

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 489th Meeting
February 17, 2017– 8:30 am
Agency Offices, 4287 Main Street

PRESENT: Carlton N. Brock, Jr.
Michele F. Marconi
E. Marshall Wood, Jr.
Steven Sanders
Edward F. Stachura
Michael R. Szukala
William M. Tuyn
David S. Mingoia, Interim Executive Director
Kevin J. Zanner, Hurwitz & Fine PC
Diane K. Church, Hurwitz & Fine PC

GUESTS: AIDA Staff
David Tytko, Uniland Development
Stephen Watson, Buffalo News
Laurie Aboundader, Invest Buffalo Niagara

Chairman Carlton N. Brock, Jr. called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The minutes of January 2017 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no Bills & Communications presented at this meeting.

TREASURER'S REPORT

The January 2017 Treasurer's Report was approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR REPORT

Attached to these minutes is the February Executive Director's Report.

COMMITTEE REPORTS-GOVERNANCE COMMITTEE

The Governance Committee reported on the following items discussed at their February 10, 2017 meeting:

1. Mortgage Recording Tax Exemption (MRTE) – The Governance Committee recommended that the AIDA only provide a MRTE at inducement for the requested financing amount. The

requested financing would be an “up to” figure. Applicants would also be eligible for a MRTE when converting initial construction financing to permanent financing. Future re-financings and second mortgages that exceed the induced amount would not be eligible for a MRTE.

2. PILOT Grieving – The Governance Committee developed the following framework for a policy to address grievance issues raised by the Town of Amherst Assessor for projects under AIDA title or lease. The Committee further directed staff to engage Hurwitz & Fine to analyze the legality and ability to implement the policy framework.
 - a. Set an agreed upon assessment “floor”.
 - b. Allow for a grieved reduction equivalent to 85% of this floor based on market conditions.
 - c. Requires property owners to agree to contact and work with the Town Assessor before engaging an attorney.
 - d. Allow a disaster clause in the event of a catastrophic event, such as a fire or natural disaster that affects the property.

Once Agency counsel determines the legality and ability to implement the policy framework, the board will continue the discussion and determination on the matter.

3. AIDA Uniform Tax Exemption (UTE) Crib Sheet – The Governance Committee forwarded the attached document to the Board as a tool to analyze projects and foundation for changes that are necessary to the Countywide Uniform Tax Exemption Policy (UTE).
4. AIDA Charter and Policy Revisions – The Governance Committee completed its review of changes suggested by Hurwitz and Fine to the Governance and Finance and Audit Committee Charters, and the following Policies: Procurement; Code of Ethics; Statement of Duties and Responsibilities of the Board of Directors; Employee Compensation Program; and Amherst Development Corporation Conflict of Interest.

Other policies required by the Authority Budget Office and Public Authorities Law were reviewed with no changes necessary. These Policies are: Credit Card; Data Collection & Gathering; Defense and Indemnification; Expenses, Travel, Meals & Entertainment; Fixed Asset & Capitalization; Financial Disclosure; Investment; Property Disposal Guidelines; Real Property Acquisition; and Whistle-Blower.

The Governance Committee recommended that these policies be reviewed by the entire board and if no further changes or clarifications are necessary that they be considered at the March or April Board of Directors Meeting.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

Authorization Resolution – Northwest Bank

Northwest Bank is proposing to lease approximately 25,000 sq. ft. of vacant office space at 375 Essjay Road to accommodate a back office regional center for its expanding branch network. The vacant space requires a considerable amount of construction to tailor the space to its needs.

The outcome of the project is to have sufficient space to house a call center, training center, regional executives, and other back office support departments as well as sales support offices. Some of these functions are currently taking place in Pennsylvania and will be expanded here. Northwest anticipates the creation of 115 new full time positions over the next 5 years for these office operations, with 67 estimated new hires 2 years after project completion. There are 33 employees currently working out of branches within the Buffalo region that will relocate to the new office.

Empire State Development is also providing Excelsior Tax Incentives for this project.

The project value is \$1,500,000 and Northwest Bank is seeking \$87,500 in sales tax exemption.

Board member Michele Marconi noted that this was a multi-billion dollar company and was concerned that the project did not require the sales tax exemption.

Board member Steven Sanders stated that he felt that incentives are necessary in order to secure a company that is new to the WNY market to locate in Amherst.

Board member Edward Stachura reminded the board that the incentives are an investment in Amherst and that the investment of the sales tax exemption will bring numerous employment opportunities to the area.

After a brief discussion, Chairman Brock called for a motion on the project. Steven Sander made a motion to approve the project. Edward Stachura seconded the motion. Votes of aye were made by Brock, Sanders, Wood, Stachura, Szukala and Tuyn. A vote of no was cast by Marconi. The motion to approve the Northwest Bank project passed 6-1. It was

RESOLVED, THAT THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZE THE RENOVATION AND EQUIPPING OF APPROXIMATELY 25,000 SQUARE FEET OF OFFICE SPACE BY NORTHWEST BANK LOCATED AT 375 ESSJAY ROAD, AMHERST, NEW YORK FOR SALE OR LEASE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO AN INSTALLMENT SALE CONTRACT TO NORTHWEST BANK, THE EXECUTION OF LEASE AGREEMENTS AND/OR AN INSTALLMENT SALE CONTRACT AND THE TAKING OF OTHER ACTIONS.

9:12 am – meeting adjourned.

Executive Director's Report
February 17, 2017

1. **Legislative Items** - Legislation to delay the effective date of 2016 legislation to prohibit public authorities from exempting a portion of the Mortgage Recording Tax that goes to transit authorities (1/4%) until July 1, 2017, has been signed by the Governor and is in effect.

Senator O'Mara and Assembly Majority Leader Morelle have introduced legislation that would include assessed property under an IDA PILOT agreement to be made part of the growth factor calculation for determining a taxing jurisdiction's tax levy. New growth that is subject to an IDA PILOT agreement is excluded from the calculation for determining a jurisdiction's Tax Base Growth Factor. A sample letter that would be sent to our delegation members and Senate and Assembly is attached and was developed by the NYS Economic Development Council.

2. **Website Redesign** – A mock-up of the revised front page of the AIDA website developed by 360 PSG is attached. It modernizes the initial navigation page and updates the graphical layout.
3. **Labor Market Assessment** – Invest Buffalo Niagara unveiled a comprehensive analysis of regional (eight county) labor force trends, opportunities and areas in need of improvement, Labor/Management relations and payroll competitiveness. All of the major indicators were positive, except for a declining labor force participation number. Population is increasing along with the Number of Firms and Jobs. Exports and the Gross Metropolitan Product is up as well. There is a decline in the Labor Force, which affects our ability to attract investment from outside the region and acts as a drain on companies already here looking to expand. Every site selection publication lists availability of labor as the top, or in the top-3, requirement for investing in an area. A 2-page summary of the reports is attached.
4. **Countywide Uniform Tax Exemption Policy (UTEP) Revisions** – All of the IDA's in Erie County are going to start meeting to discuss revisions to the UTEP and MOU. These documents date back nearly over a decade and require changes necessitated by State Law. There are also a number of inconsistencies in the current UTEP that require clarification. We expect an initial meeting mid-March.

[Date]

[Name]

[Address]

[City, State Zip Code]

Dear Senator/Assembly Member [Last Name],

I am writing to ask your support for including in this year's State Budget provisions that would require assessed property under an IDA PILOT agreement to be made part of the growth factor calculation for determining a taxing jurisdiction's tax levy, for purposes of the two percent real property tax cap.

The intent of the tax cap is to allow the tax levy to increase when the value of assessed property increases due to economic growth. However, new growth that is subject to an IDA PILOT agreement is excluded from the calculation for determining a jurisdiction's Tax Base Growth Factor. Consequently, communities that are successful in attracting new economic growth through incentives provided by an IDA are penalized, thereby preventing taxing jurisdictions – especially school districts – from adding this growth into the calculation for determining the tax levy limit.

The impact to local taxing jurisdictions in a typical IDA transaction is considerable. Using a PILOT agreement that mirrors a 485-B exemption in the real property tax law for a \$10 million project, the impact over 10 years can be more than \$2 million. Recognizing that the average IDA project investment is \$18 million and there are currently approximately 4,600 active IDA projects, the overall impact of this exclusion to taxing jurisdictions is quite significant.

Legislation has been introduced by Senator O'Mara and Assembly Majority Leader Morelle to resolve this issue. In addition, two years ago, the Legislature included in the final State Budget agreement a requirement for the Department of Taxation and Finance to, "...as appropriate, promulgate rules and regulations regarding the calculation of the quantity change factor which may adjust the calculation based on the development on tax-exempt land." To date, no action has been taken.

Finally, it is inconsistent at best, to allow property subject to a 485-B exemption to be factored into the Tax Levy Growth Factor, but not property subject to a PILOT agreement. 485-B of the Real Property Tax law requires taxing jurisdictions that have not opted out of the program to provide an as-of-right 50 percent exemption for any commercial investment greater than \$10,000. The exemption ramps down 5 percent a year for 10 years, at which time the property is fully taxable.

For all of these reasons, [your organization] supports amending the 2 percent RPT cap to require property subject to a PILOT to be included in the Tax Base Growth Factor, as contained in the O'Mara/Morelle legislation.

Sincerely,

[Your Title]

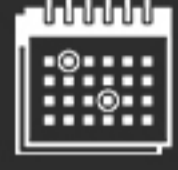
[Your Organization]



WELCOME TO AMHERST

OVERVIEW OF INCENTIVES

HOW TO APPLY



CALENDAR

MEETINGS PUBLIC HEARINGS



DOCUMENT CENTER

RESOURCES NYS REPORTS



MINUTES

MEETINGS PUBLIC HEARINGS

OUR MISSION

To promote economic diversity, quality employment opportunities and to broaden the tax base of the Town of Amherst in order to reduce the tax burden on homeowners, while helping to maintain and enhance a high quality living environment.

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80%

OF NEW JOBS CREATED IN THE REGION HAVE BEEN CREATED IN AMHERST SINCE 1980



INCENTIVES

- Are We Eligible?
- Incentive Programs
- Our Process

REAL ESTATE

- Redevelopment Zones
- Commercial/Industrial Parks

WHY AMHERST?

- Demographics
- Workforce
- Education

IDA PROJECTS

- What is an IDA?
- Applications
- Office Parks

CALENDAR

- Meetings
- Public Hearings

ABOUT US

- Board of Directors
- Policies
- Budget
- NYS Reports

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- News
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CONTACT

- 716.688.9000
- 4287 Main St. Amherst, NY 14226



DEVELOPMENT CORPORATION

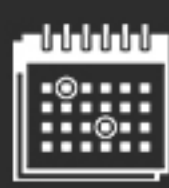
BY-LAWS

REPORTS



POLICIES

ANNUAL REPORTS & POLICIES



MEETINGS

CALENDAR OF EVENTS



MEETING MINUTES

DOWNLOAD MINUTES

OUR MISSION

To promote economic diversity and to broaden the tax base, including capital development by not-for-profit entities, for the Town of Amherst and Village of Williamsville in order to maintain and enhance a high quality living environment.

ABOUT US

APPLY FOR INCENTIVES

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DEVELOPMENT CORPORATION

The Town of Amherst Development Corporation (ADC) exists as a conduit for issuance of tax-exempt financing for not-for-profit borrowers, such as colleges and universities and civic groups, such as the YMCA. The ADC can also act as an administrator of grant monies on behalf of a myriad of projects.

LEARN MORE

80%

OF NEW JOBS CREATED IN THE REGION HAVE BEEN CREATED IN AMHERST SINCE 1980



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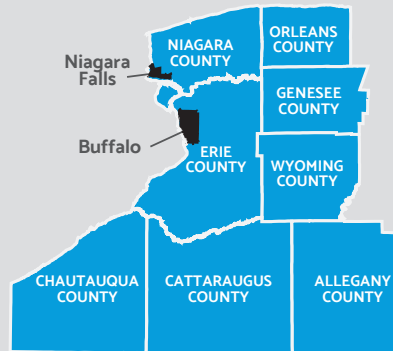
BUFFALO NIAGARA LABOR MARKET ASSESSMENT 2017

A suite of reports presents research findings on various aspects of Buffalo Niagara's regional economy and labor market.

Who's Our Economy? offers an overview of the region's economy, labor force, trends, target industries, and a comparison of these factors for each of the region's eight counties. **Where Are Our Opportunities?** explores underemployment, labor availability, the landscape of workforce training, and credential building for high-demand jobs in the region's target industries. **What Role Does Labor Management Play?** offers a look at labor management relations trends and best practices from within the region. Finally, **How Competitive Are Payroll Costs?** presents information on wages by occupation, payroll trends, and employee benefits in Buffalo Niagara.



BUFFALO NIAGARA REGION



The Buffalo Niagara region encompasses eight counties along the western edge of New York State.



TARGET INDUSTRIES

- Advanced Business Services*
- Advanced Manufacturing*
- Agribusiness*
- Cleantech*
- Life Sciences*
- Logistics*
- Tourism*

BY THE NUMBERS

Population (2015)
1,532,925

Labor Force (2015)
734,900

Number of Jobs (2014)
672,466

Number of Firms (2014)
37,985

GMP, Erie and Niagara Counties (2014)
\$54.9B

Exports (2014)
\$9.3B

Our economy:

- Nearly 38,000 firms generate over 672,000 jobs across diverse and large industries.
- Buffalo Niagara's regional economy is diverse and resembles that of the nation.

Changing economy:

- Numerous industries in Buffalo Niagara became more specialized between 2009 and 2014. Many represent existing specializations such as Manufacturing and Leisure & Hospitality. Regional specializations help attract workers and investments and generate economic activity. Firms, jobs, population, GDP and exports have all grown since 2009.

Demand for labor:

- The majority of industries experienced job growth over the past five years, with expanding industries adding over 25,000 jobs since 2009; growth was most notable in the region's core metro area.

Labor supply:

- Potential labor supply is stronger than in 2010, however, the region's labor participation rate is down to 58% following statewide and nationwide trends.
- Across all industries, 137,682 workers could retire in the next ten years.
- The proportion of workers age 25-34 in Buffalo Niagara has been on the rise and is now nearly on par with the nation's.
- Compared to the U.S., younger adults in Buffalo Niagara are more likely to hold a bachelor's or graduate degree.

Matching employer needs with workforce development

- An estimated 132,000 individuals are underemployed across the region. This represents nearly one in five workers.
- Despite underemployment, employers report hundreds of hard-to-find skills or hard-to-fill jobs.

Credential building for target industries

- Cultivating specialized skills and knowledge needed in target industries sectors will strengthen the labor force pipeline along career pathways.
- Combined, emerging workers and existing labor force participants who are unemployed or underemployed could fill every vacancy created by retirement of the next ten years.

Regional wages:

- Region's average wage is 6% less than the national average. Wages account for nearly half or more of employer operating costs in some industries across the nation and are an important relocation /expansion consideration.

Quality of labor:

- Productivity compares favorably to the New York State average and is higher in large industries such as Manufacturing, Finance and Insurance, and Trade, Transportation and Utilities.

Labor turnover:

- Labor turnover is lower than the national average, contributing to a regional workforce that is comparatively stable and supports productivity. Engagement of individuals with higher levels of education and skills is a strength, as labor force participation rates are positively correlated with educational attainment.

See Buffalo Niagara Labor Assessment 2017 for data sources and notes.



LABOR MARKET ASSESSMENT 2017 PROSPECTUS

Economic developers and marketers can leverage identified strengths to grow industries and attract new companies and talent.

Educators and trainers may consider expanding programs where training gaps are widest and where the region produces a deficit of graduates.

Employers can cultivate skills and partnerships that strengthen pipelines into jobs that will open by retirements.

Employees can use job projections to train for high-demand, good paying jobs.

Organized Labor can fuel best practices to strengthen companies and industries.

Elected Officials can support policies and investments that leverage regional strengths and tackle challenges.



COMMISSIONED BY

INVEST
BUFFALO NIAGARA

REPORT PREPARED BY



School of Architecture and Planning
UB Regional Institute

SPONSORED BY:

National Grid, National Fuel, New York Power Authority, Erie County Industrial Development Agency, Say Yes Buffalo, Niagara USA Chamber, Niagara County Center for Economic Development



Download pdfs of
Who's Our Economy? and
How Competitive Are Payroll Costs?
at buffaloniagara.org/lma.

Uniform Tax Exemption Policy Crib Sheet

In 2013, New York State established restrictions on IDA's ability to provide financial assistance to retail projects. Under statute, retail projects are defined as property that are primarily used in making retail sales to customers who personally visit such facilities. This is a broader definition that contained in NAICS 44-45 Retail trade.

The retail restrictions conflict with several sections of the Uniform Tax Exemption Policy (UTEP) adopted by all IDA's in Erie County as the most current policy was adopted on January 1, 2010 with future amendments to only those sections dealing with hotel and senior housing eligibility. The UTEP uses NAICS in determining eligibility.

The following sections represent a breakdown of "Eligible", "Ineligible", and "Neither Eligible or Ineligible" representing several inconsistencies inherent in the UTEP. In addition, there are subsets of activities that are in Eligible NAICS designations that are retail as defined by the law.

Additionally, the UTEP now lacks the full reference to the Agency's Recapture Policy and amended definitions of eligible Hotel and Senior Housing Projects and is thus incomplete in addition to being inconsistent with the law. Best practice provides for a reaffirmation of the UTEP on a 5-year basis. The core of the current UTEP, but for amendments has been in effect for 16 years.

Eligible – these projects/activities are straight forward as customers do not visit the facility to purchase goods or services:

- A. Manufacturing – NAICS 11, 21, 22, 31-33 Agriculture, mining, utilities manufacturing
- B. Distribution – NAICS 42, 48-49, 51 Wholesale trade, transportation/warehousing, information
- C. Business Services NAICS 52, 53 54,55,56,61 81 92 Finance & Insurance, Real estate rental/leasing, PST services, Management, Admin support, Education, other, Public Admin
- D. Arts/Entertainment NAICS 71 arenas museums historic sites golf courses etc. aka tourism (this is currently in the UTEP as both eligible and ineligible)

Ineligible

- A. Construction – All NAICS 23
- B. Retail – All NAICS 44 and 45 but has exceptions
- C. Transportation/warehousing – NAICS 485, 487, 491-2 sightseeing/ground transportation, etc
- D. Information NAICS 512– movie theatres
- E. Finance and Insurance – NAICS 521-522, 523, 5242 - bank branches, broker offices
- F. NAICS 54 - Lawyer offices, CPAs, architect, computer services
- G. Real estate rental and leasing NAICS 531-533 real estate rental offices, self-storage units NAICS 56 - Collection agencies, travel, security, etc back office functions eligible
- H. Administrative and Support – NAICS 561-562 placement agencies, garbage collection
- I. Education All NAICS 61 for profit companies
- J. NAICS 62 - Medical offices and hospitals
- K. Arts entertainment All NAICS 71 (tourism) which conflicts this category deemed eligible elsewhere in the UTEP
- L. NAICS 72 - Hotels/motels, restaurants
- M. NAICS 81 - Car repair, laundry, salons, religious
- N. Other
- O. Public administration – All 92 for profit companies

Neither Eligible nor Ineligible – the board determines if there is a retail function or the project is considered back office and customers are not predominating making visits to the location for goods or services. NOTE- for discussion purposes I would move these to INELIGIBLE. The UTEP allows for deviation. These projects can still be considered as a deviation rather than an exception.

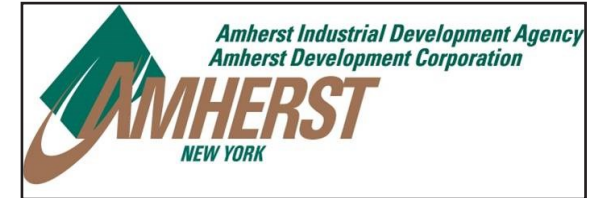
- A. Finance/Insurance -Some insurance activities 52429-524298
- B. Real estate rental and leasing – multifamily housing 53111-531110
- C. Professional scientific and technical- all 56

Eligible Projects by Type, Building Type, Tenure Type and Location or

Projects which may be eligible on an EXCEPTION basis

- A. Multi-Tenant - no more than 1/3 total project cost can be allocated to retail uses in the building. Rental housing is not considered a retail use.
- B. Long term care (NAICS 53) DOH certificate of need – section of law that allows IDA to provide incentives to these types of facilities
- C. Civic- Not for Profit Entities
- D. Hotels (NAICS 72)– See separate policy effective 9/2012 subject to retail prohibitions unless a finding is made that the facility is a “tourism destination” as defined in the 2013 statutory changes as a location or facility which is likely to attract a significant number of visitors from outside the economic development region.
- E. Medical (NAICS 62) must be back office, leading edge technology, unique services to adhere to retail restrictions that the project provides goods and services to residents of the town not reasonably available.
- F. Adaptive reuse – exception by building type and is broadly defined in the UTEP need def.
- G. Neighborhood enhancement – exception by location. Effective 10/2011. Note conflict with area Characteristics in 2005 UTEP MOU. And conflict with statutory retail prohibition
- H. Senior housing – defined by a separate policy adopted in 2015.

PROJECT PROFILE:
NORTHWEST BANK
\$1,500,000
February 17, 2017



ELIGIBILITY

- NAICS Code—522110 (Commercial Banking)

COMPANY INCENTIVES

- Estimated \$87,500 in sales tax savings

PROJECT BENEFITS

- Estimated \$3,605,334 in Income Taxes Generated
- Estimated \$2,415,546 in Sales Taxes Generated

EMPLOYMENT

- 33 Full-Time Jobs Retained
- 67 New Jobs 2-Years After Project Completion
- Salary of Positions \$38,000 Annually Plus Benefits

PROJECT SCHEDULE

- Construction And Equipment Purchases Commences: February 20, 2017
- Construction Completion: July 1, 2017

Project Address:

375 Essjay Road
 Amherst, New York 14221
 (Williamsville Central School District)

Investment:

Renovations: \$1,000,000
 Equipment: \$500,000



Company Description:

Founded in 1896, Northwest currently operates 167 full service and 9 drive through locations across Pennsylvania, New York, Ohio and Maryland. It is a full-service financial institution that offers a full range of services from checking and savings accounts to business loans and retirement accounts. The company is a subsidiary of Northwest Bancshares, Inc., which is listed on the Nasdaq Global Select Market under the symbol NWBI.

Project Description:

Northwest is proposing to lease approximately 25,000 sq. ft. of vacant office space at 375 Essjay Road to accommodate a back office regional center for its expanding branch network. The vacant space requires a considerable amount of construction to tailor the space to its needs.

The outcome of the project is to have sufficient space to house a call center, training center, regional executives, and other back office support departments as well as sales support offices. Some of these functions are currently taking place in Pennsylvania and will be expanded here. Northwest anticipates the creation of 115 new full time positions over the next 5 years for these office operations, with 67 estimated new hires 2 years after project completion. There are 33 employees currently working out of branches within the Buffalo region that will relocate to the new office.

Empire State Development is also providing Excelsior Tax Incentives for this project.

PROJECT PROFILE:

NORTHWEST BANK

\$1,500,000

AIDA COMPANY HISTORY:

None

MATERIAL TERMS:

1. Achievement of 90 total full-time jobs at the project location two years after project completion, and retention of such jobs for the compliance period.
2. Investment of not less than \$1,275,000 at the project location as noted in the application.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project



Board Report

Table 1: Basic Information

Project Name	Northwest Bank
Project Applicant	Northwest Bank
Project Description	Northwest is proposing to lease approximately 25,000 sq. ft. of vacant office space at 375 Essjay Road to accommodate a back office regional center for its expanding branch network.
Project Industry	Monetary Authorities - Central Bank
Type of Transaction	Tax Exemptions
Project Cost	\$1,500,000
Direct Employment Expected to Result from Project (Annual FTEs)	100 (67 created and 33 retained)

Figure 1: Estimated State & Regional Benefits / Estimated Project Incentives (Discounted Present Value*)



Table 2: Estimated State & Regional Benefits / Estimated Project Incentives Analysis (Discounted Present Value*)

Total State and Regional Benefits	\$6,020,830	
Total Project Incentives	\$78,750	
Projected Employment	State	Region
Total Employment	217	217
Direct**	100 (67 created and 33 retained)	100 (67 created and 33 retained)
Indirect***	46	46
Induced****	61	61
Temporary Construction (Direct and Indirect)	10	10

Table 3: Estimated State & Regional Benefits (Discounted Present Value*)

Total State and Regional Benefits	\$6,020,830
Income Tax Revenue	\$3,605,334
Sales Tax Revenue	\$2,415,496

Table 4: Estimated Project Incentives (Discounted Present Value*)

Total Project Incentives	\$78,750
Sales Tax	\$78,750

* Figures over 10 years and discounted by 3.49%

** Direct - The recipient of IDA assistance adds new jobs to the regional economy and/or retains jobs at risk of being lost to another region. Investments that result in displacing existing jobs (e.g., most retail and many service sector industries) do not fall under this definition.

*** Indirect - The recipient of IDA assistance makes purchases from regional firms, which stimulates suppliers to add jobs and payroll that are new to the regional economy or are saved from being lost to competitors outside the region.

**** Induced - The recipient of IDA assistance by adding to and/or retaining payroll stimulates household spending that is new to the regional economy and/or saved from being lost to competitors outside the region.

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RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE RENOVATION AND EQUIPPING OF APPROXIMATELY 25,000 SQUARE FEET OF OFFICE SPACE BY NORTHWEST BANK LOCATED AT 375 ESSJAY ROAD, AMHERST, NEW YORK FOR SALE OR LEASE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO AN INSTALLMENT SALE CONTRACT TO NORTHWEST BANK, THE EXECUTION OF LEASE AGREEMENTS AND/OR AN INSTALLMENT SALE CONTRACT AND THE TAKING OF OTHER ACTIONS.

WHEREAS, the Town of Amherst Industrial Development Agency (the "Agency"), is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the "Act"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Northwest Bank, for itself or for related individuals or entities (the "Company"), has entered into negotiations with officials of the Agency with respect to the renovation and equipping by the Agency without the proceeds of a bond issue of 25,000 +/- square feet of office space to be used as offices and back-office support, including use as a call center and training facility (the "Project") and conveyance of the Project pursuant to an Installment Sale Contract or the lease of the Project to the Company, such Project to be located at 375 Essjay Road, Amherst, New York (the "Premises"); and

WHEREAS, the Company has submitted an application and other materials and information (collectively, the "Application") to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the renovation and equipping of 25,000 +/- square feet of office space located at 375 Essjay Road, Amherst, New York, for office and back-office purposes, all at a cost of approximately \$1,500,000.00; that the Project will allow the Company to centralize employees and expand its back-office support system to include a call center, training center, executive staff and back-office operations, all to support its growing branch network in New York State; because of the nature of the proposed facility, it could be located anywhere in the United States and the Company could reduce the cost of expanding its back-office operations by seeking a facility which is already fitted-out and equipped to meet the Company's needs; that the Company anticipates that thirty-three (33) full-time employees will be retained and sixty-seven (67) new full-time jobs will be created as a result of the Project at the end of two (2) years of operation thereof; that (i) there will be no substantial adverse disruption of

existing employment of facilities of a similar nature in the Town of Amherst; (ii) the Project will retain present employment, provide substantial employment and substantial capital investment; and (iii) Agency financing will help to encourage the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the financial assistance to be provided by the Agency in connection with the Project, in the form of exemptions from sales and use taxes will not exceed \$100,000.00, therefore no public hearing with respect to the Project is required pursuant to General Municipal Law Section 859-a; and

WHEREAS, the Agency has reviewed the Application and a cost-benefit analysis with respect to the Project, including the extent to which the Project will create and retain permanent, private-sector jobs, the value of tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

WHEREAS, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the Company has completed and submitted to the Agency Part 1 of an Environmental Assessment Form ("EAF") in accordance with the provisions of the State Environmental Quality Review Act and regulations adopted pursuant thereto (collectively, "SEQRA"); and

WHEREAS, the Agency has completed Part 2 of the EAF and has considered the proposed Project and reviewed the EAF and the criteria set forth in SEQRA in order to determine whether the Project will have a significant effect on the environment and wishes to make the findings required of an agency under SEQRA.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby resolves that the proposed Project will not have a significant impact on the environment for the reasons more particularly set forth in the negative declaration prepared by the Agency and, in accordance with SEQRA, hereby adopts such negative declaration with regard to the Project.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$1,000,000.00 (the "Financial Assistance"). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the

Financial Assistance is made subject to the agreement by the Company throughout the Compliance Period (as defined below) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency’s Local Labor Policy in connection with the construction of the Project;
- (b) retention of existing full-time equivalent employment of thirty-three (33);
- (c) creation within two (2) years of Project completion of fifty-seven (57) new full time jobs and retention of such jobs throughout the Compliance Period; and
- (d) investment of not less than 85% of the total Project cost of \$1,500,000.00 in the renovation and equipping of the Project prior to Project completion.

The “Compliance Period” shall mean the three (3) calendar years following the Company initially achieving compliance with the Material Factors.

Section 3. The Agency hereby determines that the Project and the financing thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act.

Section 4. The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and to make renovations thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

Section 5. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

Section 6. The Company is authorized, as agent of the Agency, to initiate the construction of building renovations constituting the Project, and the acquisition of machinery, equipment, fixtures and furnishings which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$1,000,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 7. The Agency is hereby authorized to enter into a Project Agreement with respect to the provision of the Financial Assistance authorized herein (the “Project Agreement”) and to acquire an interest in the Project site and renovate a facility thereon, and the execution and delivery of a lease by the Lessee to the Agency (the “Company Lease”), an Agency Lease Agreement (the “Agency Lease Agreement”) or Installment Sale Contract (the “Installment Contract”) between the Agency and the Company and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 8. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 9. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 10. In the event a lease or installment sale contract is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest. In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the Compliance Period or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted

to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 11. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company each hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 12. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 13. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company

hereunder or otherwise.

Section 14. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company and Lessee pursuant to Sections 9 and 10 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company and Lessee to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency's fee schedule.

Section 15. This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: February 17, 2017

ACCEPTED AND AGREED TO: _____, 2017

NORTHWEST BANK

By: _____