



Erie County Industrial Development Agency  
Board of Directors Meeting  
February 23, 2022  
12:00 p.m.

Via Conference Call & Livestreaming

**1.0 Call to Order**

1.1 Call to Order Meeting of the Membership

**2.0 Approval of Minutes:**

2.1 Approval of Minutes of January 26, 2022 Meeting of the Membership (Action Item) (Pages 2-10)

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

3.1 Financial Report (Informational) (Pages 11-14)

3.2 Governance Committee Update (Informational)

3.3 2022 Tax Incentive Induced/Closing Schedule/ Estimated Real Property Tax Impact (Informational) (Pages 15)

3.4 Policy Committee Update (Informational) (Pages 16-17)

3.5 Approval of UTEP Policy (Action Item) (Pages 18-32)

**4.0 Inducement Resolution:**

**ECIDA  
Incentives**

**Private  
Investment**

**Municipality**

4.1 (None)

**5.0 Amendatory Inducement Resolution:**

5.1 (None)

**6.0 Management Team Reports:**

6.1 CEDS Update

**7.0 Adjournment - Next Meeting March 23, 2022 @ 12:00 p.m.**

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

- DATE:** January 26, 2022
- LIVE STREAMED:** This meeting is being live-streamed and made accessible on the ECIDA's website at [www.ecidany.com](http://www.ecidany.com).
- PRESENT:** Denise Abbott, Hon. Diane Benczkowski, Rev. Mark E. Blue, Hon. Joseph Emminger, Dottie Gallagher, Hon. Howard Johnson, Tyra Johnson, Hon. Brian Kulpa, Richard Lipsitz, Brenda W. McDuffie, Hon. Glenn R. Nellis, Hon. Mark C. Poloncarz, Hon. Darius G. Pridgen, Sister Denise Roche, Kenneth A. Schoetz and Paul Vukelic
- EXCUSED:** Hon. Bryon W. Brown, James Doherty and Renee Wilson
- OTHERS PRESENT:** John Cappellino, President & CEO; Mollie Profic, Chief Financial Officer/Assistant Secretary; Beth O'Keefe, Vice President of Operations; Atiqa Abidi, Assistant Treasurer; Gerald Manhard, Chief Lending Officer/Assistant Secretary; Grant Lesswing, Business Development Officer; Brian Krygier, Director of Information Technology; Carrie Hocieniec, Operations Assistant; Robbie Ann McPherson, Director of Marketing & Communications, Sean Fallon, Project Manager; Pat Smith, Senior Bookkeeper; Lori Szewczyk, Director of Grants; Christopher Andreucci, Bond Counsel/Harris Beach and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Maria Whyte, Erie County; Alex Carducci on behalf of the City of Buffalo; Peter Krog and Scott Fairbrother on behalf of 791 Washington Street, LLC; Joan Gredys and Jeanette Foote on behalf of Arbor Multifamily Lending, LLC; Dr. Uzo Ihenko and Kelechi Chillis Ihenko on behalf of Broadway Development & Management; Suzanne Risman on behalf of Lactalis American Group; Patrick Kilcullen on behalf of 134 High Street/BNMC

There being a quorum present at 12:03 p.m., the members of the Erie County Industrial Development Agency (the "ECIDA" or "Agency"), was called to order by Chair McDuffie.

## MINUTES

The minutes of the November 17, 2021 meeting of the members were presented. Sister Denise moved and Mr. Poloncarz seconded to approve of the minutes. Ms. McDuffie called for the vote and the minutes were unanimously approved.

At this point in time, Mr. Kulpa and Mr. Lipsitz joined the meeting.

## REPORTS/ACTION ITEMS/INFORMATION ITEMS

Financial Report. Ms. Profic noted that there was no traditional financial report this month due to year-end audit preparations. She then provided a brief update on a few items: (1) The Finance & Audit Committee met on December 14<sup>th</sup>. The two items on the agenda were an ILDC bond recommendation and a presentation from Freed Maxick about their 2021 audit plan. Freed Maxick completed some interim work for the ECIDA, RDC and ILDC audits at the beginning of January, and the final work is set to commence on Monday, January 31<sup>st</sup>. The audits are planned to be completed in time for the Finance & Audit Committee to review and approve draft reports at their March 16<sup>th</sup> meeting with the reports coming to the Boards at the March 23<sup>rd</sup> meetings. This will allow us to have all the necessary approvals in place prior to the March 31<sup>st</sup> ABO filing deadline; and (2) While still closing out the year, she provide the Board with an update on where the ECIDA ended the year from an administrative fee standpoint. In 2021, we had \$2.4M of administrative fee revenue (approximately 133% of our budgeted amount). This was the first time we exceeded our budgeted administrative fees since 2017 and our best year from a fee revenue standpoint since 2015. Further information will be provided and discussed at the February meeting. Ms. McDuffie directed that the report be received and filed.

Governance Committee. Ms. O'Keefe presented a review of the most recently completed governance committee meeting. Ms. McDuffie directed that the report be received and filed.

2021 Tax Incentive Induced/Closing Schedule/Estimated Real Property Tax Impact. Ms. O'Keefe presented this report to the members. Ms. McDuffie directed that the report be received and filed.

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

Approval of Contract. Ms. Szewczyk presented this a resolution to the members to authorize the execution of a contract with LiRo Engineers to design landscaping and historical markers/amenities for the Shoreline Trail Enhancement project in the City of Lackawanna First Ward BOA. Mr. Poloncarz moved and Mr. Johnson seconded to approve the resolution. Ms. McDuffie then called for the vote and the following resolution was unanimously approved:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE AGENCY TO ENTER INTO A CONTRACT WITH LIRO ENGINEERS, INC. TO PROVIDE LANDSCAPING AND HISTORICAL MARKERS DESIGN SERVICES WITHIN THE CITY OF LACKAWANNA FIRST WARD BROWNFIELD OPPORTUNITY AREA ALONG THE SHORELINE TRAIL, ABUTTING THE RENAISSANCE COMMERCE PARK, CONNECTING THE CITY OF BUFFALO AND CITY OF LACKAWANNA

Policy Committee Update. Mr. Lipsitz presented the report of the most recently held Policy Committee meeting and noted the members approved the four (4) projects which are being presented to the Agency today. Ms. McDuffie directed that the report be received and filed.

## INDUCEMENT RESOLUTIONS

791 Washington Street, LLC, 791 Washington Street, Buffalo, New York. Mr. Cappellino reviewed this proposed sales tax exemption and mortgage recording tax exemption benefits project which consists of a project that was previously approved by the ECIDA Board in both 2016 and 2017. Prior approvals anticipated both the Buffalo Culinary School and an extended-stay hotel as project components for this nearly 500,000 sq. ft. facility. Due to the pandemic, the developer was forced to go through a significant redesign effort that resulted in delays and substantially higher design costs to determine how to proceed with the project. The new project plans for substantial renovation to convert the site into mixed-use including market rate housing and intends to offer 243 units with 10% (25 units) committed to workforce housing at 80% AMI. In addition, 60,000 sq. ft. will be available to businesses looking to locate on the Buffalo Niagara Medical Campus. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

Mr. Poloncarz expressed support of the project and thanked the company for sticking through with this project before and during the pandemic.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$91,800,000 (which represents the product of 85% multiplied by \$107,950,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there at least 4 (four) full time equivalent ("FTE") employees in the Facility as stated in the Company's Application for Financial Assistance as described below:
  - 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 4 (four) FTE employees [representing the product of 85% multiplied by 5 (being the 5 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. Pridgen moved and Mr. Blue seconded to approve the Project. Ms. McDuffie spoke in favor of the project and the company's resiliency and 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 791 WASHINGTON STREET, 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, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Arbor Multifamily Housing, LLC, 500 Colvin Woods, Tonawanda, New York. Mr. Cappellino reviewed this proposed sales tax exemption benefit project which consists of an intermunicipal move requiring the ECIDA's compliance with both statutory and its Uniform Tax Exemption Policy, intermunicipal move procedures. The company plans to relocate from Lancaster to Tonawanda and must purchase new office furniture, AV equipment, build out a state-of-the-art computer room, an upscale breakroom and employee lounge at its new location. 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 conclusion of the later of two (2) years following either (x) the construction completion date, or (y) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$1,785,000 (which represents the product of 85% multiplied by \$2,100,000, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 168 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 189 FTE employees [representing the sum of (x) 168 Baseline FTE and (y) 21 FTE employees, being the product of 85% multiplied by 25 (being the 21 new FTE employee positions proposed to be created by the Company as stated in its Application)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Mr. Emminger moved and Sister Denise seconded to approve the Project.

Mr. Poloncarz commented on the need for the Agency to maintain a regional perspective committed to growth and benefits for the greater community, and also commented on the small size of the sales tax benefit.

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 ARBOR MULTIFAMILY LENDING, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii)

RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Broadway Development & Management Group, LLC, 343-345 Broadway, Buffalo, New York. Ms. O’Keefe reviewed this proposed sales tax exemption and mortgage recording tax exemption benefits project which is an adaptive reuse project of an historic 3-story 44,000 sq. ft. commercial building located in an distressed census tract on Buffalo’s East Side. The first floor will include common areas/tenant amenities as well as office, warehouse and retail space. The second and third floors will be converted into workforce housing with rents based on 80% of the AMI. The Project’s cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project’s contemplated community benefits were discussed and considered.

Mr. Pridgen spoke in favor of the project.

As a condition precedent of receiving Financial Assistance, and as a material term or condition as approved by the Agency in connection with the Project, the Company covenants and agrees and understands that it must, subject to potential modification, termination and/or recapture of Financial Assistance for failure to meet and maintain the commitments and thresholds as described below, through the conclusion of the later of two (2) years following either (x) the construction completion date, or (y) the termination of the Agent Agreement, a certification, as so required by the Agency, confirming:

- (i) Investment Commitment- the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$10,625,000 (which represents the product of 85% multiplied by \$12,500,000, being the total project cost as stated in the Company’s application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 2 existing 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 9 FTE employees [representing the sum of (x) 2 Baseline FTE and (y) 7 new FTE employees, being the product of 85% multiplied by 8 (being the 8 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. Pridgen moved and Mr. Johnson 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 BROADWAY DEVELOPMENT & MANAGEMENT GROUP, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (iv) AUTHORIZING THE UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A MORTGAGE RECORDING TAX EXEMPTION BENEFIT FOR FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

Lactalis American Group, Inc., 2376 South Park Avenue, Buffalo, New York. Ms. O'Keefe reviewed this proposed sales tax exemption and real property tax abatement benefits project which consists of the construction of a 5,660 sq. ft. addition to their existing 26,865 sq. ft. one-store office building to provide current and future employees with the space needed to support the company's U.S. operations from the Buffalo, New York facility. The Project's cost benefit ratio was presented to and reviewed by the members present and the costs of incentives so applied for, the anticipated new tax revenues to be generated by the Project, as well as the Project's contemplated community benefits were discussed and considered.

Mr. Lipsitz expressed support of the project.

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 \$1,221,192 (which represents the product of 85% multiplied by \$1,436,697, being the total project cost as stated in the Company's application for Financial Assistance).
- (ii) Employment Commitment – that there are at least 334 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 356 FTE employees [representing the sum of (x) 334 Baseline FTE and (y) 22 FTE employees, being the product of 85% multiplied by 27 (being the 27 new FTE employee positions proposed to be created by the Company as stated in its Application)]. In an effort to confirm and verify the Company's employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency's “Quarterly Employment Survey” form to be made available to the Company by the Agency.
- (iii) Local Labor Commitment - that the Company adheres to and complies with the Agency's Local Labor Workforce Certification Policy on a quarterly basis during the construction period.
- (iv) Equal Pay Commitment – that the Company adheres to and complies with the Agency's Pay Equity Policy.
- (v) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency's Unpaid Real Property Tax Policy.

Mr. Poloncarz spoke in favor of the project.

Mr. Lipsitz moved and Mr. Blue 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 LACTALIS AMERICAN GROUP, INC., AND/OR INDIVIDUAL(S) OR AFFILIATE(S), SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (INDIVIDUALLY, AND/OR COLLECTIVELY, THE “COMPANY”) IN CONNECTION WITH A CERTAIN PROJECT DESCRIBED BELOW; (ii) RATIFYING THE SCHEDULING, NOTICING, AND CONDUCTING OF A PUBLIC HEARING IN CONNECTION WITH THE PROJECT; (iii) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; (iv) APPOINTING THE COMPANY, OR ITS DESIGNEE, AS ITS AGENT TO UNDERTAKE THE PROJECT; (v) AUTHORIZING THE

UNDERTAKING OF THE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION BENEFIT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND (B) A PARTIAL ABATEMENT FROM REAL PROPERTY TAXES BENEFIT THROUGH THE PILOT AGREEMENT; AND (vi) AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, A PAYMENT-IN-LIEU-OF-TAX AGREEMENT, AN AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, AND RELATED DOCUMENTS

#### **MANAGEMENT TEAM REPORT**

CEDS Update. Mr. Cappellino provided an update to the members on the revised and updated CEDS plan.

UTEP Policy Update. Mr. Cappellino updated members on the contemplated amendment to the Countywide UTEP.

There being no further business to discuss, Ms. McDuffie adjourned the meeting of the Agency at 12:49 p.m.

Dated: January 26, 2022

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Gerald Manhard, Assistant Secretary

**Erie County Industrial Development Agency**  
**Financial Statements**  
As of January 31, 2022

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

**Balance Sheet**

January 31, 2022

	January 2022	December 2021
<b>ASSETS:</b>		
Cash *	\$ 7,369,368	\$ 7,851,664
Restricted Cash & Investments *	19,474,237	19,656,732
Due from Affiliates	791,456	755,496
Due from Buffalo Urban Development Corp.	111,581	105,721
Other Receivables	130,295	35,629
Total Current Assets	<u>27,876,937</u>	<u>28,405,242</u>
Grants Receivable	863,473	863,473
Venture Capital Investments, net of reserves	506,886	506,886
Capital Assets	1,154,083	1,164,083
Total Long-Term Assets	<u>2,524,441</u>	<u>2,534,441</u>
<b>TOTAL ASSETS</b>	<u><u>\$ 30,401,379</u></u>	<u><u>\$ 30,939,684</u></u>
<b>LIABILITIES &amp; NET ASSETS</b>		
Accounts Payable & Accrued Exp.	\$ 144,494	\$ 452,629
Deferred Revenues	876,493	872,993
Funds Held on Behalf of Others	8,547,557	8,717,606
Total Liabilities	<u>9,568,544</u>	<u>10,043,228</u>
Net Assets	<u>20,832,834</u>	<u>20,896,455</u>
<b>TOTAL LIABILITIES &amp; NET ASSETS</b>	<u><u>\$ 30,401,379</u></u>	<u><u>\$ 30,939,684</u></u>

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

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

**Income Statement**

Month of January 2022

	<b>Actual vs. Budget</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>REVENUES:</b>			
Administrative Fees	\$ 101,000	\$ 154,583	\$ (53,583)
Affiliate Management Fees	44,850	45,125	(275)
Interest Income - Cash & Investments	308	1,042	(734)
Rental Income	19,789	16,975	2,814
Other Income	5,000	6,833	(1,833)
<b>Total Revenues</b>	<b>170,947</b>	<b>224,558</b>	<b>(53,611)</b>
<b>EXPENSES:</b>			
Salaries & Benefits	\$ 164,914	\$ 169,542	\$ (4,628)
General Office Expenses	21,406	22,630	(1,224)
Building Operating Costs	21,621	20,312	1,310
Professional Services	7,505	12,608	(5,103)
Public Hearings & Marketing	256	5,000	(4,744)
Travel, Mileage & Meeting Expenses	930	2,917	(1,986)
Other Expenses	1,219	625	594
<b>Total Expenses</b>	<b>217,851</b>	<b>233,633</b>	<b>(15,782)</b>
<b>SPECIAL PROJECT GRANTS:</b>			
Revenues	\$ 120	\$ 80,945	\$ (80,825)
Expenses	(6,837)	(75,261)	68,424
	<b>(6,717)</b>	<b>5,683</b>	<b>(12,400)</b>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>			
	<b>(53,621)</b>	<b>(3,392)</b>	<b>(50,229)</b>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>			
Bethlehem Steel Industrial Park Grant	-	(8,333)	8,333
Angola Ag Park Grant	-	(8,333)	8,333
	<b>-</b>	<b>(16,667)</b>	<b>16,667</b>
<b>NET INCOME/(LOSS) BEFORE DEPRECIATION:</b>			
	<b>(53,621)</b>	<b>(20,058)</b>	<b>(33,563)</b>
Depreciation	(10,000)	(10,000)	-
<b>NET INCOME/(LOSS):</b>	<b>\$ (63,621)</b>	<b>\$ (30,058)</b>	<b>\$ (33,563)</b>

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

**Income Statement**

Year to Date: January 31, 2022

	Actual vs. Budget			Actual vs. Prior Year		
	Actual	Budget	Variance	Actual	Prior Year	Variance
<b>REVENUES:</b>						
Administrative Fees	\$ 101,000	\$ 154,583	\$ (53,583)	\$ 101,000	\$ 6,843	\$ 94,157
Affiliate Management Fees	44,850	45,125	(275)	44,850	43,083	1,767
Interest Income - Cash & Investments	308	1,042	(734)	308	1,217	(909)
Rental Income	19,789	16,975	2,814	19,789	19,894	(105)
Other Income	5,000	6,833	(1,833)	5,000	-	5,000
<b>Total Revenues</b>	<b>170,947</b>	<b>224,558</b>	<b>(53,611)</b>	<b>170,947</b>	<b>71,038</b>	<b>99,910</b>
<b>EXPENSES:</b>						
Salaries & Benefits	164,914	169,542	(4,628)	164,914	144,332	20,581
General Office Expenses	21,406	22,630	(1,224)	21,406	19,802	1,604
Building Operating Costs	21,621	20,312	1,310	21,621	16,198	5,423
Professional Services	7,505	12,608	(5,103)	7,505	9,120	(1,615)
Public Hearings & Marketing	256	5,000	(4,744)	256	9,342	(9,086)
Travel, Mileage & Meeting Expenses	930	2,917	(1,986)	930	71	859
Other Expenses	1,219	625	594	1,219	649	570
<b>Total Expenses</b>	<b>217,851</b>	<b>233,633</b>	<b>(15,782)</b>	<b>217,851</b>	<b>199,515</b>	<b>18,336</b>
<b>SPECIAL PROJECT GRANTS:</b>						
Revenues	120	80,945	(80,825)	120	120	-
Expenses	(6,837)	(75,261)	68,424	(6,837)	(44,827)	37,989
	<b>(6,717)</b>	<b>5,683</b>	<b>(12,400)</b>	<b>(6,717)</b>	<b>(44,707)</b>	<b>37,989</b>
<b>NET INCOME/(LOSS) BEFORE OTHER STRATEGIC INVESTMENTS &amp; DEPRECIATION:</b>	<b>\$ (53,621)</b>	<b>\$ (3,392)</b>	<b>\$ (50,229)</b>	<b>\$ (53,621)</b>	<b>\$ (173,184)</b>	<b>\$ 119,563</b>
<b>OTHER STRATEGIC INVESTMENTS AND INITIATIVES:</b>						
Zero Net Energy costs (Z7+)	\$ -	\$ (52,160)	\$ 52,160	\$ -	\$ -	\$ -
Bethlehem Steel Industrial Park Grant	-	(100,000)	100,000	-	(78,581)	78,581
Angola Ag Park Grant	-	(100,000)	100,000	-	(11,743)	11,743
Bethlehem Steel Industrial Park Grant Reimb	-	250,000	(250,000)	-	-	-
Buffalo Urban Development Corporation	-	(100,000)	100,000	-	-	-
Other Strategic Initiatives	-	(125,000)	125,000	-	-	-
	<b>-</b>	<b>(227,160)</b>	<b>227,160</b>	<b>-</b>	<b>(90,324)</b>	<b>90,324</b>
<b>NET INCOME/(LOSS) BEFORE DEPREC:</b>	<b>(53,621)</b>	<b>(230,551)</b>	<b>176,930</b>	<b>(53,621)</b>	<b>(263,508)</b>	<b>209,887</b>
Depreciation	(10,000)	(10,000)	-	(10,000)	(10,000)	-
<b>NET INCOME/(LOSS):</b>	<b>\$ (63,621)</b>	<b>\$ (240,551)</b>	<b>\$ 176,930</b>	<b>\$ (63,621)</b>	<b>\$ (273,508)</b>	<b>\$ 209,887</b>

### 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
Jan-22	791 Washington Street, LLC <sup>1</sup>	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
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
Jan-22	Broadway Development & Management <sup>1</sup>	Buffalo	\$12,500,000	85% threshold \$10,625,000	2	0	8	0	85% -New 7 jobs	56	55	project completion date + 2 yrs	\$693,750
Jan-22	Lactalis American Group, Inc.	Buffalo	\$1,436,697	85% threshold \$1,221,192	334	0	27	0	85% -New 22 jobs	5	1390	project completion date + 2 yrs	\$121,441
<b>Totals:</b>	<b>Totals:</b>		<b>Private Investment/ Project Amount</b>		<b>FT Jobs Retained</b>	<b>PT Jobs Retained</b>	<b>FT Jobs Created</b>	<b>PT Jobs Created</b>					<b>Incentive Amount</b>
Adaptive Reuse Subtotal	2		\$120,450,000		2	0	13	0		627	488		\$4,412,750
<b>2021 Total</b>	<b>4</b>		<b>\$123,586,697</b>		<b>504</b>	<b>-</b>	<b>65</b>	<b>0</b>		<b>632</b>	<b>2036</b>		<b>\$4,717,941</b>

<sup>1</sup> Adaptive Reuse

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

- DATE:** February 3, 2022
- LIVE STREAMED:** This meeting is being live-audio streamed and made accessible on the Agency's website at [www.ecidany.com](http://www.ecidany.com).
- PRESENT:** Denise Abbott; Hon. April Baskin; Rev. Mark Blue; Richard Lipsitz; Brenda W. McDuffie; Hon. Glenn Nellis; Lavon Stephens; Paul Vukelic and Maria Whyte
- EXCUSED:** Hon. Bryon W. Brown; Johanna Coleman; Colleen DiPirro; Hon. William Krebs; Laura Smith; and David State
- OTHERS PRESENT:** John Cappellino, President & CEO; Beth O'Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Assistant Treasurer; Grant Lesswing, Director of Business Development; Robbie Ann McPherson, Director, Marketing & Communications; Brian Krygier, Director of Operations Technology; Carrie Hocieniec, Operations Assistant; Pat Smith, Senior Bookkeeper and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Alex Carducci and Lisa Hicks on behalf of the City of Buffalo and Dania Tunmore on behalf of Legislator Baskin's Office

There being a quorum present at 9:08 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the December 2, 2021 Policy Committee meeting were presented. Upon motion made by Mr. Stephens 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 Report. Mr. Lipsitz directed that the report be received and filed.



**UNIFORM TAX EXEMPT POLICY AMENDMENT**

Mr. Cappellino presented members with an update on the proposed Amended and Restated Countywide Uniform Tax Exemption Policy (“UTEF”).

Ms. McDuffie expressed support for the UTEP amendment, and then moved to approve of the UTEP as amended. Ms. Whyte seconded the motion, and also expressed her support for the Amended and Restated UTEP.

Mr. Lipsitz called for the vote and the Amended and Restated Countywide Uniform Tax Exemption Policy was unanimously approved, and recommended for ultimate approval by the members of the Agency.

Mr. Lipsitz thanked the staff and Policy Committee for its good work.

**MWBE UPDATE**

Ms. Whyte provided an update on the draft MWBE Policy to the Committee members.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 9:53 a.m.

Dated: February 3, 2022

\_\_\_\_\_  
Gerald Manhard, Assistant Secretary



**TO: ECIDA Board of Directors**  
**DATE: February 23, 2022**  
**RE: Amended and Restated Countywide Industrial Development Agency Uniform Tax Exemption Policy Draft**

Under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “GML”), as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended, the Erie County Industrial Development Agency (the “Agency”) was created and authorized (1) to promote the economic welfare, recreational opportunities and prosperity of the inhabitants of the Erie County (the “County”), and (2) to actively promote, attract, encourage and develop recreation and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration.

Section 874 of the General Municipal Law of the State of New York (the “GML”) requires that each industrial development agency (“IDA”) establish a uniform tax exemption policy (“UTEP”), with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to Section 859-a of the GML and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions (collectively, “Financial Assistance”).

In 2001, the Agency and the Town of Amherst IDA, the Town of Lancaster IDA, the Town of Clarence IDA, the Town of Hamburg IDA, and the Town of Concord IDA collectively adopted a Countywide Industrial Development Agency Uniform Tax Exemption Policy, which was subsequently amended in January of 2010 (the “Existing UTEP”). Related thereto, the Agency also approved two amendments to the Existing UTEP, the first being an amendment to the Hotel/Motel Policy in 2012 and the second being an amendment related to For-Profit Market Rate Rental Senior Citizen Housing Policy in 2015.

Since 2013, the GML has been amended several times by reinstating certain retail restrictions, and by establishing new procedural and transparency requirements and certain provisions allowing for the recapture, modification, and termination of IDA Financial Assistance. More recent GML amendments altered the types of projects eligible for Financial Assistance, for example, various renewal energy projects are now defined to be permissible projects. In consideration of the foregoing, it was determined that the best path forward would be to undertake a fresh rewrite of the Existing UTEP instead of otherwise amending the Existing UTEP.



**Several key principals of the overall UTEP rewrite (the “New UTEP”) included:**

- Maintaining a baseline “Countywide Policy” for all the IDAs within Erie County, that also allows for each IDA, if desired, to adopt unique requirements or policies specific to an individual IDA, i.e. pay equity policy, local labor policy, senior housing policy, by way of example.
- Simplifying the Existing UTEP making it easier to understand and implement.
- Referencing relevant sections of the GML, for specific requirements instead of reciting entire sections of the GML within the New UTEP, so that the New UTEP would not necessarily inadvertently outdate itself when the GML is amended going forward.
- Continuing the utilization of a Tiered PILOT structure requiring projects to be scored based on established criteria and assigned to a PILOT Tier, whereby projects scoring in the upper tier become eligible for a PILOT having a greater total abatement than a project scoring in a lower tier. Related thereto, the following elements drove the establishment of the various Tiered PILOT schedules:
  - PILOT Schedules would not have any 100% abatement years, so that there would be PILOT revenue realized by the taxing jurisdictions each year.
  - To the extent possible, establishing PILOT schedules having annual payment increases

**Summary of New UTEP Sections:**

**Section I: Eligible Applicants/Projects**

- A. The Eligible Applicants section was changed from a NAICS based system to a simplified business activities system, to include commercial business activities, manufacturing and advanced manufacturing activities, warehousing and distributive services activities, and back-office activities. The NAICS system was confusing and outdated due to amendments to the GML. As an example, many of the NAICS categories defined in the Existing UTEP as potentially eligible were no longer eligible due to the retail restrictions. A new “Renewable energy and electric energy storage” activity was added to conform with 2021 GML amendments specifying an IDA’s role in supporting these types of projects in furtherance of New York’s renewable energy goals.
- B. A new Retail Business section was added confirming that retail projects are generally ineligible and cites to Section 862 of the GML for specified exceptions.



- C. A new special projects section was added to outline requirements for mixed use projects containing a mix of retail and other non-retail uses citing to restrictions in Section 862 of the GML and allowing for additional requirements established by each individual IDA. Specifically, this section:
1. Maintains the Adaptive Reuse program and requirements under the existing terms and conditions; and
  2. Maintains the Continuing Care Retirement Community project category (for example, Canterbury Woods) as permitted under New York Law and cites to the applicable GML sections.

## Section II: Exemption from Real Property Taxes: Payments in Lieu of Taxes

The Tiered PILOT incentive concept remains in the New UTEP, however the number of tiers, the PILOT schedules, and the tier scoring system are being amended. Major changes include:

1. Elimination of the Ten-Year Enhanced Jobs Plus PILOT schedule.
2. Addition of a new Five-Year PILOT schedule – intended for smaller redevelopment, potentially mixed-use projects.
3. Creation of a new Renewable Energy PILOT to support renewable energy projects, establishing a baseline PILOT framework but allowing for each IDA to adopt their own specific requirements (see, for example, the new ECIDA Community Solar Policy).
4. Adjustments to the various PILOT schedules to minimize multiple years with the same PILOT abatement percentage, and establishing new schedules, to the extent possible, having year over year increase in PILOT payments.
5. Updates to the Tiered PILOT scoring sheet used to score projects for the appropriate PILOT tier.

### General Revisions:

Sections III, IV, V, VI and VII of the New UTEP, except for formatting and minor language modifications, remain the same as those provisions/concepts contained within the Existing UTEP.

There are some sections of the Existing UTEP that have been removed because such sections are now outdated and/or irrelevant due to changes to New York State law. The Existing UTEP had specific sections on Medical Projects, Hotel and Motels, and Neighborhood Enhancement Areas which were all rendered irrelevant due to the reinstatement of Retail Restrictions in 2013, having been theretofore eliminated in 2008 by certain sun-setting GML provisions.



In addition, the Adaptive Reuse policy was revised to allow each IDA to adopt its own Adaptive Reuse Policy program, as a separate addendum to the UTEP, if so desired. This will be the same approach to be used relating to some of the policies unique to the Agency, for example, the Pay Equity Policy, the Unpaid Real Property Tax Policy, the For-Profit Senior Housing Policy, and potentially the new MWBE Policy which will be added as addendums to this baseline New UTEP by the Agency upon the Agency's approval of this New UTEP, as so amended and restated and as briefly described herein.

The 2016 revisions to the GML also mandates certain specific requirements and information be included in IDA applications and IDA project agreements, some of which were already included within the Existing UTEP. These provisions were removed from the Existing UTEP but, as so required by the GML, are now included as component parts of the Agency's application and project agreement. This includes our material terms and conditions, our recapture policy language and applicant certification statement requiring applicants to certify to the truthfulness and accuracy of information disclosed within the application under penalty of perjury.

## PILOT DETERMINATION SCORING WORKSHEET

### Baseline Requirements (Must Achieve All)

- Application Complete  
 Eligible Project Per Countywide UTEP  
 Local Labor Compliance  
 Planning Approval (If Applicable)

### PILOT Scoring Metrics

1 Point Per Checked Box Except Where Noted  
 Investment, Employment, and Construction Employment are Cumulative Categories

<u>Location</u>	<u>Investment *(Cumulative)</u>	<u>Community</u>
<input type="radio"/> Distressed Census Tract	<input type="radio"/> Under \$10 Million	<input type="radio"/> Out of Region Sales > 30%
<input type="radio"/> Designated Development Area	<input type="radio"/> \$10 Million - \$20 Million	<input type="radio"/> In Region Purchase > 50%
<input type="radio"/> Historic Preservation	<input type="radio"/> Over \$20 Million	<input type="radio"/> Average Wage > Median
<input type="radio"/> Building Re-use		<input type="radio"/> ROI Ratio > 15 to 1
<input type="radio"/> Infill Development	<u>Employment *(Cumulative)</u>	<input type="radio"/> Local Revenue/Abatement Ratio > 2 to 1
<input type="radio"/> Transit	<u>New Jobs</u>	<input type="radio"/> Workforce Housing
<input type="radio"/> Green Building	<input type="radio"/> 1-15	<input type="radio"/> MWBE
<input type="radio"/> Brownfield	<input type="radio"/> 16-40	<input type="radio"/> Out of Area Option(s)
	<input type="radio"/> 41-85	
	<input type="radio"/> 86-150	
	<input type="radio"/> 151+	
<u>Strategic Industry (2pts)</u>	<u>Retained Jobs</u>	<u>Construction Employment * (Cumulative)</u>
<input type="radio"/> Advanced Manufacturing	<input type="radio"/> 1-75	<input type="radio"/> 1-50
<input type="radio"/> Back Office	<input type="radio"/> 76-150	<input type="radio"/> 51-100
<input type="radio"/> Life Sciences	<input type="radio"/> 151+	<input type="radio"/> 101+
<input type="radio"/> Technology		
<input type="radio"/> Distribution/Logistics		
<input type="radio"/> Agriculture		
<input type="radio"/> Renewable Energy		
<input type="radio"/> Regional Tourism/Arts		

5-Year PILOT = 1-6 Points (75,65,55,45,35)

7-Year PILOT = 7-12 Points (95,90,85,80,75,70,65)

10-Year PILOT = 13+ Points (95,90,85,80,75,70,65)

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**RESOLUTION**

*Amended and Restated Countywide Industrial Development Agency  
Uniform Tax Exemption Policy*

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, February 23, 2022, at 12:00 p.m.

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

**RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT  
AGENCY APPROVING AND ADOPTING AN AMENDED AND RESTATED  
COUNTYWIDE INDUSTRIAL DEVELOPMENT AGENCY  
UNIFORM TAX EXEMPTION POLICY**

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended (“GML”), and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively with the GML, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created as a public benefit corporation of the State of New York; and

WHEREAS, GML Section 874(4) requires that each industrial development agency establish a uniform tax exemption policy (“UTE”) applicable to the provision of financial assistance and provide guidelines for, among other things, the claiming of real property, mortgage recording, and sales tax exemptions; and

WHEREAS, on or about December 12, 2001, in accordance with GML Section 874(4), a Countywide Industrial Development Agency UTEP was established and adopted for use by the industrial development agencies in Erie County (the Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Concord Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Agency, collectively, the “IDAs”) and entitled the Countywide Industrial Development Agency Uniform Tax Exemption Policy (“Countywide Policy”); and

WHEREAS, the Countywide Policy has been amended by the IDAs from time to time, and the IDAs have determined that it is in the best interest of the IDAs and the residents of Erie County and the various Towns within the jurisdiction of the IDAs to amend and restate the Countywide Policy, in its entirety, to ensure consistency and compliance with the Act and to ensure efficient ease of use for IDA Financial Assistance recipients; and

WHEREAS, leaders and staff from the IDAs, including the Agency, have jointly edited, revised and drafted an Amended and Restated Countywide Industrial Development Agency

Uniform Tax Exemption Policy, that amends and restates in its entirety the Countywide Policy (hereinafter, the “Amended and Restated Countywide UTEP”), and in this effort, have considered the following issues as so related thereto, all as required by the Act: (i) the extent to which a project will create or retain permanent private sector jobs; (ii) the estimated value of any tax exemptions to be provided; (iii) whether affected taxing jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; (iv) the impact of a proposed project on existing and proposed business and economic development projects in the vicinity; (v) the amount of private sector investment generated or likely to be generated by the proposed project; (vi) the demonstrated public support for a proposed project; (vii) the likelihood of accomplishing the proposed project in a timely fashion; (viii) the effect of the proposed project upon the environment; (ix) the extent to which the proposed project will require the provision of additional services; and (x) the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts (collectively, items (i) through (x), hereinafter referred to as “UTEP Considerations”); and

WHEREAS, on January 12, 2022, the Agency provided writing notification to the affected tax jurisdictions of, and provided the contemplated draft Amended and Restated Countywide UTEP to, the affected tax jurisdictions, as so required by the Act, and

WHEREAS, on January 27, 2022, the Agency hosted a Zoom/video/telephonic informational meeting attending by the IDAs and various affected tax jurisdictions whereat the draft Amended and Restated Countywide UTEP was presented and discussed; and

WHEREAS, on February 3, 2022, the Agency’s Policy Committee reviewed and considered and adopted, and recommended that the members of the Agency similarly adopt, the draft Amended and Restated Countywide UTEP; and

WHEREAS, attached hereto within Exhibit A is the proposed Amended and Restated Countywide UTEP, including an Addendum A attached thereto, entitled “For-Profit Market Rate Rental Senior Citizen Housing Policy” being a special policy unique to the Agency, but also being included within the Amended and Restated County UTEP for purposes of this Agency only; and

WHEREAS, the Agency, having considered all comments received from the affected tax jurisdictions, the Agency Policy Committee recommendation, and the UTEP Considerations, now desires to adopt the proposed Amended and Restated Countywide UTEP as enclosed within Exhibit A.

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

Section 1. The Agency hereby determines that the adoption of the proposed Amended and Restated Countywide UTEP constitutes a Type II Action within the meaning of the State Environmental Quality Review Act and the regulations promulgated thereunder (“SEQR”) and therefore no further actions or proceedings under SEQR need be undertaken by the Agency in connection therewith.



Section 2. The Agency hereby readopts the Amended and Restated Countywide UTEP which is set forth within Exhibit A, attached hereto.

Section 3. The Agency, acting by and through its Chair, Vice Chair, President and Chief Executive Officer, or any other designated officer or director, is hereby authorized to do all things necessary or appropriate for the accomplishment of the purposes of this resolution, and all acts heretofore taken by the Agency with respect to the Amended and Restated Countywide UTEP are hereby approved, ratified and confirmed.

Section 4. This Amended and Restated Countywide UTEP shall be effective on April 1, 2022 (the "Effective Date") and shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution after the Effective Date.

Dated: February 23, 2022

**EXHIBIT A**

Amended and Restated Countywide UTEP

## **Countywide Industrial Development Agency Uniform Tax Exemption Policy**

**Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Erie County Industrial Development Agency**

**Amended and Restated as of \_\_\_\_\_, 202\_\_**

The declared policy of New York State is to promote the economic welfare, recreation opportunities and prosperity of its inhabitants, and to promote, attract, encourage and develop recreation, and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies (“IDA”). IDAs are empowered to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, and commercial facilities and thereby advance the job opportunities, health, and the general prosperity and economic welfare of the people of New York State and to improve their recreational opportunities, prosperity and standard of living.

IDAs are empowered to carry out these statutory purposes by providing for the claiming of real property tax abatements and exemptions from sales, use, and mortgage recording tax, and the issuance of tax exempt bonds (collectively, “Financial Assistance”). The IDAs in Erie County have adopted this Uniform Tax Exemption Policy (the “Policy”) to provide for uniform policies for the claiming of IDA Financial Assistance.

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, an IDA is authorized to establish guidelines and policies for the evaluation and selection of projects for which Financial Assistance will be provided, the suspension, discontinuance, or modification of real property tax abatements, and the recapture of all or part of the Financial Assistance as a consequence of job creation/retention shortfalls or other material violations of the terms and conditions established for the provision of Financial Assistance. Each applicant for Financial Assistance should consult with the appropriate individual IDA to confirm such an IDA’s relevant guidelines and policies.

### **I. Eligible Applicants/Projects**

A. By way of example only, Applicants involved in the following business activities may be eligible to apply for Financial Assistance:

1. Commercial activities
2. Manufacturing/Advanced Manufacturing
3. Warehousing/Distributive Services
4. Back office (headquarters, data and call centers)
5. Renewable energy and/or electric energy storage<sup>1</sup>

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<sup>1</sup> Renewable energy and/or electric energy storage projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creations goals.

**B. Retail Business.** Only certain Retail Business projects may be eligible to receive Financial Assistance in compliance with Section 862 of the New York General Municipal Law (“GML”). Applicants are strongly encouraged to consult Section 862 of the GML and the appropriate individual IDA if a proposed project involves the sale of goods or services to customers who personally visit the project site.

**C. Special Projects.** Applications which contain a mix of retail uses and other non-retail uses (a mixed use project) must comply with Section 862 of the GML and meet additional requirements, if any, as established by each such IDA.

1. **Adaptive Reuse Project/Neighborhood Enhancement Area Project.** Adaptive Reuse Projects/Neighborhood Enhancement Area Projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creation goals. IDA Financial Assistance may be provided to an Adaptive Reuse Project that involves adapting old structures or sites for new purposes, including but not limited to, potentially a mix of retail uses (in compliance with Section 862 of the GML) and commercial uses, and/or market rate or below market rate housing, and/or as otherwise permitted under any exception or amendment to this Policy for each individual IDA. An Adaptive Reuse Project is one that will benefit the host municipality and Erie County by redeveloping a blighted site or structure, promoting infill development utilizing existing infrastructure, creating new economic activity at difficult sites and buildings thus helping to eliminate neighborhood slum and blight, promoting re-use of existing buildings and sites, and helping to maintain a neighborhood’s fabric. Adaptive Reuse Projects prevent economic deterioration and promote employment opportunities. IDAs may also provide Financial Assistance, as determined by each such IDA, to projects that are retail or have retail components, in compliance with Section 862 of the GML, if the project is located in or contemplating relocating to areas within Erie County that are designated, by the respective municipal legislatures, as Neighborhood Enhancement Areas.

2. **Additional Commercial Special Projects.** Continuing Care Retirement Community Project as permitted under Sections 854(19) and 859-b of the GML.

## **II. Exemption from Real Property Taxes: Payments in Lieu of Taxes**

The IDAs maintain a policy for the provision of real property tax exemptions with a corresponding Payment In Lieu Of Tax Agreement (“PILOT Agreement”) to provide a real property tax abatement for qualified projects. Each project receiving an abatement from real property tax will be subject to a PILOT Agreement in a form proscribed by the IDA. Such PILOT Agreement will also require payment of any and all special district assessments.

The calculation of the amount of the PILOT payments, and the amount of such payments, is not set forth in statute. The PILOT Agreement payment schedules contained within this Policy establish a varied real property tax abatement schedule to incentivize certain investments over others. In this manner, projects that meet all or some of the region’s planning and economic development goal criteria will be rewarded with a more beneficial real property tax abatement schedule in comparison to those projects that meet less of the region’s planning and economic development goal criteria. To meet this goal, a four-tiered PILOT incentives schedule will be utilized. Consideration of the following “PILOT Tier Criteria” will be utilized in analyzing and selecting the appropriate tiered PILOT schedule to be utilized for each particular project: (i) capital investment, (ii) employment creation and employment

retention, (iii) consistency with regional and community based planning, and (iv) overall community benefit.

Below is a listing of the current tiered PILOT schedules:

**A. Tier 1: Five Year PILOT Schedule**

A five year PILOT Schedule will be applied to projects that score at the Tier 1 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5
% Abatement	75%	65%	55%	45%	35%

**B. Tier 2: Seven Year PILOT Schedule**

A seven year PILOT Schedule will be applied to projects that score at the Tier 2 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7
% Abatement	95%	90%	85%	80%	75%	70%	65%

**C. Tier 3: Ten Year PILOT Schedule**

A ten year PILOT Schedule will be applied to projects that score at the Tier 3 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7	8	9	10
% Abatement	95%	90%	85%	85%	80%	80%	75%	75%	70%	65%

**D. Tier 4: Renewable Energy PILOT Schedule**

A PILOT Schedule unique to renewable energy projects that may or may not also have an electric energy storage component is available to support statewide renewable energy production goals, currently established at achieving 70% renewable electricity production by 2030. With respect to a renewable energy project, an IDA, in its sole discretion, may authorize a payment in lieu of taxes agreement for up to a twenty-five (25) year benefit period, and shall calculate such payments based upon a formula expressed as a dollar value per Mega Watt (MW) multiplied by the total MW(s) to be generated by such a project. A determination to grant a Renewable Energy PILOT containing terms consistent with the provisions described within this section shall not be considered a deviation from this Policy.

**III. Exemption from Sales and Use Taxes**

The IDAs maintain a policy for the provision of sales and use tax exemptions, being a 100% exemption from the New York State and local sales and use taxes related to the acquisition, construction, re-construction and equipping of any approved project, inclusive of rentals and all other elements of the Project qualifying for exemption. In coordination with an IDA, an Applicant must confirm the amount of sales and use tax exemption in connection with a qualified project. Operating and maintenance expenses are not eligible for a New York State and local sales and use tax exemption benefit.

#### **IV. Exemption from Mortgage Recording Taxes**

The IDAs maintain a policy for the provision of a mortgage recording tax exemption that permits a mortgage recording tax exemption on a portion of the New York State Mortgage Recording Tax in Erie County, statutorily limited to .0075% on any commercial mortgage or security instrument arising out of or related to the financing or refinancing of an approved project.

#### **V. Deviation from the Uniform Tax Exemption Policy**

The following constitutes the procedure for deviation from this Policy, as required pursuant to Section 874(4)(b) of the GML. An IDA may authorize a deviation from the Policy after it: (i) provides prior written notification to the affected taxing jurisdiction(s) of the proposed deviation from the Policy and the reasons for the deviation from this Policy including articulated consideration of the issues identified in Section 874(4)(a) of the GML, and (ii) sets forth in writing the reasons for deviating from the Policy.

#### **VI. Intermunicipal Movement of Facility or Plant**

If a project involves the removal or abandonment of a facility or plant within the state, adherence to Section 862 of the GML is required prior to making a Financial Assistance determination.

If a project involves the relocation from one municipality within Erie County (the “Current Municipality”) to a different municipality also within Erie County (the “Proposed Municipality”), the IDAs in Erie County set forth the following additional procedures:

A. Upon receipt of a draft application or sufficient materials from a prospective applicant, the relevant IDA with jurisdiction over the Proposed Municipality shall notify the designated economic development representative from the Current Municipality of the pending project unless there is reason the project remain confidential. Upon receipt of a completed Application for Financial Assistance, the IDA will forward a written notice to the chief elected officer of the Current Municipality and the Proposed Municipality (along with their respective economic development designees), which notice shall include (i) said Application, (ii) sites located in the Current Municipality that were considered by the applicant, along with the reasons for rejecting those sites, and (iii) such other information or documentation with regard to the proposed relocation as the IDA may be in possession of.

B. If the applicant declines to respond to such questions regarding its proposed move or indicates that it has not met with representatives of the Current Municipality or reviewed/considered alternative sites within the Current Municipality, the applicant will be strongly urged by IDA representatives to do so prior to final submission of the application, and a determination of said application being considered complete, for consideration of Financial Assistance.

C. A written response or acknowledgement from the chief elected officer of the Current Municipality will be sought with regard to the application for Financial Assistance, and any such response or acknowledgement will be included in the record to be considered by the IDA which has jurisdiction over the Proposed Municipality. This need not be a “sign-off” or an approval of the intermunicipal move. The chief elected officer of the Current Municipality and the Proposed Municipality (and their respective economic development designees) will be invited to address the IDA Board when it considers any such application for Financial Assistance.

**VII. IDA Leadership Council**

On an as needed basis, a leadership council meeting of the IDAs may be convened to encourage further collaborative efforts, to facilitate the uniform implementation of this Policy, and to provide a forum to address other common concerns with regard to economic development in Erie County. Each IDA signatory to this Policy may permit a representative to attend such a meeting, when such a meeting is convened, provided that such individual represents an IDA, a municipality for whose benefit an IDA was created, and/or any other economic development/community organization. The leadership council will, through the consensus of its members, consider and resolve any concerns raised by an IDA with regard to the interpretation of the Policy, and will coordinate other joint activities of the IDAs to promote a countywide program of economic development.

**VIII. Effective Date**

This Uniform Tax Exemption Policy shall be effective as of *insert adoption date*, and shall apply to all projects for which an IDA has adopted or adopts an Inducement Resolution after *insert adoption date*, however, it shall not apply to projects for which an IDA, through issuance of its bonds, execution of leases, or the passage of an Inducement Resolution, has authorized any assistance prior to *insert adoption date*, whether or not such projects are thereafter refinanced or modified.

**IX. Amendments**

An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify this Policy as it may, from time to time, in its sole discretion determine.

**X. Policy Addendums**

A. An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may approve a policy or policies unique to each such IDA as Policy Addendums that may be attached hereto and made a part hereof.

B. For Profit Market Rate Rental Senior Citizen Housing Policy enclosed within this Policy as Addendum A.

**XI. Changes in Law**

This Policy has been developed consistent with the applicable provisions of Article 18-A of the GML existing as of the Effective Date. In the event of a change in law, rule or regulation affecting any provision of this Policy, this Policy shall be interpreted consistent with such law, rule or regulation, without giving effect to any provision in the Policy to the contrary.

**Addendum A**

Uniform Tax Exemption Policy Erie County Industrial Development Agency

For-Profit Market Rate Rental Senior Citizen Housing Policy

Notwithstanding anything contained within the Countywide Industrial Development Agency Uniform Tax Exemption Policy to the contrary, for purposes of eligibility, “Senior Rental Housing” is defined as a multi-family housing structure where at least 90% of the units are rented to and occupied by a person who is 60 years of age or older. No benefits will be provided for units that are not available for rent as a Senior Rental Housing.

Market rate senior housing projects approved by ECIDA are eligible for a PILOT the equivalent of the 485(b) property tax incentive that includes all taxing jurisdictions, a sales tax exemption on equipment and construction materials, and a mortgage recording tax exemption. An enhanced or custom PILOT may be considered for certain small scale projects where a particular need is being filled in a small village or town that does not contain alternative senior citizen housing and where the local taxing jurisdiction has requested the enhanced or custom PILOT and there is a showing of unmet demand for senior housing within the taxing jurisdictions and no prospect of this demand being satisfied through normal market forces.

Projects will be evaluated under the following criteria:

1. If the project has received written support from the city, town or village government in which it is located;
2. The location of the project with particular emphasis on if the project is located within the town, village or city center or within a recognized hamlet.
3. If the project is consistent with the applicable municipal master plan
4. If the project advances efforts to create walkable neighborhoods and communities for seniors in proximity to important local amenities and services.
5. If an independent market study shows a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities.
6. If the project is located in areas of the Community where there are significant local resident populations that are at or below the median income level as defined by a 1-5 mile radius of the project site.
7. If the project provides amenities that are attractive to seniors and differentiates the project from standard market rate housing apartments including but not limited to:
  - Community rooms, including social/recreational activities
  - In facility senior specific services and amenities
  - Senior oriented fixtures and safety amenities (hand-rails, ramps, elevators, safety devices etc.)
  - Security, call systems
  - On site medical services.
8. Impediments to the ability to conventionally finance the project and the project’s rate of return.
9. The project is targeted at and will be at least 50% occupied by senior citizens whose income is at or below 60 to 80% of the median income for Erie County.