Vice President of Operations; Andy Federick, Business Development Officer; Soma Hawramee, Compliance Portfolio Manager; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; and Pietra G. Zaffram, General Counsel/Harris Beach PLLC
- GUESTS:** Alex Carducci on behalf of the City of Buffalo; Ryan McCarthy and Fred LaFaso on behalf of 356 Hertel Ave, LLC and Bill Sam on behalf of Commitment 2000, Inc.

There being a quorum present at 9:07 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

MINUTES

The minutes of the December 8, 2022 Policy Committee meeting were presented. Upon motion made by Mr. Nellis to approve of the minutes, and seconded by Mr. Blue, the aforementioned Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

Mr. Cappellino reviewed the Agency's 2022 Tax Incentives Project Matrix. Mr. Lipsitz directed that the report be received and filed.

¹ Mr. State participated via video conference, and counted for quorum purposes, pursuant Section 103-A of the New York State Public Officer's Law and the Agency's Videoconferencing Participation Policy.

PROJECT PRESENTATIONS

356 Hertel Ave, LLC, 356 Hertel Avenue and 42 Foundry, Buffalo, New York 14207. Ms. O’Keefe presented this proposed sales tax benefit project involving the mixed-use redevelopment of an existing historic complex consisting of 82 apartments (72,000 sq. ft.), 30,000 sq. ft. self-storage facility and 14,000 sq. ft. of retail space.

General discussed ensued.

Ms. O’Keefe confirmed that 356 Hertel Ave, LLC is seeking approximately \$612,500 in assistance including sales tax exemption. Total payroll is projected at \$27,646,012 for the direct and indirect jobs created including 212 construction jobs. The resulting cost benefit is 1:47 so for every \$1 of incentives the community benefit is \$47 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$83 in benefits to the community.

Ms. O’Keefe stated that in exchange for providing the sales and use tax, 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 = \$32,067,800 85% = \$27,257,630
Employment	Coincides with recapture period	Projected = 42 FTE Create 85% of Projected = 35 FTE Recapture Employment = 35 FTE
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	2 years after project completion	Recapture of state and local sales taxes

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

Commitment 2000, Inc./Father Sam’s Bakery, 105 Monsignor Valente Drive, Buffalo, New York 14206. Ms. O’Keefe presented this proposed sales tax, mortgage recording tax and

real property tax abatement benefits project involving the construction of an approximately 17,000+/- sq. ft. building addition to add a third production line for bakery manufacturer.

General discussed ensued.

Ms. O’Keefe confirmed that Commitment 2000, Inc. is seeking approximately \$420,215 in assistance including sales tax exemption, mortgage tax exemption and real property tax exemption. Total payroll is projected at \$36,458,323 for the direct and indirect jobs created including 38 construction jobs. The resulting cost benefit is 89:1 so for every \$1 of incentives the community benefit is \$89 in payroll & tax revenue. Erie County: for every \$1 of incentives the community benefit is \$115 in benefits to the community.

Ms. O’Keefe 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 = \$8,623,800 85% = \$7,330,230
Employment	Coincides with 7-year PILOT	Maintain Base = 75 FTE Create 85% of Projected Projected = 11 FTE 85% = 9 FTE Recapture Employment = 84 FTE
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 7-Year PILOT	Adherence to policy
Unpaid Tax	Coincides with 7-Year PILOT	Adherence to policy
Recapture Period	Coincides with 7-Year PILOT	Recapture of state and local sales taxes, mortgage recording tax and real property taxes

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

MWBE UPDATE

Mr. Cappellino updated members on the UTEP policy which was updated and forwarded to Erie County for review. We are targeting March or April to present to the Board.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:40 a.m.

Dated: January 5, 2023

Elizabeth A. O'Keefe, Secretary

356 Hertel Ave, LLC

\$ 32,067,800

PRIVATE INVESTMENT INDUCEMENT RESOLUTION

ELIGIBILITY

- NAICS Section – 23

COMPANY INCENTIVES

- Approximately \$ in sales tax savings: \$612,500

JOBS & ANNUAL PAYROLL

- Current / Retained Jobs: 0 FTE
- Projected new jobs: 42 FTE
- Est. salary/yr. of jobs created: \$55,000
- Total jobs after project completion: 42 FTE
- Construction Jobs: 212

PROJECTED COMMUNITY BENEFITS*

- Term: 2 yrs from project completion
- NET Community Benefits: \$ 29,313,412
- Spillover Jobs: 150
- Total Payroll: \$27,646,012

INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*

Incentives: \$ 612,500
 Community Benefit: 28,895,873
 Cost: Benefit Ratio
 • 1: 47

Project Title: John Kam Malt House Adaptive Re-Use
 Project Address: 356 Hertel Ave / 42 Foundry, Buffalo, NY 14207
 (Buffalo Central School District)

Agency Request

A sales tax abatement in connection with the adaptive reuse of a 116,000 sq ft building located in Buffalo’s historic Black Rock neighborhood.

Building Acquisition	\$ 1,840,000
Building Addition	\$ 1,100,000
Building Renovation	\$ 21,035,000
Infrastructure	\$ 325,000
Non- Manufacturing Equipment	\$ 1,102,500
Soft Costs/Other	\$ 6,665,300
Total Project Cost	\$ 32,067,800
85%	\$ 27,257,630

Company Description

356 Hertel Ave, LLC is owned by Fred LoFaso (60%) and Angelo Tomasello (40%). LoFaso is President of Sienna Realty, a real estate development and brokerage firm HQ in Buffalo. LoFaso is an experienced commercial real estate developer with over 32 years of industry experience having rehabilitated several other similar properties in the area. Tomasello joined Sovran/Life Storage in 1996 and served as an acquisition officer, overseeing over \$200 million in acquisitions prior to co-founding The Locke Group. For over twenty years, under Angelo's leadership, Locke has been active in sourcing acquisition opportunities for Life Storage and has represented buyers and sellers in over \$3.5 billion in transaction volume. Locke Group LLC will be the storage facility operator partner.

Project Description

The project located in Buffalo’s Historic Black Rock section, is a mixed use redevelopment of an existing historic complex. The new development will consist of 82 apartments (72,000 sq ft of residential space), a 30,000 sq ft self-storage facility, and 14,000 sq ft of retail space. We are not providing incentives to the storage and retail portions of the project. Nine of the 82 apartment units (11%) will have rents at or below 80% AMI. These nine units are made up of 5 one-bedroom units and 4 two-bedroom units. Planned amenities include: an on-site dog park, dog wash, pedestrian gathering plaza, and permanent and visitor bike storage. The site design was prepared in consideration of the Buffalo Green Code and limitations of the City of Buffalo combined sewer systems and will incorporate measures to mitigate storm water runoff, including permeable pavement throughout the site, as well as environmentally conscious design features including energy star equipment and geothermal heating systems.

# of Units	Sq Ft	Monthly Rent Range
42 one-bedroom	464 – 1,019	\$882-\$1,505
40 two-bedroom	731 – 1,252	\$1,336 - \$2,100

The company is pursuing property tax savings through the City’s 485 A program.

* 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
	Sales	\$ 612,500
	Total	\$ 612,500
	Discounted at 2%	\$ 612,500

Benefit: Projected Community Benefit*

BENEFITS	Region	Recipient	Revenue Type	\$ Amount**
	Erie County	Individuals	Payroll Construction	\$19,485,354
			Payroll Permanent	\$8,160,658
		Public	Property Taxes	\$0
			Sales Taxes	\$229,807
			Other - NFTA	\$0
		New York State	Public	Income Taxes
	Sales Taxes			\$193,522
				Total Benefits to EC + NYS***
			Discounted at 2%	\$28,895,873

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

Discounted Cost \$ 612,500
 Discounted Benefit \$28,895,873
 Ratio 1:47

Conclusion: The Cost Benefit for this project is: 1:47. For every \$1 in costs (incentives), this project provides \$47 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$83 in benefits to the community.**

New Tax Revenue Estimated – City of Buffalo 485 A Program

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
\$10,266	\$18,298,000	\$1,104,088	\$767,583	\$424,471
Combined Tax Rate: \$ 23.198				

Retail Determination

Project Use	Sq Ft	Cost (infrastructure, renovation + addition)	% Project Cost
Retail / Commercial	44,000	4,042,800	18%
Other: residential housing + building amenities	72,000	18,417,200	82%
	116,000	22,460,000	

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 equal to or greater than 85% of project amount. Total project amount = \$32,067,800 85% = \$27,257,630
Employment	Coincides with recapture period	Projected = 42 FTE Create 85% of Projected = 35 FTE Recapture Employment = 35 FTE
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>	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; \$27,257,630 ii) company has created 46 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

- 01/17/23: Public hearing held.
- 09/13/21: City of Buffalo Planning Board Unlisted – Uncoordinated NEG DEC SEQR Approval
- 02/22/23: Lease/Leaseback Inducement Resolution presented to the Board of Directors

**ADAPTIVE REUSE REPORT &
EVALUATIVE CRITERIA
John Kam Malt House – 356 Hertel Ave, LLC**

<p>Age of Structure (must be at least 20 years old and present functional challenges to redevelopment)</p>	<p>The structure is 121 years old. Challenges to redevelopment include costs for bringing a large underutilized and undermaintained century old building into code compliance and remediating existing issues at the property while complying with historic preservation requirements. Asbestos containing materials have been found on the premises in existing roofing, flashing and flooring materials.</p>
<p>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.</p>	<p>The structure has been underutilized for 40 years. Original uses included a malt house, a kiln house, water tempering, grain elevators, tanks and a warehouse. Subsequent uses = Black Rock Milling Corp, Park & Pollard Co, Buffalo Insulation Distributors & Multiglass Products Co. Xtreme Wheels Indoor Skate Park, small office, warehouse / storage space. Current use is primarily for storage space.</p>
<p>Structure is not generating significant rental income (defined as 50% or less than the market rate income average for that property class)</p>	<p>Insignificant income = \$2,000/ month is being generated at this 116,000 sq ft facility.</p>
<p>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</p>	<p>Project supports public investment to maximize the use of existing infrastructure, facilities, and encourages the preservation and adaptive reuse of a historic building.</p>
<p>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)</p>	<p>Cash flow projects have been provided showing below average return on investment rates: 4.4% with ECIDA assistance, 3.8% without ECIDA assistance.</p>
<p>Demonstrated support of local government entities</p>	<p>The property has been identified as a valuable historic asset worth preserving as demonstrated by its addition to the National Register of Historic Places as well as</p>

ADAPTIVE REUSE REPORT & EVALUATIVE CRITERIA

	inclusion on the NYS Register of Historic Places.
LEED/Renewable Resources	The site design was prepared in consideration of the Buffalo Green Code and limitations of the City of Buffalo combined sewer systems and will incorporate measures to mitigate storm water runoff, including permeable pavement throughout the site, as well as environmentally conscious design features including energy star equipment and geothermal heating systems.
Building or site has historic designation	The building is listed on the National Register of Historic Places as well as inclusion on the NYS Register of Historic Places.
Site or structure has delinquent property or other local taxes	N/A
MBE/WBE Utilization	General Contractor LeChase supports MBE/WBE through its' XBE Program and has retained MBE/WBE subcontractors (see attached).
Transit Oriented Development	Located along NFTA's #23 bus line. Property adjacent to Beltline and CSX railroad line.
OTHER FACTORS TO CONSIDER:	
Environmental/Safety Issues: Structure or site presents significant public safety hazard and or environmental remediation costs	Site has been abandoned for 40 years and would be considered a safety hazard.
Site or structure is located in a distressed census tract	Site is located in a distressed census tract #58.
Structure presents significant costs associated w/ building code compliance.	

DATE OF INDUCEMENT: 02/22/23

ADAPTIVE REUSE REPORT & EVALUATIVE CRITERIA

Return on Investment – John Kam Malt House – 356 Hertel Ave, 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

- Sales Tax Savings in the amount of \$ 612,500

ROI

365 Hertel Ave, LLC has submitted a proforma documenting the expenses and revenues and ROI for the project.

Stated ROI for the project with ECIDA assistance is 4.4%

Stated ROI for the project without ECIDA assistance is 3.8%

Erie County Industrial Development Agency

MRB Cost Benefit Calculator

Date: December 13, 2022
 Project Title: 356 Hertel Ave, LLC
 Project Location: 356 Hertel Ave/42 Foundry, Buffalo, NY 14207



Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

Project Total Investment

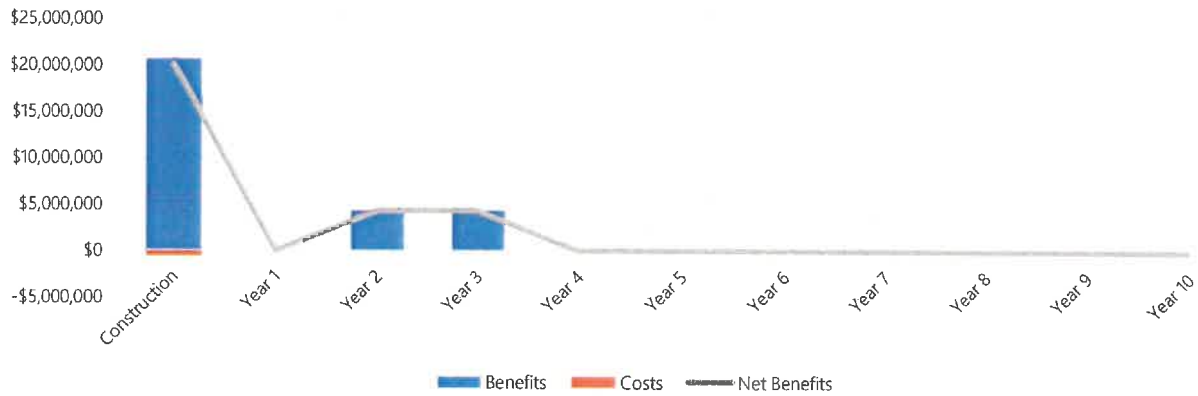
\$32,067,800

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	212	120	332
Earnings	\$12,598,863	\$6,886,491	\$19,485,354
Local Spend	\$30,143,732	\$21,333,864	\$51,477,596

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	42	30	72
Earnings	\$4,620,000	\$3,540,658	\$8,160,658

Figure 1

Net Benefits



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

Figure 2

Total Jobs

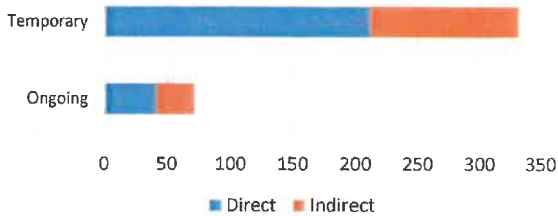
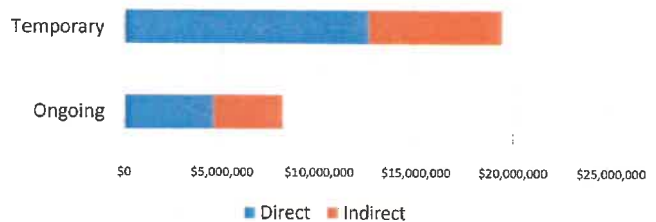


Figure 3

Total Earnings



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	\$612,500	\$612,500
Local Sales Tax Exemption	\$332,500	\$332,500
State Sales Tax Exemption	\$280,000	\$280,000
Mortgage Recording Tax Exemption	\$0	\$0
Local Mortgage Recording Tax Exemption	\$0	\$0
State Mortgage Recording Tax Exemption	\$0	\$0
Total Costs	\$612,500	\$612,500

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$27,875,819	\$27,478,758
To Private Individuals	<u>\$27,646,012</u>	<u>\$27,252,224</u>
Temporary Payroll	\$19,485,354	\$19,485,354
Ongoing Payroll	\$8,160,658	\$7,766,870
Other Payments to Private Individuals	\$0	\$0
To the Public	<u>\$229,807</u>	<u>\$226,534</u>
Increase in Property Tax Revenue	\$0	\$0
Temporary Jobs - Sales Tax Revenue	\$161,972	\$161,972
Ongoing Jobs - Sales Tax Revenue	\$67,835	\$64,562
Other Local Municipal Revenue	\$0	\$0
State Benefits	\$1,437,593	\$1,417,116
To the Public	<u>\$1,437,593</u>	<u>\$1,417,116</u>
Temporary Income Tax Revenue	\$876,841	\$876,841
Ongoing Income Tax Revenue	\$367,230	\$349,509
Temporary Jobs - Sales Tax Revenue	\$136,397	\$136,397
Ongoing Jobs - Sales Tax Revenue	\$57,125	\$54,368
Total Benefits to State & Region	\$29,313,412	\$28,895,873

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$27,478,758	\$332,500	83:1
State	\$1,417,116	\$280,000	5:1
Grand Total	\$28,895,873	\$612,500	47:1

*Discounted at 2%

Additional Comments from IDA

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

MWBE/DBE UTILIZATION

XBE PROGRAM

LeChase is fully committed to meeting DBE requirements. Our unique XBE Program aims to promote an inclusive vendor community and develop opportunities for small, socially or economically disadvantaged construction-related businesses. The "X" in LeChase's XBE Program encompasses MBE, WBE, DBE and other forms of disadvantaged businesses as recognized by the government. A staunch supporter of diversity in the construction industry, LeChase encourages XBE participation on all of our projects—regardless of whether an agency requirement applies. Our XBE Program is overseen by a team of full-time professionals who are dedicated to our XBE efforts and who continually look for ways to identify qualified and capable XBE firms through outreach, training and mentoring activities.

Our commitment extends beyond meeting project goals and legal requirements. LeChase believes that promoting diversity and developing business opportunities to help XBE firms build their capacity for long-term success is part of our obligation as a leader in the construction industry. To that end, it is LeChase's goal to:

- » Ensure nondiscrimination in the award and administration of our subcontracts
- » Administer a tailored program in accordance with applicable laws
- » Ensure that only firms meeting compliance standards are permitted to participate as XBEs
- » Assist in the development of firms that can compete successfully in the marketplace outside the XBE program by participating in formal mentorship programs

Outreach

Our diversity outreach efforts allow us to make meaningful connections with existing and emerging XBE firms and deliver pertinent information about current and prospective subcontracting opportunities. Our team members work in tandem to create strategic outreach plans, including attending preconstruction

"Promoting diversity and inclusion is an ongoing priority and through our everyday practices, we are committed to ensuring that equality of opportunity is integrated into everything we do. This is how we do business. This is part of The LeChase Way."

- William H. Goodrich, CEO

meetings, public solicitation, hosting and participating in outreach events, and assisting non-XBE subcontractors with securing lower-tier participation.

As a result of LeChase's ongoing presence in the regional markets we serve, our depth of relationships with state agencies and community organizations that share and support our vision for diversity and inclusion continues to grow. Our professionals go above and beyond to proactively connect prime contractors with qualified XBE vendors and suppliers. This extra effort to continuously expand and improve LeChase's diversity outreach has proven to be a true differentiator and our clients continue to praise our proactive efforts and approach.

Achieving Goals & Good Faith Efforts

LeChase consistently achieves and often exceeds XBE participation goals - tracking participation rates and maintaining reports throughout the duration of a project. To accomplish our XBE participation goals, we utilize various solicitation methods, as well as our proprietary database, to ensure that we reach a broad and diverse group of existing and emerging XBE subcontractors.

Knowing that there are less certified DBE firms than other XBE certification areas is important to developing a tailor-made outreach program for DBEs. LeChase is planning a DBE certification and outreach event to encourage XBEs to consider applying for DBE certification in 2019. LeChase will work with DBE stakeholders such as regional PTACs (Procurement Technical Assistance Centers) and SBDCs (Small Business Development Centers) to discuss and organize an event to promote DBE certification. LeChase recognizes the increase in projects that require DBE and feels that an event like this could only help the region and the State of New York in further promoting the DBE certification.

With all of the above in mind a program that will maximize participation for this project is paramount in our thinking. These initiatives include, but are not limited to:



- » Reviewing and identifying current and prospective bidding opportunities including right-sizing of contracts to maximize DBE participation for smaller firms. Breaking up areas, floors, sectors into smaller contracts where DBE participation can be achieved.
- » Advertising with various publications and organizations
- » Encouraging DBE participation at all subcontractor tiers
- » Requiring and reviewing bidders' contracting plans prior to making award recommendations
- » Directly soliciting DBE firms including a DBE outreach forum to happen in 2019 to increase statewide DBE certified firms
- » Developing a project-specific DBE participation plan that is submitted for approval
- » Targeting outreach and attendance at agency pre-bid meetings by making pre-bid meetings mandatory and inviting DBEs who may provide lower-tier participation. It is important to make connections prior to the bid.
- » Including Monroe County every step of the way to ensure that DBEs meet the Owner and will be considered for any future opportunities that might exist even outside of this project.

Verifying XBE Compliance

LeChase has developed a verification evaluation process consisting of document and field reviews and reporting and programmatic audits to ascertain whether a firm is in compliance with all rules and regulations, and actually operating as certified. Additionally, to ensure credit toward contract goals, LeChase uses the evaluation process to verify whether a contractor is performing a commercially useful function.



By monitoring the progress of the subcontractors' XBE contracting plans throughout construction, we can prepare reports stating whether the contractors are in compliance, and if not, what corrections are being made to bring them into compliance.

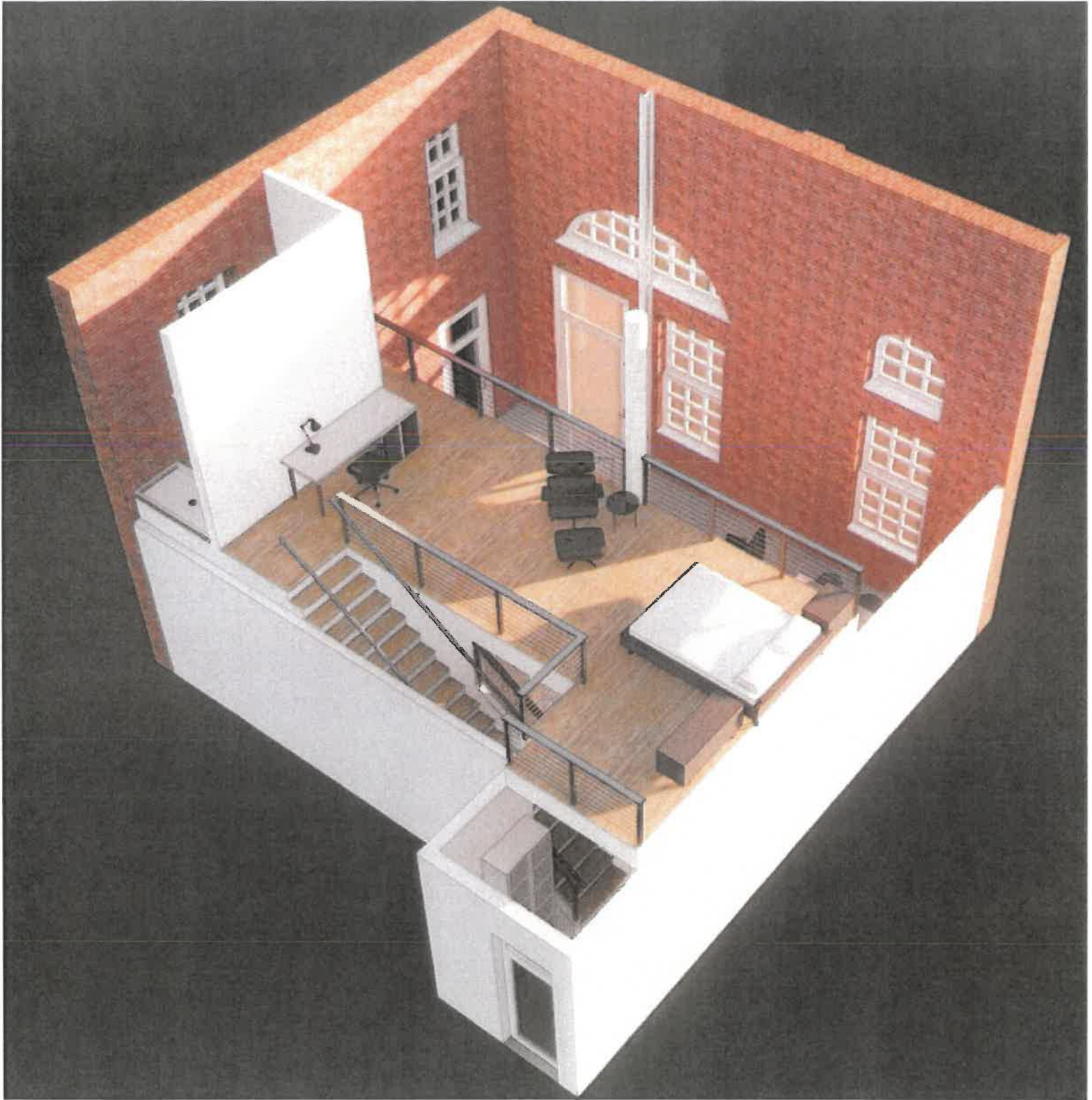
Training

LeChase recognizes that training and educating our staff, and the third parties with whom we do business, is critical to achieving the XBE participation goals set forth in our contracts. Employee awareness of the LeChase XBE Program and the applicable laws, rules, regulations and agency requirements is a key element to our overall success. We also regularly share the following information through our bimonthly newsletter, the LeChase XBE Update:

- » Newly prequal-approved XBE firms
- » XBE-related webinars
- » Various XBE tools housed on the LeChase Intranet to support the
- » Good Faith Efforts of our project teams
- » Recent and upcoming LeChase XBE outreach events











CITY OF BUFFALO
OFFICE OF THE MAYOR

BYRON W. BROWN
MAYOR

January 3, 2023

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

RE: 356 Hertel Ave Adaptive Reuse

Dear Mr. Cappellino:

The City of Buffalo supports the adaptive reuse project of the historic John Kam Malt and Kiln House located at 356 Hertel Ave. We believe that this mixed-use redevelopment project will enhance the vitality of the City's historic Black Rock neighborhood and strengthen its appeal to new residents.

Plans for this mixed-use redevelopment call to renovate and repurpose the 116,000 square foot historic complex into 82 apartments, a self-storage facility, and 14,000 square feet of retail space. Additionally, the project will include amenities such as an onsite dog park, dog wash, pedestrian gathering plaza, and permanent and visitor bike storage. It is anticipated that the project will create approximately 42 full time jobs. This project aligns with my Administration's vision to create thriving neighborhoods and new job opportunities, sustaining economic development and improving the quality of life for our residents.

The redevelopment of this historic complex is a welcome addition to the impressive revitalization efforts that continue to contribute to Buffalo's prosperity.

Sincerely,

Byron W. Brown
Mayor



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

COMMITTEES
Education
Energy
Local Governments
Science & Technology
Tourism, Parks, Arts & Sports Development

WILLIAM C. CONRAD, III
Assemblymember 140th District
Erie County, Niagara County

March 4, 2021

Michael Lynch, Director

New York State Board of Review

Office of Parks, Recreation and Historic Preservation

P.O. Box 189

Waterford, NY 12188

Dear Mr. Lynch:

I am writing in support of the John Kam Co. Malt House & Kiln House, and its addition to the National Register of Historic Places, an application for which is currently under your board's review.

Here in the Buffalo area, home to a once-bustling malt industry, just six malt houses remain. And one of them, the John Kam Co. Malt House & Kiln House on Hertel Avenue in my State Assembly District, is quite special. Built in 1901, it was designed by engineer John F. Dornfeld and was the first of its kind nationally to feature Dornfeld's patented pneumatic malt house and kiln house technologies, which were key innovations for the industry.

Dornfeld and Kam were both industry pioneers, really. They were inaugural members of the U.S. Malting Association, which met for the first time in 1897, right here in Buffalo.

One stumbling block to registry for the John Kam Co. Malt House & Kiln House has been the previous removal of the storage silos, once located to the rear of the building. I stand with our local advocates, who have pointed out that the silos were not designed by Dornfeld. Indeed, the treasured original features of the malt house and kiln house are Dornfeld's design and equipment, and those remain intact.

The John Kam Co. Malt House & Kiln House has towered over the Black Rock community for more than 100 years. It is not only an ode to Buffalo's history as a leader in the malting market, it is also a familiar and cherished neighborhood landmark and the tallest structure in the area. I believe it ought to be protected and preserved for generations to come.

I once again urge you to move for its inclusion on the National Register of Historic Places. Thank you for your time and consideration.

Sincerely,

New York State Assemblyman William C. Conrad III

140th District

PUBLIC HEARING SCRIPT

**356 Hertel Ave, 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 January 17, 2023 at 10:00 a.m.,
at the Erie County Industrial Development Agency's offices located at
95 Perry Street, Suite 403, Buffalo, NY 14203

ATTENDANCE:

Ryan McCarthy - Hopkins Sorgi & McCarthy, Esq.
Fed LaFaso – Sienna Realty
Madeline LaFaso – Sienna Realty

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

Hearing Officer: Welcome. This public hearing is now open; it is 10:00 a.m. My name is Andrew Federick. I am the Business Development Officer of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at www.ecidany.com.

☒ 2. PURPOSE: Purpose of the Hearing.

Hearing Officer: We are here to hold the public hearing on the 356 Hertel Project and/or Individual(s) or Affiliate(s), Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf. 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, December 30, 2022.

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

Hearing Officer: The proposed project (the "Project") consists of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 356 Hertel Avenue and 42 Foundry, City of Buffalo, Erie County, New York (the "Land"), (ii) the rehabilitation of the John Kam Malt and Kiln House located in an historic Black Rock neighborhood into a mixed-use redevelopment consisting of 82 apartments, a self-storage facility, and 14,000 square feet of retail service-oriented space as well as an on-site dog park, dog wash, pedestrian plaza, and bike storage (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 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 January 24, 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.

Ryan McCarthy, Hopkins Sorgi & McCarthy. I am here representing the company 356 Hertel Avenue, LLC. Thank you to the ECIDA for considering our application, the Policy Committee for their recommendation and Mayor Brown and Councilmember Golombek for their support. Due to recent substantial increases in a range of costs including labor, materials and financing, total project costs are expected to be \$32,067,800, and the requested sales tax incentive is a vital component of the financing of this project. We strongly believe the project will provide substantial community benefits far exceeding the cost of incentives, with a community benefit to cost ratio calculated at 47 to 1. The project includes rehabilitation and adaptive reuse of an aging and underutilized historic complex, listed on both the State and National Registers of Historic Places. It will create jobs in the community, with 42 permanent jobs anticipated, and considerably more during construction. It will bring 82 new apartments to City of Buffalo which currently has the oldest average housing stock in the nation, including affordable housing at or below 80% AMI rents, including both 1- and 2-bedroom apartments, as well as a mix of retail, professional and commercial services which are underserved in the community. It will provide amenities that integrate it into the surrounding neighborhood, including a pedestrian plaza, dog park with dog wash, and on-site bike storage. Additionally, it will provide substantial environmental benefits to the site and community, including remediation of a previous contamination through a brownfield remediation with the New York DEC, and environmentally friendly features such as geothermal heating systems, stormwater mitigation and permeable

paving, and Energy Star appliances. Our client Mr. Lofaso has put extensive planning and effort into making this a cohesive project to benefit the community and looks forward to the opportunity to be a part of the revitalization of the historic Black Rock neighborhood. Thank you for your time.

Fred LaFaso – Developer of the project. I just wanted to thank the ECIDA and the local governments for their support in the project and looking forward to putting it into service. Thank you.

6. ADJOURNMENT:

As there were no further statements and/or comments, the Hearing Officer closed the public hearing at 10:06 a.m.

**SIGN IN SHEET
PUBLIC HEARING**

January 17, 2023 at 10:00 a.m., at the Erie County Industrial Development Agency's offices located
at 95 Perry Street, Suite 403, Buffalo, NY 14203,
regarding:

**356 Hertel Ave, LLC and/or Individual(s) or Affiliate(s),
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 356 Hertel Avenue & 42 Foundry, Buffalo, New York 14207

Name	Company and/or Address	X box to speak/ comment
Ryan McCarthy	Hopkins Sorgi & McCarthy, Esq. 726 Main Street, Suite 8 East Aurora, New York 14052	X
Fred LoFaso	Sienna Reality 295 Main Street, Suite 700 Buffalo, New York 14203	X
Madeline LoFaso	Sienna Reality 295 Main Street, Suite 700 Buffalo, New York 14203	

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
INDUCEMENT RESOLUTION**

**356 HERTEL AVE, 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, February 22, 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 356 HERTEL AVE, 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) 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, 356 HERTEL AVE, 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 356 Hertel Avenue and 42 Foundry, City of Buffalo, Erie County, New York (the "Land"), (ii) the rehabilitation of the John Kam Malt and Kiln House located in an historic Black Rock neighborhood into a mixed-use redevelopment consisting of 82 apartments, a self-storage facility, and 14,000 square feet of retail service-oriented space as well as an on-site dog park, dog wash, pedestrian plaza, and bike storage (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"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on January 17, 2023, at 10:00 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, 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 January 25, 2023 resolution to approve the Project subject to the terms and conditions as described herein, and Agency board member review, discussion, and consideration of same, the Agency hereby finds and determines that:

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

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

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

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

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

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

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

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

(I) The Project involves a "Type II Action" as said term is defined under the State Environmental Quality Review Act ("SEQRA") as an action designed for the preservation of the Facility and involving the maintenance and repair of an existing structure and the purchase of furnishings and equipment 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 approximately one (1) full-time job, 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):* The structure is 121 years old. Challenges to redevelopment include costs for bringing a large underutilized and undermaintained century old building into code compliance and remediating existing issues at the property while complying with historic preservation requirements. Asbestos containing materials have been found on the premises in existing roofing, flashing and flooring materials.

(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:* The structure has been underutilized for 40 years. Original uses included a malt house, a kiln house, water tempering, grain elevators, tanks and a warehouse. Subsequent uses = Black Rock Milling Corp, Park & Pollard Co, Buffalo Insulation Distributors & Multiglass Products Co. Xtreme Wheels Indoor Skate Park, small office, warehouse / storage space. Current use is primarily for storage space.

(iii) *Structure is not generating significant rental income (defined as 50% or less than the market rate income average for that property class):* Insignificant income = \$2,000/ month is being generated at this 116,000 sq ft facility.

(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:* Project supports public investment to maximize the use of existing infrastructure, facilities, and encourages the preservation and adaptive reuse of a historic building.

(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):* Cash flow projects have been provided showing below average return on investment rates: 4.4% with ECIDA assistance, 3.8% without ECIDA assistance.

(vi) *Demonstrated support of local government entities:* Letters of Support: Pending. The property has been identified as a valuable historic asset worth preserving as demonstrated by its addition to the National Register of Historic Places as well as inclusion on the NYS Register of Historic Places. The Mayor of Buffalo has submitted a letter in support of the Project.

(vii) *LEED/Renewable Resources:* The site design was prepared in consideration of the Buffalo Green Code and limitations of the City of Buffalo combined sewer systems and will incorporate measures to mitigate storm water runoff, including permeable pavement throughout the site, as well as environmentally conscious design features including energy star equipment and geothermal heating systems.

(viii) *Building or site has historic designation:* The building is listed on the National Register of Historic Places as well as inclusion on the NYS Register of Historic Places.

(ix) *Site or structure has delinquent property or other local taxes:* Taxes are current.

(x) *MBE/WBE Utilization:* General Contractor LeChase supports MBE/WBE through its' XBE Program and has retained MBE/WBE subcontractors.

(xi) *Transit Oriented Development:* Located along NFTA's #23 bus line. Property adjacent to Beltline and CSX railroad line.

(xii) *Other:* The site has been largely abandoned for over 40 years and is a safety hazard. The site is located within a distressed census tract.

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 \$7,000,000 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 \$612,500 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 made with respect to the Project at the time of Project completion equals or exceeds \$27,257,630 (the product of 85% multiplied by \$32,067,800, being the total project cost as stated in the Company's application for Financial Assistance).

- (ii) Employment Commitment –that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 35 FTE employees [being the product of 85% multiplied by 42 FTE employee positions proposed to be created by the Company as stated in its Application)]. 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: February 22, 2023



356 Hertel Avenue, Buffalo 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

Project Name	John Kam Malt House Adaptive Re-Use
Project Summary	The project proposes to rehabilitate the John Kam Malt and Kiln House located in Buffalo's historic Black Rock neighborhood. The mixed-use redevelopment of an existing historic complex will consist of 82 apartments, a self-storage facility, and 14,000 square feet of retail service-oriented space. The design is sensitive to the historic fabric of the existing architecture. The redeveloped project will have such amenities as an on-site dog park, dog wash, pedestrian gathering plaza, and permanent and visitor bike storage. The site design was prepared in consideration of the Buffalo Green Code (Unified Development Ordinance) and limitations of the City of Buffalo combined sewer systems and shall incorporate measures to mitigate storm water runoff, including permeable pavement throughout the site.
Applicant Name	356 Hertel Ave, LLC
Applicant Address	295 Main Street
Applicant Address 2	#700
Applicant City	Buffalo
Applicant State	New York
Applicant Zip	14203
Phone	(716) 870-4878
Fax	(716) 805-7191
E-mail	lofasofred@yahoo.com
Website	www.siennarealty.net
NAICS Code	2362

Business Organization

Type of Business	Limited Liability Company
Year Established	2022
State in which Organization is established	New York

Individual Completing Application

Name	Ryan P. McCarthy, Esq.
Title	Attorney
Address	726 Main Street

Address 2 Suite B
City EAST AURORA
State New York
Zip 14052
Phone (716) 427-6501
Fax (716) 427-6501
E-Mail rmccarthy@hsmlegal.com

Company Contact- Authorized Signer for Applicant

Contact is same as individual completing application No
Name Fred Lofaso
Title Member
Address 66 LeBrun Circle
Address 2
City Amherst
State New York
Zip 14226
Phone (716) 870-4878
Fax
E-Mail lofasofred@yahoo.com

Company Counsel

Name of Attorney Ryan P. McCarthy, Esq.
Firm Name Hopkins Sorgi & McCarthy PLLC
Address 726 Main Street
Address 2 Suite B
City East Aurora
State New York
Zip 14052
Phone (716) 445-9508
Fax (716) 427-6501
E-Mail rmccarthy@hsmlegal.com

Benefits Requested (select all that apply).

Exemption from Sales Tax	Yes
Exemption from Mortgage Tax	No
Exemption from Real Property Tax	No
Tax Exempt Financing*	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 New York limited liability company owned by members Fred Lofaso (60%) and Angelo Tomasello (40%). Fred Lofaso is President of Sienna Realty, a real estate development and brokerage firm headquartered in Buffalo, New York. Mr. Lofaso an experienced commercial real estate developer with over 32 years of industry experience. Mr. Lofaso's experience includes site selection, assemblage, land use and development, historical adaptive reuse, historical tax credits, Brownfield site development, Brownfield tax credits, and retail real estate development. Mr. LoFaso has been an active participant in Buffalo's real estate renaissance for his whole career, having rehabilitated several other similar properties in the area. Angelo Tomasello joined Sovran/Life Storage in 1996 and served as an acquisition officer, overseeing over \$200 million in acquisitions prior to co-founding The Lock Group in July of 1998. For over twenty years, under Angelo's leadership, Locke has been active in sourcing acquisition opportunities for Life Storage and has represented buyers and sellers in over \$3.5 billion in transaction volume. It also served as a strategic advisor and valuation consultant on an additional \$1.5 billion in self storage acquisitions. Locke Group LLC will be the storage facility operator partner.

Estimated % of sales within Erie County	100 %
Estimated % of sales outside Erie County but within New York State	0 %
Estimated % of sales outside New York State but within the U.S.	0 %
Estimated % of sales outside the U.S.	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?

85

Describe vendors within Erie County for major purchases

LeChase Construction, Empire Demolition Services, Studio t3 Architecture, Pella Windows of WNY

Section II: Eligibility Questionnaire - Project Description & Details

Project Location

Address of Proposed Project Facility

356 Hertel Avenue, 42 Foundry

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

77.74-4-22; 77.74-4-21

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

\$2,951.59

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

Land

\$ 22,000

Building(s)

\$ 565,000

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.)

The project site consists of 2.99 acres which includes 356 Hertel Avenue and 42 Foundry Street. The existing building was constructed for the John Kam Malting Co., which occupied the site from 1901 until 1916. It housed various industrial and commercial uses through the 1980s. It has housed several small businesses in recent decades. The complex is currently underutilized and is mostly vacant or used for storage.

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 John Kam Malt and Kiin House located in the Historic Black Rock section of Buffalo is proposed to be a mix use redevelopment of an existing historic complex. The new development will consist of 82 apartments totalling 72,00 square feet of residential space, a 30,000 square foot self-storage facility, and 14,000 square feet of retail service-oriented space. The 82 apartments consist of 42 one-bedroom units with rents ranging from \$882-\$1,505 per month, and 40 two-bedroom units with rents ranging from \$1,336-\$2,100 per month. More than 10% of the units will have rents at or below 80% AMI to provide affordable/workforce housing that is desperately needed in the area. A 3,000 sq ft exterior addition is planned primarily for access and an elevator. The project is also anticipated to house 42 jobs providing needed employment opportunities for the surrounding community. The overall design of the project will be sensitive to the historic fabric of the existing architecture. A new access elevator shall be attached to the exterior of the existing structure, along with new construction for the self storage portion of the project. The property is adjacent to the north spur of the Beltline and CSX railroad line. The redeveloped project will have such amenities an on-site dog park, dog wash, pedestrian gathering plaza, and permanent and visitor bike storage. The site design was prepared in consideration of the Buffalo Green Code (Unified Development Ordinance) and limitations of the City of Buffalo combined sewer systems and will incorporate measures to mitigate storm water runoff, including permeable pavement throughout the site, as well as environmentally conscious design features including energystar equipment and geothermal heating systems.

Municipality or Municipalities of current operations

Buffalo, NY

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

Yes

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

No

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

No

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

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

No

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

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

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)

Financial assistance is necessary to make this historic reuse project economically feasible. Constructiton costs have risen approximately 25% on this project over the past year creating economic difficulty.

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?

If financial assistance is unavailable and the project becomes economically unfeasible the project will not be completed, and the property will remain underutilized and will not contribute to the economic revitalization of the neighborhood and area.

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 project is located on Hertel, along the NFTA's #23 Fillmore-Hertel bus line. The property is also adjacent to the north spur of the Beltline and CSX railroad line.

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

Yes

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

If No, list the ECIDA as an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval. Also, please indicate in the box below when you anticipate receiving site plan approval for your project.

11/30/-0001

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

Yes

Describe the present zoning/land use

The current zoning of the parcels under Buffalo's Unified Development Ordinance is D-IL Light Industrial. The current primary use is warehouse space.

Describe required zoning/land use, if different

The proposed project is allowed without need for rezoning through an Adaptive Reuse Permit from the City of Buffalo.

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?

Yes

If yes, please explain

The property is undergoing environmental remediation to remove existing contamination through the Brownfield Cleanup Program.

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?

Yes

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 project is planned to include numerous energy efficiencies including on site stormwater retention, a closed loop geothermal heating system, and EnergyStar appliances and equipment throughout the project.

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

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

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 Yes Services Yes

Please check any and all end uses as identified below.

- No Acquisition of Existing Facility No Assisted Living No Back Office
No Civic Facility (not for profit) Yes Commercial No Equipment Purchase
No Facility for the Aging No Industrial No Life Care Facility (CCRC)
Yes Market Rate Housing Yes Mixed Use No Multi-Tenant
Yes Retail No Senior Housing No Manufacturing
No Renewable Energy Yes Other
Apartments

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

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

Table with 5 columns: Use Type, Unit (square feet), Cost (\$), % of Total Cost. Rows include Manufacturing/Processing, Warehouse, Research & Development, Commercial, Retail, Office, and Specify Other.

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

No

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

<BLANK>

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

Will project result in significant utility infrastructure cost or uses No

What is the estimated project timetable (provide dates)

Start date : acquisition of equipment or construction of facilities

11/30/-0001

End date : Estimated completion date of project

11/30/-0001

Project occupancy : estimated starting date of occupancy

11/30/-0001

Capital Project Plan / Budget

Estimated costs in connection with Project

1.) Land and/or Building Acquisition

\$ 1,840,000 116,000 square feet 3 acres

2.) New Building Construction

\$ 0 square feet

3.) New Building addition(s)

\$ 1,100,000 3,000 square feet

4.) Reconstruction/Renovation

\$ 21,035,000 square feet

5.) Manufacturing Equipment

\$ 0

6.) Infrastructure Work

\$ 325,000

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

\$ 1,102,500

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

\$ 4,720,000

9.) Other Cost

\$ 1,945,300

Explain Other Costs Environmental Remediation

Total Cost \$ 32,067,800

Construction Cost Breakdown:

Total Cost of Construction \$ 22,460,000 (sum of 2, 3, 4 and 6 in Project Information, above)
Cost of materials \$ 11,230,000
% sourced in Erie County 95%

Sales and Use Tax:

Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit \$ 7,000,000

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above): \$ 612,500

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

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

Have any of the above costs been paid or incurred as of the date of this Application? Yes

If Yes, describe particulars: Purchase of roofing materials and stone fill.

Sources of Funds for Project Costs:

Equity (excluding equity that is attributed to grants/tax credits): \$

Bank Financing: \$ 19,418,000

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

Taxable Bond Issuance (if applicable): \$ 0

Public Sources (Include sum total of all state and federal grants and tax credits): \$ 13,615,838

Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources) 8,062,707 Historic Tax Credits 5,553,131 Brownfield Tax Credits

Total Sources of Funds for Project Costs: \$33,033,838

Have you secured financing for the project? Yes

Mortgage Recording Tax Exemption Benefit:

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

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

Lender Name, if Known

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

Real Property Tax Benefit:

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

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 Genessee.

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

	Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion	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 **
Full time	0	0	42	42
Part time	0	0	0	0
Total	0	0	42	

Salary and Fringe Benefits for Jobs to be Retained and Created

Category of Jobs to be Retained and/or Created	# of Employees Retained and/or Created	Average Salary for Full Time	Average Fringe Benefits for Full Time	Average Salary for Part Time (if applicable)	Average Fringe Benefits for Part Time (if applicable)
Management	7	\$ 60,000	\$ 15,000	\$ 0	\$ 0
Professional	4	\$ 70,000	\$ 17,500	\$ 0	\$ 0
Administrative	7	\$ 45,000	\$ 11,250	\$ 0	\$ 0
Production	4	\$ 45,000	\$ 11,250	\$ 0	\$ 0
Independent Contractor	0	\$ 0	\$ 0	\$ 0	\$ 0
Other	20	\$ 45,000	\$ 11,250	\$ 0	\$ 0

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

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):

Address			
Full time	0	0	0
Part time	0	0	0
Total	0	0	0

Payroll Information

Annual Payroll at Proposed Project Site upon completion

2,308,500

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)

55,000

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

0

Estimated salary range of jobs to be created

From (Full Time)	45,000	To (Full Time)	75,000
From (Part Time)	0	To (Part Time)	0

Section III: Environmental Questionnaire

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

General Background Information

Address of Premises

356 Hertel Avenue and 42 Foundry Street, Buffalo NY 14207

Name and Address of Owner of Premises

Kam Cleanup LLC, 726 Main Street Suite B, East Aurora NY 14052

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

The property consists primarily of an existing warehouse and vacant land, located in a highly developed and aging residential, commercial and industrial area in the City of Buffalo. The premises contains no wetlands or bodies of water.

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

The building consists of a 120,000 square foot brick building constructed circa 1901 for the John Kam Malting Co. The property is currently underutilized and primarily used for storage space. The intended operations include 82 apartments, a self storage facility, 14,000 square feet of retail service-oriented space, a dog park with dog wash and pedestrian gathering plaza with bike storage.

Describe all known former uses of the Premises

When constructed for the John Kam Malting Co., the structure included a malt house, a kiln house, water tempering, grain elevators and tanks, and a warehouse. The structure was later used by the Black Rock Milling Corp. and Park & Pollard Co. for animal feed production into the 1950s. It was then used by Buffalo Insulation Distributors and Multiglass Products Co. for their operations from 1965 until the late 1980s. It has been underutilized over the past several decades, at various times housing Xtreme Wheels Indoor Skate Park, small office spaces and warehouse/storage space.

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

Following Phase II Environmental Investigation, environmental remediation was completed as described in the attached BCP Application.

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?

Yes

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

There are three prior NYSDEC spill incidents recorded at the property. Petroleum impacted soil was discovered in a limited investigation and remediated, NYSDEC Spill No. 0208304 was closed on January 29, 2003. Spill No. 0107011 involved approximately 50 five-gallon containers duded proximate to the railroad tracks and loading dock area. The spill was closed by NYSDEC on December 19, 2001. Spill No. 0175394, related to Spill 0107011, involved dumped materials by the loading dock area of the property. This spill was closed by the NYSDEC on April 25, 2002.

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

Petroleum-impacted soil was removed by Nature's Way under DEC Spill No. 0208304 in 2003.

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

None.

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

None.

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

All wastewater will be returned to the City of Buffalo sewer system and the project has been designed to take into account the City system's limitations. Systems will be put in place to retain all stormwater runoff on site. There will be no septic tanks on site.

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

No

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

Air Pollution

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

Yes

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

Standard HVAC and appliances servicing the property, which will be high efficiency/EnergyStar, will be the only sources of air contamination.

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

A 4,000 gallon underground storage tank which had been installed in 1969 and filled in 1986 was identified in the Phase I Environmental and was later removed and 460 tons of affected soil excavated as identified in the attached documents.

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

Nature's Way removed the 4,000 gallon UST on December 2002 and excavated approximately 460 tons of impacted soil which was disposed of at Modern Landfill in Model City, New York. The spill was closed by NYSDEC on January 29, 2003.

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?

Yes

If yes, relate all the circumstances

The Phase II Environmental identified subsurface soil samples from within the building footprint which contained PAHs and PCBs above method detection limits, but the concentrations did not exceed USCOS.

Do the Premises have any asbestos containing materials?

Yes

If yes, please identify the materials

Existing roofing, flashing and flooring materials.

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 demand for updated housing at a prices is high, particularly with current changes in the real estate market and interest rates facilitating a need for additional rental options for tenants. Making this project mixed use allows the project to provide needed services and job opportunities to the underserved surrounding community.

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

Tenant Name	Current Address (city, state, # of sq ft and % of total to be zip)	SIC or NAICS-also briefly describe type of business, products services, % of sales in Erie Co.
--------------------	---	---

*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?

Yes

If yes, complete the Retail Questionnaire Supplement below. **If no, proceed to the next section.**

What percentage of the cost of the project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project?

18 %

If the answer to this is **less than 33%** do not complete the remainder of the page, proceed to the next section.

If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:

Will the project be operated by a not-for-profit corporation?

<BLANK>

Is the project location or facility likely to attract a significant number of visitors from outside the economic development region (Erie, Niagara, Allegheny, Chautauqua and Cattaraugus counties) in which the project will be located?

<BLANK>

If yes, please provide a third party market analysis or other documentation supporting your response.

Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality? Are services provided at the proposed project site needed because of a lack of reasonably accessible retail trade facilities offering such goods or services?

<BLANK>

If yes, please provide a market analysis supporting your response.

Will the project preserve permanent, private sector jobs or increase the overall number of permanent private sector jobs in the State of New York?

<BLANK>

If yes, explain

Is the project located in a Highly Distressed Area?

<BLANK>

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)? 121

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.

0

If underutilized, number of years underutilized.

40

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

Various small industrial and commercial uses, primarily vacant or used for storage.

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)

Yes

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

\$2,000 per month

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

	Number of Units	Sq. Ft. Range Low to High	Rent Range Low to High
1 Bedroom	42	464- 1,019	\$882- \$1,505
2 Bedroom	40	731- 1,252	\$1,336- \$2,100
3 Bedroom	-	-	\$- \$
Other	-	-	\$- \$

Does the site have historical significance?

Yes

If yes, please indicate historical designation

The John Kam Company Malt House & Kiln House at 356 Hertel Avenue is listed on the National Register of Historic Places as of June 28, 2021.

Are you applying for either State/Federal Historical Tax Credit Programs?

Yes

If yes, provide estimated value of tax credits

\$8,062,707

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)

The structure presents significant costs associated with historic reuse, including bringing a large, underutilized and undermaintained century old building into code compliance and remediating existing issues at the property while complying with historic preservation requirements.

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

The property has been identified as a valuable historic asset worth preserving as demonstrated by its addition to the National Register of Historic Places as well as inclusion on the New York State Register of Historic Places. The City of Buffalo Planning Board has also demonstrated enthusiasm for the project which would provide needed investment in an economically disadvantaged area and has approved the site for Adaptive Reuse.

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

The structure presents significant costs associated with historic reuse, including bringing a large, underutilized and undermaintained century old building into code compliance and remediating existing issues at the property while complying with historic preservation requirements.

Indicate census tract of project location

5,600

Indicate how project will eliminate slum and blight

The project will rehabilitate a large, underutilized and undermaintained historic property and become a new mixed-use residential hub in a neighborhood where investment and redevelopment are desperately needed to stimulate growth and opportunity for residents and the surrounding community.

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

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

356 Hertel Avenue

City/Town

Buffalo

State

New York

Zip Code

14207

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

No

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

No

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

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

Within New York State

No

Within Erie County

No

If Yes to either question, please, explain

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

No

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

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

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

Commitment 2000, Inc / Father Sam's Bakery
\$ 8,623,800

PRIVATE INVESTMENT INDUCEMENT RESOLUTION

ELIGIBILITY

- NAICS Section – 311830

COMPANY INCENTIVES

- Approximately \$ 194,055 in real property tax savings
- Approximately \$ 207,410 in sales tax savings
- 3/4 of 1% of the final mortgage amount up to \$ 18,750

JOBS & ANNUAL PAYROLL

- Current Jobs: 74 FT, 2 PT (75 FTE)
- Annual Payroll: \$ 4,012,917
- Projected new jobs: 10 FT, 2 PT (11 FTE)
- Salary of retained jobs: \$47,342
- Est. salary/yr. of jobs created: \$42,645
- Total jobs after project completion: 86
- Construction Jobs: 38

PROJECTED COMMUNITY BENEFITS*

- Term: 7 YEARS
- NET Community Benefits: \$38,711,979
- Spillover Jobs: 38
- Total Payroll: \$36,458,323

INCENTIVE COST / COMMUNITY BENEFIT RATIO (discounted at 2%)*

Incentives: \$406,465
 Community Benefit: \$36,169,315
 Cost: Benefit Ratio
 • 1:89

Project Title: Tortilla Line Expansion

Project Address: 105 Monsignor Valente Drive, Buffalo, NY 14206
 (Buffalo Central School District)

Agency Request

A sales tax, mortgage recording tax and real property tax abatement in connection with a 17,000 sq ft building addition to add a 3rd production line for this bakery manufacturer.

Building Addition	\$ 1,650,000
Infrastructure	\$ 484,000
Manufacturing Equipment	\$ 5,659,400
Non- Manufacturing Equipment	\$ 520,400
Soft Costs/Other	\$ 310,000
Total Project Cost	\$ 8,623,800
 85%	 \$ 7,330,230

Company Description

Father Sam's Bakery is a 3rd generation family-owned bakery manufacture having facilities in Buffalo, NY and Charlotte, NC. Father Sam's has been making flat breads (pita break and flour tortillas) for over 45 years – primarily manufacturing private label products for many regional and national customers including: Wegmans, Tops, Restaurant Depot and Mighty Taco. To date, over 90% ownership is held by William A. Sam.

Project Description

The project consists of a 16,975 sq ft building expansion at the company's HQ location at 105 Monsignor Valente Drive in the City of Buffalo. The addition, an American Steel Building will be primarily used for manufacturing (76%) with some warehousing (24%). The company will be installing one new fully automated pressed tortilla line that will increase the output of the Buffalo facility by 40%. A second phase of the project will be purchasing, installing and significant training associated with a new Enterprise Resource Planning (ERP) computer operating system. This new IT technology is imperative to properly function with the new equipment as well as a vast array of systems currently used between the 2 facilities (Buffalo & Charlotte). The 2 project phases will be run simultaneously, with the target project completion date of 1st Quarter of 2024. The expansion is deemed critical to remaining a competitive manufacturer in NYS and the East Coast where their products are sold.

* 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	194,055
	Sales	207,410
	Mortgage Recording	18,750
	Total	420,215
	Discounted at 2%	406,465

Benefit: Projected Community Benefit*

BENEFITS	Region	Recipient	Revenue Type	\$ Amount **
	Erie County	Individuals	Payroll Construction	\$5,533,960
			Payroll Permanent	\$30,924,363
		Public	Property Taxes	\$48,514
			Sales Taxes	\$303,060
			Other Muni Revenue (NFTA)	\$6,250
	New York State	Public	Income Taxes	\$1,640,624
			Sales Taxes	\$255,209
			Total Benefits to EC + NYS***	\$38,711,979
			Discounted at 2%	\$36,169,315

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

Discounted Cost \$ 406,465
 Discounted Benefit \$36,169,315
 Ratio 1:89

Conclusion: The Cost Benefit for this project is: 89:1. For every \$1 in costs (incentives), this project provides \$89 in benefits (payroll & tax revenue). **Note: For Erie County, every \$1 in costs (incentives) provides \$115 in benefits to the community.**

New Tax Revenue Estimated

Current Yearly Taxes	Estimated New Assessed Value	Additional County Revenue over abatement period	Additional Local Revenue Over abatement period	New Yearly Taxes Upon Expiration of Abatement Period
\$ 37,116	\$1,493,800	\$66,832	\$241,495	\$ 71,769
Combined Tax Rate: \$ 23.198				

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 = \$8,623,800 85% = \$ 7,330,230
Employment	Coincides with 7-year PILOT	Maintain Base = 75 FTE Create 85% of Projected Projected = 11 FTE 85% = 9 FTE Recapture Employment = 84 FTE
Local Labor	Construction period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 7-year PILOT	Adherence to Policy
Unpaid Tax	Coincides with 7-year PILOT	Adherence to Policy
<u>Recapture Period</u>	Coincides with 7-year PILOT	Recapture of Real Property Tax, Mortgage recording tax, state and local sales taxes

Recapture applies to:

- State and Local Sales Taxes
- Real Property Tax
- Mortgage Recording Tax

Recapture

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

At completion of the project company must certify i) total investment amount is equal to or greater than 85% of the anticipated project amount; ii) company has maintained 75 FTE jobs and created 9 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

- 01/17/23: Public hearing held.
- 02/22/23: Inducement Resolution presented to Board of Directors adopting a Negative Declaration in accordance with SEQRA
- 02/22/23: Lease/Leaseback Inducement Resolution presented to the Board of Directors

**EVALUATIVE CRITERIA
MANUFACTURING/WAREHOUSE/DISTRIBUTION**

Project: Tortilla Line Expansion / Father Sam's Bakery – Commitment 2000

Wage Rate (above median wage for area)	Average salaries = Retained FT = \$47,342 To Be Created FT = \$42,625
Regional Wealth Creation (% sales/customers outside area)	70% of sales are outside NYS (2% in Canada). 5% of company sales are in Erie County, NY. The remaining 25% are outside EC, but in NYS.
In Region Purchases (% of overall purchases)	45% of company purchase are from companies within Erie County.
Research & Development Activities	N/A
Investment in Energy Efficiency	N/A
Locational Land Use Factors, Brownfields or Locally Designated Development Areas	Located in distressed census tract 106.01
LEED/Renewable Resources	N/A
Retention/Flight Risk	The company has a 2 nd location in Charlotte NC. Potential for expansion at that location.
MBE/WBE Utilization	See attached MBE/ WBE Utilization Form.
Workforce Access – Proximity to Public Transportation	Facility is serviced by metro bus line #1: William St

DATE OF INDUCEMENT: 02/22/23

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-Commitment 2000 / Father Sam's Bakery

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
2,134,000	\$1,493,800	5.028272	18.169375	0

*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Town PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	0.05	\$8,421	\$30,428	\$38,849	\$71,769	\$32,920
2	0.1	\$8,796	\$31,785	\$40,581	\$71,769	\$31,187
3	0.15	\$9,172	\$33,142	\$42,314	\$71,769	\$29,455
4	0.2	\$9,547	\$34,499	\$44,047	\$71,769	\$27,722
5	0.25	\$9,923	\$35,856	\$45,779	\$71,769	\$25,989
6	0.3	\$10,299	\$37,213	\$47,512	\$71,769	\$24,257
7	0.35	\$10,674	\$38,570	\$49,245	\$71,769	\$22,524
TOTAL		\$66,832	\$241,495	\$308,327	\$502,382	\$194,055

***** 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.)
8,623,800	194,055	207,410	18,750	\$300,000 in grants + possible NYPA allocation

Note: special district taxes are not subject to PILOT abatement

Calculate % = Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Tot Project Costs: 8.35%

MBE/WBE Utilization



ECIDA encourages applicants to utilize MBE/WBE contractors for their projects. Here are links to the NYS and combined Erie County / City of Buffalo – certified MWBE contractors that can assist you with your utilization goals:

<https://ny.newnycontracts.com/>

<https://www3.erie.gov/eo/mbe-wbe-resource-list>

Describe your company's internal practices that promote MBE/WBE hiring and utilization:

Our company prides itself on being an equal opportunity employer. We are a third generation family-owned business. We hire a wide range of ethnic and diverse team members at Father Sam's. We are very proud of the fact that we have had a diverse group of team members since our inception. The location of our Buffalo Plant located in the Fillmore district enables us to offer significant employment to the diverse culture that lives in Buffalo.

After reviewing the Utilization programs offered by NY State and local Government, we will be sure to include these resources when sourcing contractors as well as vendors for our other services. There are several companies on the resource list that we already do business with in Western NY. We will be sure to discuss the programs with our Construction Manager on this particular project as well, to be sure that we are utilizing the opportunities provided by this program.

We will continue to support and encourage diverse practices in our family owned business.

Erie County Industrial Development Agency MRB Cost Benefit Calculator



Date: December 15, 2022
 Project Title: Commitment 2000, Inc. / Father Sam's Bakery
 Project Location: 105 Monsignor Valente Drive, Buffalo, NY 14206

Economic Impacts

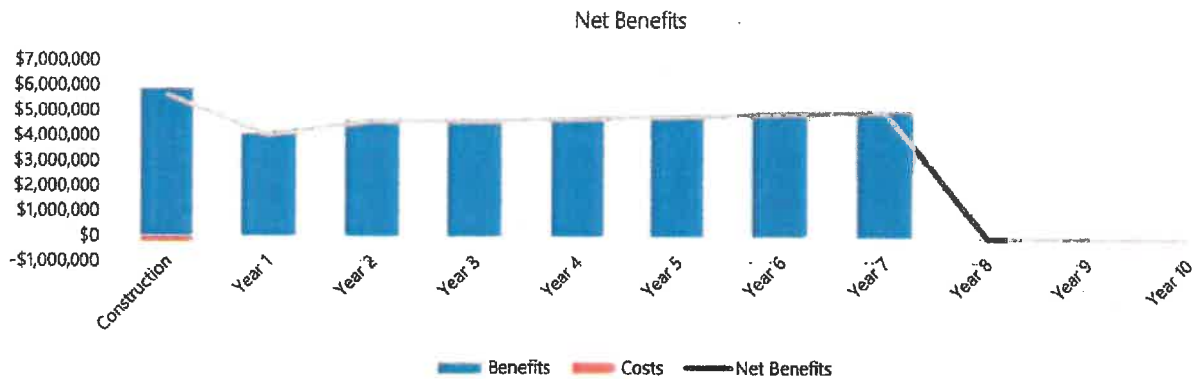
Summary of Economic Impacts over the Life of the PILOT

Project Total Investment
 \$8,623,800

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	38	34	72
Earnings	\$3,566,258	\$1,967,701	\$5,533,960
Local Spend	\$8,623,800	\$6,105,618	\$14,729,418

Ongoing (Operations) Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	86	4	90
Earnings	\$28,489,309	\$2,435,054	\$30,924,363

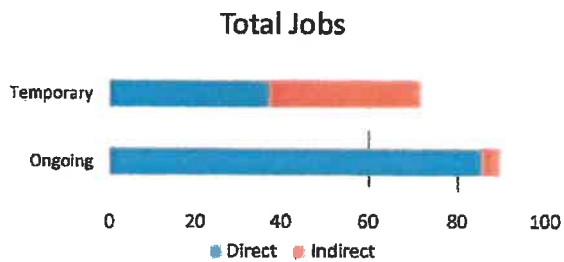
Figure 1



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	\$194,055	\$180,305
Sales Tax Exemption	\$207,410	\$207,410
Local Sales Tax Exemption	\$112,594	\$112,594
State Sales Tax Exemption	\$94,816	\$94,816
Mortgage Recording Tax Exemption	\$18,750	\$18,750
Local Mortgage Recording Tax Exemption	\$6,250	\$6,250
State Mortgage Recording Tax Exemption	\$12,500	\$12,500
Total Costs	\$420,215	\$406,465

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$36,816,146	\$34,397,951
To Private Individuals	<u>\$36,458,323</u>	<u>\$34,064,694</u>
Temporary Payroll	\$5,533,960	\$5,533,960
Ongoing Payroll	\$30,924,363	\$28,530,735
Other Payments to Private Individuals	\$0	\$0
To the Public	<u>\$357,824</u>	<u>\$333,257</u>
Increase in Property Tax Revenue	\$48,514	\$43,966
Temporary Jobs - Sales Tax Revenue	\$46,001	\$46,001
Ongoing Jobs - Sales Tax Revenue	\$257,059	\$237,162
Other Local Municipal Revenue	\$6,250	\$6,127
State Benefits	\$1,895,833	\$1,771,364
To the Public	<u>\$1,895,833</u>	<u>\$1,771,364</u>
Temporary Income Tax Revenue	\$249,028	\$249,028
Ongoing Income Tax Revenue	\$1,391,596	\$1,283,883
Temporary Jobs - Sales Tax Revenue	\$38,738	\$38,738
Ongoing Jobs - Sales Tax Revenue	\$216,471	\$199,715
Total Benefits to State & Region	\$38,711,979	\$36,169,315

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$34,397,951	\$299,149	115:1
State	\$1,771,364	\$107,316	17:1
Grand Total	\$36,169,315	\$406,465	89:1

*Discounted at 2%

Additional Comments from IDA

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

PUBLIC HEARING SCRIPT

**Commitment 2000, 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 January 17, 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:

William Sam – Father Sam's Bakery

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 Andrew Federick. I am the Business Development Officer of the Erie County Industrial Development Agency, and I have been designated by the Agency to be the hearing officer to conduct this public hearing. This public hearing is being live-streamed and made accessible on the Agency's website at www.ecidany.com.

2. PURPOSE: Purpose of the Hearing.

Hearing Officer: We are here to hold the public hearing on Commitment 2000, 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, December 30, 2022.

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

Hearing Officer: The proposed project (the "Project") consists of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 105 Monsignor Valente Drive, 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 expansion on the Land of an approximately 16,875+/- square-foot manufacturing addition to the current facility to be utilized for the manufacturing of flour tortillas on automated machinery (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 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, 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 on January 24, 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.

William Sam – Owner & President of Father Sam's Bakery. 105 Monsignor Valente Drive, Buffalo. I am here to speak to the project and the importance of it for us growing and supporting the community and jobs that we will be making available. The project will include a building expansion of 16,875 sq. ft. Its primarily manufacturing space with a little bit of warehouse space attached to it as well. The building addition will be a Steel Building and the address as previously stated is s 105 Monsignor Valente Drive, Buffalo. We will be installing one fully automated flour tortilla line as part of the phase 1 expansion. The new equipment, purchased from Lawrence Equipment, is what we call a Mega 60 fully automated press, and it will increase the companies output from our Buffalo location by 40%. Were also in this expansion installing a new IT technology program that's Imperative to properly function with our new equipment as well as the vast array of systems we now use between our two facilities which we also have a plant in Charlotte, NC. Phase 2 will be running simultaneous with phase 1. Phase 2 is the IT installation. We will be adding 12 positions in our office and operations the first year of this expansion. We are expecting to begin the buildout in late 2023 and have the project fully functional by the first quarter of 2024. The expansion is critical to remain competitive in New York State and the rest of the East Coast where we sell our products

☒ 6. ADJOURNMENT:

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

**SIGN IN SHEET
PUBLIC HEARING**

January 17, 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:

**Commitment 2000, Inc. and/or Individual(s) or Affiliate(s),
Subsidiary(ies), or Entity(ies) formed or to be formed on its behalf**

Project Location: 105 Monsignor Valente Drive, Buffalo, New York 14206

Name	Company and/or Address	X box to speak/ comment
William Sam	Father Sam's Bakery 105 Monsignor Valente Drive Buffalo, New York 14206	X

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
INDUCEMENT RESOLUTION**

**COMMITMENT 2000, 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, February 22, 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 COMMITMENT 2000, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT, AND (C) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

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, COMMITMENT 2000, 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 acquisition by the Agency of a leasehold interest in certain property located on 105 Monsignor Valente Drive, 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 expansion on the Land of an approximately 16,875+/- square-foot manufacturing addition to the current facility to be utilized for the manufacturing of flour tortillas on automated machinery (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"); 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 through a seven (7) year "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 partial abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on January 17, 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, pursuant to and in accordance with applicable provisions of the State Environmental Quality Review Act ("SEQR"), the Company has submitted to the Agency an Environmental Assessment Form (the "EAF") with respect to the Project; and

WHEREAS, the City of Buffalo Planning Board (the "Planning Board") in accordance with Article 8 of the New York Environmental Conservation Law and the regulations promulgated thereto in 6 N.Y.C.R.R. Part 617 (collectively referred to as the "State Environmental Quality Review Act" and/or "SEQR"), undertook uncoordinated review with respect to the Project, determined that the Project was an Unlisted Action, and issued a negative declaration ("Negative Declaration") under SEQR on January 30, 2023, with respect to the Project; 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 February 22, 2023 resolution to approve 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; 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 the Act.

(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 City of Buffalo Negative Declaration, the criteria set forth in 6 N.Y.C.R.R. Section 617.7 of the SEQR regulations, the Agency hereby finds that the Project will not have any significant impacts on land, will not require an air permit, will not impact ground or surface water quality or quantity and any stormwater treatment will be undertaken in accordance with City of Buffalo Sewer Authority requirements, existing traffic levels and roadway/intersection use will not be impacted as existing capacity is adequate to accommodate the contemplated use, the Project will not have a change on noise levels, solid waste production will not substantially increase, and lighting will be undertaken in a manner inconsistent with the City of Buffalo code, there will be no flooding impacts, flora and fauna will not be adversely impacted and there will be no adverse impacts to natural resources or critical environmental areas, the Project is consistent with the community’s plans and goals and the existing community character, the Project will not impact historic resource or archeological resources, no significant energy consumption increases will result from the Project, the Project will not create any human health hazards or adversely impact aesthetic resources, the Project will not attract a large number of people to the site, the Project will not involve changes in two or more elements of the environment no one of which has a significant adverse impact on the environment but when considered together results in a substantial adverse impact on the environment, and the Project does not include two or more related actions undertaken by the Agency none of which has or would have a significant impact but when considered cumulatively would rise to the significant impact level and based on the foraging the Agency determines that the Project will not have a potential significant adverse environmental impact warranting the preparation of an environmental impact statement. The Agency determines that all of the provisions of SEQR that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project, and the participation by the Agency in undertaking the Project, have been satisfied. This determination constitutes a “Negative Declaration” (as such quoted terms are defined under SEQR) for purposes of SEQR.

(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 = retained FT = \$47,342 and to be created FT = \$42,625.

(ii) *Regional Wealth Creation (% sales/customers outside area):* 70% of sales are outside NYS (2% in Canada). 5% of company sales are in Erie County, NY. The remaining 25% are outside Erie County but in NYS.

(iii) *In Region Purchases (% of overall purchases):* 45% of company purchases are made from companies within Erie County.

(iv) *Research & Development Activities:* N/A.

(v) *Investment in Energy Efficiency:* N/A.

(vi) *Locational Land Use Factors, Brownfields or Locally Designated Development Areas:* Located in distressed census tract 106.01.

(vii) *LEED/Renewable Resources:* N/A.

(viii) *Retention/Flight Risk:* The company has a second location in Charlotte, NC. Potential for expansion at that location.

(ix) *MBE/WBE Utilization:* Details were provided to the Agency.

(x) *Workforce Access-Proximity to Public Transportation:* Facility is serviced by metro bus line #1: William Street.

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 \$2,370,400, 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 \$207,410, 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 \$18,750; 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 \$194,055, resulting in estimated total PILOT payments of \$308,327 over the term of the PILOT Agreement.

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

property taxes benefits are taken in cases where the Company fails to comply with the Equal Pay Commitment and/or the Unpaid Real Property Tax Policy Commitment, as described below, being a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

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

C. Commitments. As an additional condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, submit, on an annual basis or as otherwise indicated below through the termination 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 \$7,330,230 (which represents the product of 85% multiplied by \$8,623,800, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 75 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 84 FTE employees [representing the sum of (x) 75 Baseline FTE and (y) 9 FTE employees, being the product of 85% multiplied by 11 (being the 11 new FTE employee positions proposed to be created by the Company as stated in its Application)]. To confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.

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

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

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

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

Section 7. The provision by the Agency of Financial Assistance with respect to the Project as described herein is subject to the execution and delivery of the Agency’s Administrative Fee Agreement (the “Fee Agreement”) and payment by the Company of an administrative fee calculated in accordance with the Fee Agreement, all within sixty (60) days of

the date of this resolution. In the event the Agency has not received the executed Fee Agreement and the appropriate fee within such sixty (60) day period, this resolution shall become automatically null and void and of no further effect and the Agency shall have no liability to the Company hereunder or otherwise, unless extended in the discretion of the Chair, the Vice Chair, the President/Chief Executive Officer, the Vice President, the Chief Financial Officer/Treasurer, or the Assistant Treasurer for good cause shown.

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

Dated: February 22, 2023



Tortilla Line Expansion

Instructions and Insurance Requirements Document

Section I: Applicant Background Information

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

Applicant Information- Company Receiving Benefit

Project Name	Building and Tortilla Line Expansion
Project Summary	We will be adding 16875 sq. foot to our existing building as well as purchasing a 3rd Tortilla Line for this facility.
Applicant Name	Commitment 2000, Inc.
Applicant Address	105 Monsignor Valente Drive
Applicant Address 2	
Applicant City	Buffalo
Applicant State	New York
Applicant Zip	14206
Phone	(716) 853-1071
Fax	(716) 853-1062
E-mail	adipasquale@fathersams.com
Website	
NAICS Code	311830

Business Organization

Type of Business	Corporation
Year Established	1977
State in which Organization is established	New York

Individual Completing Application

Name	Angela Dipasquale
Title	Executive Assistant
Address	105 Monsignor Valente Drive
Address 2	
City	Buffalo
State	New York
Zip	14206
Phone	(716) 853-1071

Fax (716) 853-1062
E-Mail adipasquale@fathersams.com

Company Contact- Authorized Signer for Applicant

Contact is same as individual completing application No
Name William A, Sam
Title President
Address 105 Monsignor Valente Drive
Address 2
City Buffalo
State New York
Zip 14206
Phone (716) 853-1071
Fax (716) 853-1062
E-Mail wsam@fathersams.com

Company Counsel

Name of Attorney Timothy O'Mara
Firm Name Law Office of Timothy M. O'Mara, Esq.
Address 5820 Main Street, Suite 605
Address 2
City Williamsville
State New York
Zip 14221
Phone (716) 633-5700
Fax
E-Mail tomara@tmolaw.com

Benefits Requested (select all that apply)

Exemption from Sales Tax Yes
Exemption from Mortgage Tax Yes
Exemption from Real Property Tax Yes
Tax Exempt Financing* 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%.

We are a third generation family owned bakery manufacturer. We currently have a manufacturing facility in Buffalo NY as well as one in Charlotte, NC. We employ 75 people at our Buffalo location and 45 currently in Charlotte. We have been making flat breads (pita bread and flour tortillas) for over 45 years. We primarily manufacture private label products for many regional and national customers. Some of our customers include Wegmans, Tops, Restaurant Depot, Mighty Taco, etc. We also service several national distributors. 7-11 is also a national customer of ours. To date the main ownership of the company is held by William A. Sam at 92%.

Estimated % of sales within Erie County	5 %
Estimated % of sales outside Erie County but within New York State	25 %
Estimated % of sales outside New York State but within the U.S.	68 %
Estimated % of sales outside the U.S.	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?

45

Describe vendors within Erie County for major purchases

ADM Milling, Bake Mark, Mollenberg-Betz, Ingersoll Rand. We use purchase flour and ingredients from ADM and Bake Mark, our facilities are maintained with contracts from Mollenberg and Ingersoll.

Section II: Eligibility Questionnaire - Project Description & Details

Project Location

Address of Proposed Project Facility

105 Monsignor Valente Drive

Town/City/Village of Project Site

Buffalo

School District of Project Site

Buffalo 140200

Current Address (if different)

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

SBL Number(s) for proposed Project

112.14-1-8.31

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

31,500

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.)

We will be expanding the existing building on this site.

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)

This project will include a building expansion of 16,875 sq. ft. It will be primarily manufacturing space. The building addition will be an American Steel Building and the address of the expansion is 105 Monsignor Valente Drive, Buffalo. We will be installing one new fully automated flour tortilla line as part of this phase 1 expansion. The new equipment, purchased from Lawrence Equipment, is a Mega 60 fully automated pressed tortilla line and will increase our companies output from our Buffalo location by 40%. For phase 2 of this expansion will be purchasing, installing, and requiring significant training for a new ERP computer operating system. We have never changed our operating system and the new IT technology is imperative to properly function with our new equipment as well as the vast array of systems we now use as a successful wholesale bakery with two locations, our second manufacturing facility is located in Charlotte, NC. and communication between the two facilities requires state of the art communication software. Phase 2 will be running simultaneously with phase 1. We will be adding twelve positions in our office and operations the first year of this expansion. We are expecting to begin the buildout late spring of 2023 and have the project fully operational by the first quarter of 2024. This expansion is critical to remain a competitive manufacturing company in New York State and the rest of the East Coast where we sell our products

Municipality or Municipalities of current operations

Buffalo, NY

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

Yes

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

No

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

No

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

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

Yes

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

We currently have a plant in Charlotte, NC that has the same general foot print as our facility in Buffalo, NY. We opened this facility in 2016 and have increased the size and foot print of the location every year sense that time. Our Buffalo facility is very well positioned for our future growth and is our preference for this expansion. We feel strongly that the support of our Economic Agencies in NY State will assure our continued expansion here.

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

Recharge NY, Empire State Development, National Grid Energy Management. We will receive reduced electricity rates, have applied for \$250,000 in electrical grant money as well as \$50,000.00 in training money for the implementation of our new operating systems. We are anticipating possible term loans thru ECIDA as well as property tax abatement, sales tax relief pertaining to the expansion of our building.

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)

Our current relationship is very strong with M&T Bank. They are very supportive of this project and will fund accordingly. We are reaching out to improve our opportunity to receive the National Grid Grant money as well as cost savings from sales tax, property tax abatements, funding up to \$2,000,000.00 based on certain criteria of the project thru ECIDA. we will be adding 12 jobs at our Buffalo site. In the manufacturing business every penny saved helps to maintain a competitive edge with our competitors.

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?

If this project cannot happen in Buffalo, NY we will see diminished opportunities in Erie County, NY State and Canada as well as job loss. We would need to shift expansion to our Charlotte, NC plant which is currently not our preference. We have substantial growth opportunity for NY and Canada and would like the facility in Buffalo to support that growth.

Will project include leasing any equipment?

Yes

If yes, please describe equipment and lease terms.

We will be leasing to own a new 60 Mega tortilla processing line. The total cost of the equipment is \$5,659,400.00 and will be leased through a program with M&T Bank. This line produces Flour tortillas and is fully automated.

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)

Metro Bus / bus line # 1 William Street

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

No

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

If No, list the ECIDA as an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval. Also, please indicate in the box below when you anticipate receiving site plan approval for your project.

12/31/2022

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

Yes

Describe the present zoning/land use

The current facility is in an Empire Zone and manufacturing use zone. We are already currently producing from this site and this is an add on expansion of our existing facility.

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?

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?

No

If yes, describe the efficiencies achieved

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

End date : Estimated completion date of project

12/28/2023

Project occupancy : estimated starting date of occupancy

1/1/2024

Capital Project Plan / Budget

Estimated costs in connection with Project

1.) Land and/or Building Acquisition

\$ 0 square feet acres

2.) New Building Construction

\$ 0 square feet

3.) New Building addition(s)

\$ 1,650,000 16,875 square feet

4.) Reconstruction/Renovation

\$ 0 square feet

5.) Manufacturing Equipment

\$ 5,659,400

6.) Infrastructure Work

\$ 484,000

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

\$ 520,400

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

\$ 85,000

9.) Other Cost

\$ 225,000

Explain Other Costs To include any additional earthwork, slab details, grading to subbase elevation, drainage details, underground utilities of which are yet to be designed at the time of the proposal. New enterprise resource planning (ERP) operating system.

Total Cost \$ 8,623,800

Construction Cost Breakdown:

Total Cost of Construction \$ 2,134,000 (sum of 2, 3, 4 and 6 in Project Information, above)
Cost of materials \$ 1,850,000
% sourced in Erie County 95%

Sales and Use Tax:

Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit \$ 2,370,400
Estimated State and local Sales and Use Tax Benefit (product of \$ 207,410

8.75% multiplied by the figure, above):

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

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

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

If Yes, describe particulars:

Sources of Funds for Project Costs:

Equity (excluding equity that is attributed to grants/tax credits): \$ 900,000

Bank Financing: \$ 7,760,000

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

Taxable Bond Issuance (if applicable): \$ 0

Public Sources (Include sum total of all state and federal grants and tax credits): \$ 300,000

Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources) 0

Total Sources of Funds for Project Costs: \$8,960,000

Have you secured financing for the project? Yes

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). 2,500,000

Lender Name, if Known

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%): \$18,750

Real Property Tax Benefit:

Identify and describe if the Project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit (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?

Yes

If yes, please describe equipment and lease terms.

We will be leasing to own a new 60 Mega tortilla processing line. The total cost of the equipment is \$5,659,400.00 and will be leased through a program with M&T Bank. This line produces Flour tortillas and is fully automated.

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).

	Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion	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 **
Full time	0	74	10	10
Part time	0	2	2	2
Total	0	76	12	

Salary and Fringe Benefits for Jobs to be Retained and Created

Category of Jobs to be Retained and/or Created	# of Employees Retained and/or Created	Average Salary for Full Time	Average Fringe Benefits for Full Time	Average Salary for Part Time (if applicable)	Average Fringe Benefits for Part Time (if applicable)
Management	5	\$ 125,000	\$ 28,500	\$ 0	\$ 0
Professional	3	\$ 100,000	\$ 28,500	\$ 0	\$ 0
Administrative	9	\$ 58,000	\$ 15,000	\$ 0	\$ 0
Production	71	\$ 37,500	\$ 6,500	\$ 15,600	\$ 550
Independent Contractor	0	\$ 0	\$ 0	\$ 0	\$ 0
Other	0	\$ 0	\$ 0	\$ 0	\$ 0

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

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):

Address			
Full time	0	0	0
Part time	0	0	0
Total	0	0	0

Payroll Information

Annual Payroll at Proposed Project Site upon completion

4,012,817

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

47,342

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

15,600

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

42,625

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

15,600

Estimated salary range of jobs to be created

From (Full Time)	31,200	To (Full Time)	58,000
From (Part Time)	15,600	To (Part Time)	23,500

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

105 Monsignor Valente Drive Buffalo , NY 14206

Name and Address of Owner of Premises

William Sam 9962 Clarksburg Road, Eden NY 14057

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

Industrial land

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 land was purchased in 1995, we then built a 38500 sq. foot manufacturing building on site. We produce pita breads and tortillas at this site

Describe all known former uses of the Premises

N/A

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

No

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

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

No

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

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

No

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

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

No

If yes, describe in full detail

Solid And Hazardous Wastes And Hazardous Substances

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

No

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

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

No

If yes, please provide copies of the permits.

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

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

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

No

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

Discharge Into Waterbodies

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

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?

Yes

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

We have multiple ovens that are exhausted

Are any of the air emission sources permitted?

Yes

If yes, attach a copy of each permit.

Storage Tanks

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

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

No

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

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

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

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

No

If yes, relate all the circumstances

Do the Premises have any asbestos containing materials?

No

If yes, please identify the materials

Section 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 Commitment 2000 Inc. DBA Father Sam's Bakery
Address 105 Monsignor Valente Drive
Contact Person William Sam
Phone (716) 853-1062
Fax (716) 853-1062
E-Mail wsam@fathersams.com
Federal ID # 161480681
SIC/NAICS Code 2051 / 311812

SS

Section VI: Retail Determination

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

Please answer the following:

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

No

If yes, complete the Retail Questionnaire Supplement below. **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

105 Monsignor Valente Drive

City/Town

Buffalo

State

New York

Zip Code

14206

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

No

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

No

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

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

Within New York State

No

Within Erie County

No

If Yes to either question, please, explain

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

No

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

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

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?

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

