



Policy Committee

February 1, 2024
At 9:00 a.m.

New Location

**701 Ellicott Street, Center of Excellence in Bioinformatics and Life Sciences (CBLS)
The Event Space/Conference Room B1-306, located on the 1st Floor, Buffalo, New York 14203**

*****REVISED PACKAGE*****

1. Call Meeting to Order
2. Approval of the December 14, 2023 Policy Committee Meeting Minutes (Pages 2-3)
3. Project Matrix (Page 4)
4. 5-Year Tax Incentive Project Report/5-Year Adaptive Re-Use Project Report (Pages 5-6)
5. Project Presentation (Staff – Company Q&A)
 - a) D'Youville College – ILDC Bond (Pages 7-29)
6. Adaptive Resue Discussion
 - a) Housing Background Discussion
7. Adjournment - Next Meeting March 7, 2024 at 9:00 a.m.

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

DATE AND PLACE: December 14, 2023 at the Erie County Industrial Development Agency, 95 Perry Street, 4th Floor Conference Room, Buffalo, New York 14203

PRESENT: Denise Abbott, April Baskin¹, Rev. Mark Blue, Zachary Evans, Richard Lipsitz, Dr. Susan McCartney, Hon. Glenn Nellis, Laura Smith and Lavon Stephens

EXCUSED: Hon. Hon. A.J. Baines, Hon. Byron W. Brown, Brenda W. McDuffie, David J. State, Hon. John Tobia and Paul Vukelic

OTHERS PRESENT: John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant/Assistant Secretary; Robbie Ann McPherson, Director of Marketing & Communications; Michelle Moore, Compliance Associate; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC

GUESTS: Josh Veronica on behalf of the Buffalo Niagara Partnership

There being a quorum present at 9:13 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

MINUTES

The minutes of the November 2, 2023, Policy Committee meeting were presented. Upon motion made by Mr. Nellis to approve of the minutes, and seconded by Mr. Blue, the Policy Committee meeting minutes were unanimously approved.

PROJECT MATRIX

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

ADAPTIVE REUSE DISCUSSION

Mr. Cappellino presented the ECIDA and ILDC housing programs, policies, and practices and reviewed the slide deck presentation that is made a part of these minutes. Mr.

¹ Ms. Baskin participated via Zoom, however, she did not count for quorum purposes and is not considered present or eligible for purposes of voting on any action items.

Cappellino provided statutory and case law and other related secondary legal source history which permits both the ECIDA and the ILDC to undertake housing projects, including both market-rate and below market-rate as well as subsidized housing. In addition, Mr. Cappellino reviewed the Agency's housing policies as a component of the Agency's Uniform Tax Exemption Policy and Adaptive Re-Use Policy as well as the Senior Housing Policy. General discussion ensued.

At 10:12 a.m., Ms. McCartney left the meeting.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:26 a.m.

Dated: December 14, 2023

Elizabeth A. O'Keefe, Secretary

Tax Incentives Approved - 2023

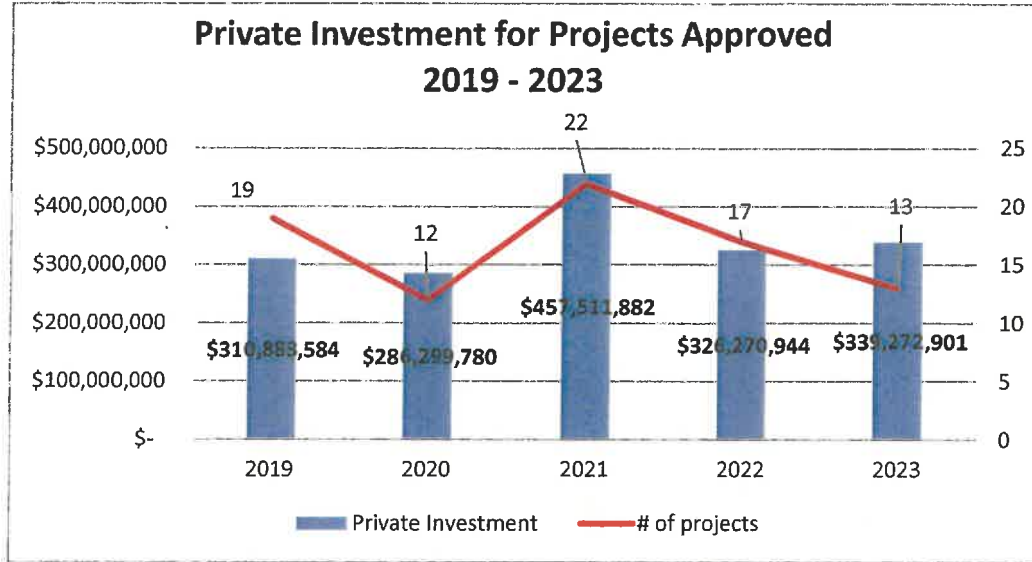
Approval Date	Project Name	Project City/Town	Private Investment/ Project Amount	Minimum Investment Commitment	FT Jobs Retained	PT Jobs Retained	FT Jobs to be Created	PT Jobs to be Created	Job Creation	Const Jobs	Spillover Jobs	Length of Term	Incentive Amount	Cost Benefit Ratio
Feb-23	356 Hertel Ave, LLC ¹ Commitment 2000/Father	Buffalo	\$32,067,800	85% threshold \$27,257,630	0	0	42	0	85% - New 35 Jobs	212	150	project completion date + 2 yrs	\$612,500	1.47
Feb-23	Sam's	Buffalo	\$8,623,800	85% threshold \$7,330,230	74	2	10	2	85% - New 9 Jobs	38	38	Period of PILOT 7 Years	\$420,215	1.89
Mar-23	Moog, Inc. Wood and Brooks Properties,	Elma Town of	\$76,750,800	85% threshold \$65,237,500	180	0	0	0	0	335	320	Period of PILOT 10 Years	\$2,900,920	1.97
Apr-23	LLC ¹	Tonawanda	\$23,127,638	85% threshold \$19,658,492	0	0	1	2	85% - New 1 Job	161	92	project completion date + 2 yrs	\$1,164,447	1.14
May-23	TM Montante/50 Gates Circle ¹	Buffalo	\$3,465,838	85% threshold \$2,945,962	4	0	0	0	0	14	14	project completion date + 2 yrs	\$108,500	1.29
Jun-23	Rosina Food Products, Inc.	West Seneca	\$16,000,000	85% threshold \$13,600,000	274	2	15	0	85% - New 12 Jobs	70	536	Period of PILOT 10 Years	\$748,789	1.446
Jun-23	Stark Real Estate Holdings	Town of Tonawanda	\$16,250,000	85% threshold \$13,812,500	50	0	120	10	85% - New 106 Jobs	43	257	project completion date + 2 yrs	\$454,375	1.854
Jul-23	BPS Commissary Kitchen Trautman Associates/130 Pearl, LLC ¹	Buffalo	\$33,067,799	85% threshold \$28,107,629	16	35	0	15	85% - New 12 Jobs	151	137	Period of PILOT 10 Years	\$4,212,686	1.15
Jul-23	IMA Life North America Westchester Park Preservation	Buffalo	\$5,477,047	85% threshold \$4,655,489	0	0	0	2	0	36	19	project completion date + 2 yrs	\$153,750	1.21
Sep-23	IMA Life North America Westchester Park Preservation	Town of Tonawanda	\$27,566,179	85% threshold \$23,422,752	120	0	30	0	85% - New 25 Jobs	110	356	Period of PILOT 10 Years	\$3,208,568	1.87
Oct-23	1175 Delaware Place ¹	Town of Tonawanda	\$35,600,000	85% threshold \$30,260,000	0	4	1	0	0	162	79	project completion date + 2 yrs	\$694,500	1.21
Nov-23	Lactalis American Group	Buffalo	\$16,750,000	85% threshold \$14,237,500	0	0	0	2	0	124	58	Period of PILOT 7 Years	\$1,117,868	1.10
Nov-23	Lactalis American Group	Buffalo	\$44,526,000	85% threshold \$37,847,100	375	1	27	0	85% - New 22 Jobs	195	1722	project completion date + 2 yrs	\$1,203,247	1.318

Totals: Private Investment/
Project Amount: \$80,888,323; FT Jobs Retained: 4; PT Jobs Retained: 0; FT Jobs Created: 43; PT Jobs Created: 6; Const Jobs: 547; Spillover Jobs: 333; Incentive Amount: \$3,157,065

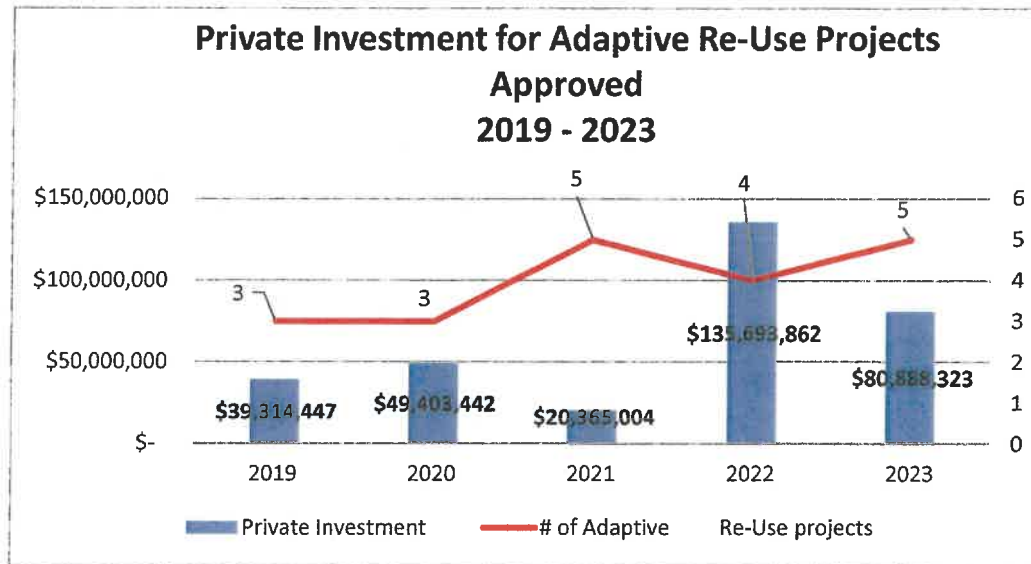
Adaptive Reuse Subtotal	5	\$80,888,323	4	0	43	6	547	333	\$3,157,065
2023 Total	13	\$339,272,901	1,093	44	246	33	1,651	3,778	\$17,000,365

¹ Adaptive Reuse

	2019	2020	2021	2022	2023
# of projects	19	12	22	17	13
Private Investment	\$ 310,883,584	\$ 286,299,780	\$ 457,511,882	\$ 326,270,944	\$ 339,272,901



	2019	2020	2021	2022	2023
# of Adaptive Re-Use projects	3	3	5	4	5
Private Investment	\$ 39,314,447	\$ 49,403,442	\$ 20,365,004	\$ 135,693,862	\$ 80,888,323



Briefing Memo
D'Youville College
320 Porter Avenue, Buffalo, NY 14201

ILDC Taxable Bond Financing

Applicant Background:

D'Youville College ("D'Youville" or the "College") is a Catholic, co-educational, comprehensive liberal arts college located on the West Side of Buffalo. Founded in 1908, it was the first college in Western New York to offer bachelor degree programs for women. With approximately 3,000 students matriculating annually, the school's 54 degree programs range from associate degrees through doctoral studies. Approximately 90% of students are studying a health-related profession including nursing, chiropractic, pharmacy, occupational and physical therapy.

Project:

This Project is to support the expansion of advanced health education programs, including a doctoral program in osteopathic medicine. The program is to be located on the existing D'Youville University campus. The total cost of the project is estimated at \$54M of which \$10M will be equity financing and the remaining \$44M in the form of a taxable bond.

This \$44 M taxable bond financing will cover startup costs to establish the osteopathic medicine program which excludes facility funding. The proposed program will initially enroll 90 students within the existing D'Youville University campus but will ultimately enroll 720 students (in Year 6 of operation), requiring approximately 110,000 sq. ft. of new build space (planned for an existing surface parking lot on campus at 443 West Ave).

Project Financing:

Financing a portion of startup costs and the needed investment in forming an accredited academic program in osteopathic medicine

D'Youville Outstanding Debt:

Outstanding debt includes the following bonds that closed on September 23, 2020:

- ILDC Revenue Bond Series 2020A issued for \$34,370,000
- ILDC Revenue Bond Series 2020B (taxable) issued for \$13,835,000



Tentative Timing:

- A&F Committee Meeting: February 22, 2024
- ILDC Board Meeting: February 28, 2024
- Post Preliminary Official Statement: TBD
- Price Bonds: TBD
- Closing: TBD

**APPLICATION FOR
FINANCIAL ASSISTANCE
TAX EXEMPT BONDS
(NOT FOR PROFIT use only)**



Buffalo & Erie County Industrial Land Development Corporation
95 Perry Street
Suite 403
Buffalo, New York 14203
phone (716) 856-6525
fax (716) 856-6754
web www.ILDCny.com

Eligibility Questionnaire - Applicant Background Information

Answer all questions. Use "None" or "Not Applicable" where necessary.

Applicant Information-company receiving benefit:

Applicant Name: D'Youville University

Applicant Address: 320 Porter Ave

City/Town: Buffalo State: NY Zip: 14201

Phone: General: 716-829-8000 | CFO Mobile: 716-308-4213

Website: www.dyu.edu E-mail: General: contactus@dyc.edu
CFO: fumen@dyc.edu

Business Organization (check appropriate category):

Corporation Not for Profit 501c3 Public Corporation
Other (specify) Educational Corporation Chartered by NY Board of Regents
Year Established: 1908 State in which Organization is established: NY

Benefits Requested (select all that apply):

1. ~~Tax Exempt~~-Taxable Financing Yes or No
2. Exemption from Mortgage Tax Yes or No

Applicant Business Description:

Describe in detail applicant background, history and services provided: D'Youville University, founded in 1908, is a private higher education institution with a main campus on the West Side of Buffalo. Approximately 3,000 students matriculate annually in the school's 54 degree programs, which range from associate degrees through doctoral studies. Approximately 90% of students are studying a health related profession, including nursing, chiropractic, pharmacy, occupational and physical therapy.

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: 45% of supplies and services are from firm's based in Erie County. Significant vendors include Highmark BCBS (health insurance), Wise Owl Wood Company (custom furniture and cabinetry), Dopkins & Company and Lumsden & McCormick (accounting and auditing services), 19 Ideas (Marketing), Cannon Design (architecture), Niagara Scenic

and Cedar Bus (transportation), Lawley (insurance brokerage), National Fuel (utility) and various local contractors used in construction and renovation projects. In addition to the 45% for locally owned vendors, 26% is paid for vendors who handle building maintenance, provide campus security, operate food service and the school bookstore. These vendors are national firms, but are directly employing people working on the D'Youville campus.

Individual Completing Application:

Name: Nicholas Fiume
Title: Chief Financial Officer
Address: 320 Porter Ave
City/Town: Buffalo State: NY Zip: 14201
Phone: 716-308-4213 E-Mail: fiumen@dyc.edu

Company Contact (if different from individual completing application):

Name: same
Title: _____
Address: _____
City/Town: _____ State: _____ Zip: _____
Phone: _____ E-Mail: _____

Company Counsel:

Name of Attorney: Paul Reichel
Firm Name: Bond Schoeneck & King
Title: Member
Address: One Lincoln Center
City/Town: Syracuse State: NY Zip: 13202
Phone: 315-218-8135 E-Mail: preichel@bsk.com

Eligibility Questionnaire - Project Description & Details

Address of Proposed Project Facility: 320 Porter Ave

City/Town: Buffalo School District: Buffalo

Current Address (if different): same

City/Town: _____ State: _____ Zip: _____

Does the Applicant or any related entity currently hold fee title or have an option/contract to purchase the Project site? Yes or No If No, indicate name of present owner of the Project site:

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

The Project is to support the expansion of advanced health education programs, including a doctoral program in osteopathic medicine. The program is to be located on the existing D'Youville University campus (i.e. future use is consistent with current use – educational facility)

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

This request is for financing of certain initial startup costs of an osteopathic medicine program, and does not include facility funding. The proposed program will initially enroll 90 students within the existing D'Youville University campus, but will ultimately enroll 720 students (in Year 6 of operation), requiring approximately 110,000 sq. ft. of new build space (planned for an existing surface parking lot on campus at 443 West Ave).

If tax exempt or taxable bonds are being requested indicate what bonds will be used for:

Financing a portion of startup costs and needed investment in forming an accredited academic program in osteopathic medicine.

Describe the reasons why the ILDC's financial assistance is necessary, and the effect the Project will have on the Applicant's operations. If refinancing an existing bond or loan indicate potential savings: _____

ILDC participation in allowing the issuance of taxable bonds provides access to the capital markets and third-party investors. Creation of a new medical school in the Buffalo community is expected to have a substantial impact on both D'Youville University and the surrounding community. In addition to 720 new students at full capacity, the program will enhance the reputation and "draw" of existing undergraduate health programs at the University and further a pipeline with the major local health care providers to address workforce shortages – particularly with primary care physicians.

If the bond placement agent determines that a mortgage is necessary, the ILDC mortgage tax exemption will also result in significant cost savings, which will help support the new osteopathic medicine program.

Site Characteristics:

Is your project located near public transportation? Yes or No. If yes describe if site is accessible by either metro or bus line (provide route number for bus lines): Four bus lines run within one block of the D'Youville University campus – 22 Porter-Best, 5 Niagara-Kenmore, 40 Buffalo-Niagara Falls, and 3 Grant

Has a project related site plan approval application been submitted to the appropriate planning department? Yes or No

This application relates solely to the issuance of taxable bonds to finance osteopathic program start-up costs. No bond proceeds will be used for construction, equipment or other capital expenditures. Note, however, that D'Youville has obtained a building permit for construction of a new building that will eventually house the osteopathic medicine program.

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 ILDC as an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval.

Will the Project meet zoning/land use requirements at the proposed location? Yes or No

What is present zoning/land use: _____ What is required zoning/land use, if different: _____
No change in use – educational program on existing university campus

If a change in zoning/land use is required, 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 or No If yes, explain:

Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? Yes or No If yes, 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 or No. If yes, provide copies of the study

Select Project Type for all end users at project site (check any and all end users as identified below)

(You may check more than one)

Acquisition of Existing Facility	<input type="checkbox"/>	Market Rate Housing	<input type="checkbox"/>
Assisted Living	<input type="checkbox"/>	Mixed Use	<input type="checkbox"/>
Back Office	<input type="checkbox"/>	Multi-Tenant	<input type="checkbox"/>
Civic Facility (not for profit)	<input checked="" type="checkbox"/>	Senior Housing	<input type="checkbox"/>
Equipment Purchase	<input type="checkbox"/>	Other	<input checked="" type="checkbox"/>
Facility for Aging	<input type="checkbox"/>		

1. Start date: acquisition of equipment or construction of facilities: _____ See Note Below

2. Estimated completion date of project: _____ See Note Below

3. Project occupancy – estimated starting date of occupancy: _____ See Note Below

Note: Not applicable as this financing is for program startup costs, not capital investment. The planned osteopathic medicine program is expected to enroll students in summer 2025 and achieve full accreditation upon graduation of its first class in 2029.

Estimated costs in connection with Project:

- | | |
|--|--------------|
| 1. Land and/or Building Acquisition | \$ _____ |
| _____ acres _____ square feet | |
| 2. New Building Construction _____ square feet | \$ _____ |
| 3. New Building Addition(s) _____ square feet | \$ _____ |
| 4. Infrastructure Work | \$ _____ |
| 5. Reconstruction/Renovation _____ square feet | \$ _____ |
| 6. Non-Manufacturing Equipment (furniture, fixtures, etc.) | \$ _____ |
| 7. Soft Costs: (Legal, architect, engineering, etc.) | \$ _____ |
| 8. Other, Specify: _____ initial program development | \$54,000,000 |

TOTAL Costs: \$54,000,000

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

Sources of Funds for Project:

Bank Financing	\$ _____
Equity (excluding equity that is attributed to grants/tax credits)	\$ <u>10,000,000</u>
Tax Exempt Bond Issuance (if applicable)	\$ _____
Taxable Bond Issuance (if applicable)	\$ <u>44,000,000</u>
Public Sources (Include sum total of all state and federal grants and tax credits)	\$ _____
Total Sources of Funds for Project Costs:	\$ <u>54,000,000</u>

Have you secured financing for the project? Yes or No

If Yes, specify, Bank, underwriter, etc.

Marketing of planned bonds is in progress. Loop Capital will be placement agent for the bonds.

Mortgage Recording Tax Exemption Benefit: Amount of mortgage(s), if any that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ 44,000,000

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above 1% \$ 440,000*

*Note – We are still in discussion with Loop Capital as to whether a mortgage will be necessary and, if so, the principal amount of debt secured by the mortgage. Therefore the mortgage tax exemption may be substantially less than \$440,000

ILDC encourages applicants to utilize MBE/WBE contractors for their projects. Describe your company’s internal practices that promote MBE/WBE hiring and utilization: _____
D’Youville University is committed to diversity, equity and inclusion in human resources and policies.
See <https://www.dyu.edu/about/mission-integration/diversity-equity-inclusion>

Is the project necessary to expand project employment? Yes or No

Is project necessary to retain existing employment? Yes or No

Note: The current landscape for small private universities in New York provides significant challenges – as seen locally with the recent closure of Medaille and across upstate New York (St. Rose in Albany). Continued expansion of graduate medical programs is strategically important for D’Youville to provide stability to maintain its existing programs.

In addition to retaining our existing 362 regular employees, the new osteopathic medicine program is expected to create 50 new positions between added administrative staff and full-time faculty.

Employment Plan (Specific to the proposed project location): You must include a copy of the most recent NYS-45 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return.

	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
Full time (FT)	337	337	50
Part Time (PT)	25	25	0
Total	362	362	362

Note: The totals above represent regular employees of the University (at least half-time, with benefits). The University also employs many persons as adjunct faculty, artists in plays in productions, and students under the federal work study program. As these are often for very few hours or limited duration, they have been excluded to avoid skewing averages reported below.

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	54 Ret; 10 Cr.	113,900	18,000		
Professional	163 Ret; 30 Cr	74,508	16,000	26,000	2,500
Administrative	105; 10 Cr.	63,307	15,000		
Production	40	53,084	14,000	22,000	2,200
Independent Contractor					
Other					

Payroll Information:

Annual Payroll at proposed project site upon project completion

\$ 42,000,000

Estimated average annual salary of jobs to be retained (full time)

\$ 71,000

Estimated average annual salary of jobs to be retained (part time)

\$ 24,000

Estimated average annual salary of jobs to be created (full time)

\$ 190,000* (Note – approximately half of the jobs to be created are medical school faculty, who will command salaries of an average of \$240,000. The remainder will be more consistent with D'Youville's average for administrative and professional staff – approximately \$71,000)

Estimated average annual salary of jobs to be created (part time)

\$ N/A

Estimated salary range of jobs to be created

From (full time) \$ To (full time) \$

From (part time) \$ To (part time) \$

Environmental Questionnaire

NOTE – THIS FINANCING IS FOR PROGRAM START-UP COSTS ONLY. NO CONSTRUCTION, EQUIPMENT, OR CAPITAL IMPROVEMENTS. THE QUESTIONNAIRE IS ANSWERED FOR THE EXISTING D'YOUVILLE CAMPUS

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

A). GENERAL BACKGROUND INFORMATION:

1. Address of Premises: 320 Porter Ave, Buffalo, NY 14201 (D'Youville University campus)
2. Name and Address of Owner of Premises: D'Youville University, 320 Porter Ave, Buffalo, NY 14201
3. Describe the general features of the Premises (including terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.). 27 acre university campus on West Side of Buffalo. Includes various classroom lab, student recreation, housing and support spaces. The campus is approximately 0.25 miles from the Niagara River
4. Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried on or intended to be carried on at the Premises. D'Youville University has operated at the campus location since 1908, with campus buildings constructed at various points over the past 115 years. Significant investment has been made in upgrades and modernization of the physical plant over the past 10 years. Campus buildings are in above average condition.
5. Describe all known former uses of the Premises. D'Youville University has operated from the campus for the past 115 years. Portions of the campus more recently acquired include former use as residential property and a Catholic parish complex.
6. Does any person, firm or corporation other than the owner occupy the Premises or any part of it?
 Yes or No If yes, identify them and describe their use of the property. Certain spaces are leased to community partners of D'Youville – generally to support the overall educational mission. This includes a primary care clinic operated by Catholic Health, a pharmacy (Vital Pharmacy), and space used by the campus bookstore and food services.
7. Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises? Yes or No If yes, describe and attach any incident reports and the results of any investigations. _____
8. 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 or No
If yes, state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances. _____
9. Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises? Yes or No. If yes, describe in full detail.

D'Youville University operates a college campus for approximately 3,000 students and 400 faculty and staff, along with thousands of annual visitors for events, performances and athletic contests. The University maintains a full-time professional campus safety department. Slips and falls and minor criminal conduct can routinely occur in the normal course of business. We are not aware of any unusual or material uninsured claims or matters, or of matters of non-compliance with law or regulation by the University. Like all higher education institutions, annual reporting on campus crime statistics is made to the Department of Education. Our Clery Act disclosure is available at https://www.dyu.edu/sites/default/files/2023-09/DYU_SECURITY_FIRE_23.pdf

B) SOLID AND HAZARDOUS WASTES AND HAZARDOUS SUBSTANCES:

1. Does any activity conducted or contemplated to be conducted at the Premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances? Yes or No. If yes, provide the Premises' applicable EPA (or State) identification number.

2. Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes? Yes or No. If yes, provide copies of the permits. Identify the transporter of any hazardous and/or solid wastes to or from the Premises.

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

4. 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? Yes or No. If yes, identify the substance, the quantity and describe how it is stored. _____

C) DISCHARGE INTO WATERBODIES:

1. Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Provide copies of all permits for such discharges.
None

2. Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and storm water. Attach all permits relating to the same. Also identify any septic tanks on site.
Various public bathrooms and kitchen facilities have discharge into the municipal sewer system.
No known septic tanks on site

3. Is any waste discharged into or near surface water or groundwaters? Yes or No. If yes, describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste.

D) AIR POLLUTION:

1. Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises? Yes or No. If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source.

-
-
2. Are any of the air emission sources permitted? Yes or No If yes, attach a copy of each permit.

E) STORAGE TANKS:

1. List and describe all above and underground 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. Also provide copies of any registrations/permits for the tanks. _____
None _____
2. Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks? Yes or No. If yes, provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and agencies which were involved. _____
the _____

F) POLYCHLORINATED BIPHENYLS ("PCB" or "PCBs") AND ASBESTOS:

1. 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.
2. Have there been any PCB spills, discharges or other accidents at the Premises? Yes or No If yes, relate all the circumstances. _____

3. Do the Premises have any asbestos containing materials? Yes or No. If yes, identify the materials. _____
Various campus buildings were constructed using asbestos containing materials, primarily in
flooring tiles and insulation. _____

Representations, Certifications and Indemnification

Nicholas Fiume (name of CEO or other authorized representative of Applicant) deposes and says that he/she is the Chief Financial Officer (title) of D'Youville University (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the ILDC and as follows:

A. Local Labor Workforce Certification Reports: The Applicant understands and agrees that, if the project, as described within this Application, receives any Financial Assistance from the Buffalo and Erie County Industrial Land Development Council (the "ILDC"), the Applicant agrees to file, or cause to be filed, with the ILDC Local Labor Workforce Certification Reports, at least quarterly, regarding the use of local labor working on the project site during and through the construction period to confirm use of all local labor residing in Erie, Niagara, Chautauqua, Cattaraugus and/or Alleghany Counties.

B. The Applicant acknowledges and agrees that in the event the project as described within this Application is deemed a public work for purposes of Article Eight of the New York State Labor Law, then all provision of such Article Eight shall apply. In such an event, the Applicant further acknowledges and agrees that it shall pay, or cause to be paid, to all employees, no less than the prevailing rate of wage and supplements under Article Eight of the New York State Labor Law with respect to the project as described within this Application.

C. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. In connection with the Application, the ILDC may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the ILDC so that the ILDC is authorized to use and rely on the reports. The ILDC, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.

D. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the ILDC from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the ILDC, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.

E. Hold Harmless Provision: The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the ILDC incurred in connection with any actions required to be taken by the ILDC in furtherance of the Application including the ILDC's reasonable costs of general counsel and/or

the ILDC's bond/transaction counsel whether or not the Application, the proposed project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the ILDC shall not be liable for and agrees to indemnify, defend, and hold the ILDC harmless from and against any and all liability arising from or expense incurred by: (i) the ILDC's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the ILDC; (ii) the ILDC's acquisition, construction and/or installation of the proposed project described herein; and (iii) any further action taken by the ILDC with respect to the proposed project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. This obligation includes an obligation to submit an ILDC Fee Payment to the ILDC in accordance with the ILDC fee policy effective as of the date of this Application.

F. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the ILDC and the ILDC's general counsel and/or the ILDC's bond/transaction counsel, the same to be paid at the times indicated:

- (i) a non-refundable \$1,000 application and publication fee (the "Application Fee");
- (ii) Unless otherwise agreed to by the ILDC, an amount equal to one percent (1.00%) of the ILDC bond issuance;
- (iii) All reasonable fees, costs and expenses incurred by the ILDC for (1) legal services, including but not limited to those provided by the ILDC's general counsel and/or the ILDC's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the ILDC's general counsel and the ILDC's bond/transaction counsel; and (2) other consultants retained by the ILDC in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.

G. If the Applicant fails to conclude or consummate the necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable proper or requested action, or withdraws, abandons, cancels, or neglects the Application, or if the Applicant is unable to find buyers willing to purchase the bond issue requested, then, upon the presentation of an invoice, Applicant shall pay to the ILDC, its agents, or assigns all reasonable costs incurred by the ILDC in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the ILDC's general counsel and/or the ILDC's bond/transaction counsel.

H. The Applicant acknowledges and agrees that all payment liabilities to the ILDC and the ILDC's general counsel and/or the ILDC's bond and/or transaction counsel as expressed in Sections F and G are obligations that are not dependent on final documentation of the transaction contemplated by this Application.

I. The cost incurred by the ILDC and paid by the Applicant, the ILDC's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the project and included in the financing of costs of the proposed project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.

J. The Applicant acknowledges that the ILDC is subject to New York State's Freedom of Information Law (FOIL). Applicant understands that all project information and records related to this

application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.

K. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the ILDC and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

D'Youville University
(Name of corporation or entity)

Nicholas Fiume
(Name of officer)

Chief Financial Officer
(Title)

NOTARY

Sworn to before me this 30th day of January,
2024


(Signature) Loria Szewczyk NR

LORIA SZEWCZYK
Notary Public, **State of New York**
No. 01SZ5030580
Qualified in Erie County
Commission Expires 07/18/ 2026

ILDC Tax Exempt Bond – Addendum to Application

Local Labor Certification and New York State Labor Law Acknowledgment

1. Will labor, solely sourced from one or more of the following counties, be utilized to construct, expand, or renovate the facility (Erie, Niagara, Chautauqua, Cattaraugus and Alleghany)?

Yes or No

2. If the “No” box was checked above, and if labor will not be solely sourced from the five counties, as referenced above, a waiver permitting the use of labor from outside of the five aforementioned counties can be obtained. If a waiver is desired, please explain in detail why labor from outside of the five aforementioned counties will need to be utilized to construct, expand, or renovate the facility:

No labor will be used as there is no construction. This financing is for program start-up costs only.

3. Whenever a recipient of financial assistance from the ILDC enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement work (collectively, “Work”) on a project, such project shall be deemed to be a public work for purposes of Article Eight of the New York State Labor Law and all the provisions of such Article shall apply. In such an event, an employer shall pay employees no less than the prevailing rate of wage and supplements under Article Eight of the New York State Labor Law. In the event the proposed project uses financial assistance from the ILDC to directly undertake Work, will the Applicant adhere to all the provisions of Article Eight of the New York State Labor Law and pay employees no less than the prevailing rate of wage and supplements thereunder?


Yes or No – **N/A – No construction**

The Applicant and the individual executing this ILDC Local Labor Certification and New York State Labor Law Acknowledgment on behalf of Applicant (collectively the “Applicant”) acknowledge that the ILDC and its counsel will rely on the representations made herein when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and further, the Applicant understands and acknowledges that, if the ILDC becomes aware of the use of labor from counties other than the five aforementioned counties in the absence of a waiver permitting otherwise, then the ILDC will provide notice of same to the Company and provide the Company with a reasonable time period to cure same. The Applicant further understand and acknowledges that in the event the project as proposed is deemed to be a public work for purposes of Article Eight of the New York State Labor Law as required under that

certain Erie County Legislature Resolution No. 218 of 2009 adopted by the Erie County Legislature (the "Legislature") on July 24, 2009, as amended by Resolution No. 295 of 2009, adopted by the Legislature on November 19, 2009, and Resolution No. 5-3 (2010) adopted by the Legislature on March 25, 2010, and Resolution No. 110 of 2011, adopted by the Legislature on June 30, 2011, that it must at all times adhere to and comply with all of the provisions of Article Eight of the New York Labor Law and pay employees no less than the prevailing rate of wage and supplements under Article Eight of the New York State Labor Law.


D'Youville University
(Name of corporation or entity)

Nicholas Fiume
(Name of officer)


Chief Financial Officer
(Title)

NOTARY

Sworn to before me this 30th day of JANUARY, 2024


(Signature) Lori A. SzeWCzyk

LORI A. SZEWCZYK
Notary Public, State of New York
No. 01SZ5030580
Qualified in Erie County
Commission Expires 07/18/ 2026

ILDC Insurance Requirements

Buffalo & Erie County Industrial Land Development Corporation (Insurance Specifications as of November 1, 2018)

A summary of ILDC insurance requirements follows. Please note that insurance is to be provided by the Company and/or Project owner after Board approval and prior to utilization of ILDC financial assistance and shall be maintained during the term of any applicable Agent Agreement and/or Lease Agreement by and between the ILDC and the Company.

During the term of an Agent Agreement and/or a Lease Agreement entered into with the Erie County Industrial Agency an **ACORD 25-Certificate of Liability Insurance** and **ACORD 855 NY-New York Construction Certificate of Liability Addendum** shall be provided evidencing the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing Erie County Industrial Development Agency as Certificate Holder. It is our suggestion that you share these requirements with your current insurance agent, broker or insurance company.

Acceptable Certificates of Insurance shall indicate the following minimal coverage, limits of insurance, policy numbers and policy effective and expiration dates.

Commercial General Liability: Agent and subcontractors shall provide such coverage on an occurrence basis for the named insured's premises & operations and products-completed operations. Blanket Contractual Liability provided within the "insured contract" definition may not be excluded or restricted in any way. Property damage to work performed by subcontractors may not be excluded or restricted nor shall the Additional Insured's coverage for claims involving injury to employees of the Named Insured or their subcontractors be excluded or restricted. The "insured contract" exception to the Employers Liability exclusion also may not be removed or restricted in any way.

These coverages are to be properly evidenced by checking the appropriate box(es) on the **ACORD 855-NY Construction Certificate of Liability Addendum's** Information Section, Items G, H, I and L. Policy shall have attached **Designated Location(s) General Aggregate Limit CG 25 04** endorsement.

Limits expressed shall be no less than:

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Per Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Liability	\$ 100,000
Medical Payments (per person)	\$ 5,000

Erie County Industrial Development Agency shall be named as Additional Insured per **ISO Form CG 20 26-Additional Insured Designated Person or Organization** to provide coverage for the Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis. All insurance required of the Company shall waive any right of subrogation of the insurer against any person insured under such policy and waive any right of the insurer to any off-set or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

ACORD 855 NY-New York Construction Certificate of Liability Insurance: It is not uncommon for insurers to modify the standard ISO policy language with endorsements that result in modifications to language preferred by the insurer. This addendum is required to supplement the **ACORD 25-Certificate of Liability Insurance** with additional information that provides a more detailed expression of the types of coverage required. Specifically required coverages may be excluded or limited by the attachment of exclusionary or limitation endorsements. This addendum provides the insurer the ability to certify coverage provided by the absence of such exclusionary or limiting modifications.

Blanket Additional Insured endorsement to include – Owner, Lessees or Contractors - Automatic Status For Other Parties When Required in Written Construction Agreement – Wording should include any other person or organization you are required to add as an additional insured under the contract or agreement (**Paragraph 2 of CG 20 38 04 13 or equivalent**).

Any scheduled person or organization section of the additional insured endorsement containing wording other than designated names shall not be accepted.

Umbrella/Excess Liability: Commercial Umbrella or excess liability for a limit of at least \$5,000,000 per occurrence with a \$5,000,000 Aggregate. Coverage should respond on a follow-form basis and excess over the aforementioned underlying policy limits. Erie County Industrial Development Agency shall be named as Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis.

Workers Compensation/Disability Insurance:

- i) The Company and/or Project Owner shall provide evidence of insurance and maintain Workers Compensation/Disability insurance as required by statute. Erie County Industrial Development Agency shall be named as the Certificate Holder.

- ii) **Accepted Forms:**

Workers Compensation Forms		DBL (Disability Benefits Law) Forms	
CE-200	Exemption	CE-200	Exemption
C-105.2	Commercial Insurer	DB-120.1	Insurers
SI-12	Self-Insurer	DB-155	Self-Insured
GSI-105.2	Group Self-Insured		
U-26.3	New York State Insurance Fund		

**If the Company and/or Project owner have no employees, the Company and/or Project owner shall provide a completed and signed Form CE-200 or later revision, which is found on the New York State Workers Compensation Board website: www.wcb.ny.gov
This form is to be completed on-line, printed, and signed.**

**ILDC Address: All evidence of insurance shall be sent to:
Buffalo & Erie County Industrial Land Development Corporation
95 Perry St, Suite 403
Buffalo, NY 14203**

ILDC Issuance Counsel Fee Schedule

ILDC General Counsel Fees:

Benefited Amount	Standard Legal Fee
<=\$500,000	
<=\$750,000	\$5,000
>\$750,000 - \$1.5M	\$9,000
>\$1.5M - \$3M	\$13,000
>\$3M - \$5M	\$17,000
>\$5-\$10M	\$20,000
>\$10M	\$28,000

In addition to the counsel fees, disbursements of up to \$1,000 will be added to each closing.

ILDC Standard Fees:

A non-refundable \$1,000 application fee payable to the Erie County Industrial Development Agency is due upon submission of your application. Send your check to: ILDC, 95 Perry Street, Suite 403 Buffalo, NY, Suite 14203.

Payment of costs in connection with publishing of public hearing notice

ILDC will charge an administrative fee of 1% of the amount of the bond.

Company is liable for tax exempt bond fees negotiated directly with bond counsel

Any additional costs associated with meeting the agency's current environmental policy are the responsibility of the applicant.

If a project application is withdrawn or does not close, the applicant is responsible for any costs incurred by the agency on behalf of the project.