

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

Agenda – 543rd Meeting

Friday, October 20, 2023-8:30 am

James J. Allen Boardroom

Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Public Comment
 - a. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
 - a. Finance and Audit – 2024 AIDA Budget
8. Unfinished Business
9. New Business
 - a. Kistler Instruments Corporation
 - b. 2635 North Forest Workforce Housing and Infrastructure Project
 - c. Nominating Committee – 2024 Officer Positions
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

**Minutes of the 542nd Meeting
Friday, August 25, 2023 – 8:30 am
James J. Allen Boardroom
Agency Offices, 4287 Main Street**

PRESENT: Carlton N. Brock, Jr.
William Tuyn
Anthony Agostino
Hon. Timothy Drury
Frank LoTempio, III
Nicole Gavigan
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Hadar Borden

GUESTS : AIDA Staff
Terrance Gilbride, Hodgson Russ
James Appler, Bureau Veritas
Elizabeth Hausler, Bureau Veritas

Chairman Carlton Brock called the meeting to order and reminded everyone the meeting was being video recorded and live-streamed.

MINUTES

Upon a motion by Frank LoTempio, seconded by William Tuyn and unanimously carried, the minutes of the June 2023 meeting were approved as presented.

BILLS & COMMUNICATIONS

There were no bills and communications presented at this meeting.

TREASURER'S REPORT

Treasurer Agostino reviewed the highlights of the Treasurer's Reports for June and July 2023.

Upon a motion by Frank LoTempio, seconded by William Tuyn and unanimously carried, the Treasurer's Reports for June and July 2023 were approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR'S REPORT

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

COMMITTEE REPORTS

There were no Committee Reports presented at this meeting.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

- I. Termination of Financial Assistance for Bureau Veritas Consumer Products Services, Inc. and Northpointe Commerce Park, LLC and Termination of PILOT and Lease Agreements and Modification of Employment Agreement

In August of 2017, the AIDA Board of Directors approved two related projects totaling \$9.1 million consisting of the construction of a 43,500 square foot expansion of an existing building located at 100 Northpointe Parkway and the acquisition of and installation of new machinery and equipment. Zaepfel Development (through its affiliate, Northpointe Commerce Park, LLC) as the landlord, undertook the building expansion while Bureau Veritas undertook the equipment investment. This project was for Bureau Veritas to expend \$1,819,000 in capital expenditures for improvements to the premises and to retain the existing 260 full-time and 4 part-time jobs and add 4 full-time jobs. For the purpose of Agency review, the company was to meet and retain a job goal of 266 full-time equivalent positions during the period of time that the PILOT benefit was in place, as well as meeting the capital expenditure requirement.

Bureau Veritas, as a consumer products testing company, was significantly affected by the COVID pandemic across all of its divisions. Customers of the Amherst facility in the retail sector were hit the hardest, directly affecting revenues and headcount at the site. The company has cooperated and worked with AIDA staff and the Executive Committee in a transparent manner in providing information on its plan to grow its employment and maintain the Amherst location as an integral part of the company. However, even with the introduction of new services and diversification of its services portfolio, employment is not likely to return to pre-pandemic levels given the state of the industry.

Under its agreements with Bureau Veritas and NorthPointe Commerce Park LLC, AIDA has the authority to terminate all benefits and require the companies to repay all prior financial assistance received. The company's investment has generated new property taxes, and other project commitments, including the requisite investments in construction and equipment, and the utilization of local labor in construction of the building have been satisfied. To this end, the company met its obligations of the capital expenditure portion of the project mentioned above. The company has also committed to maintaining the facility in Amherst and maintain a minimum of 202 employees through December 31, 2029. Based on that, AIDA staff and the Executive Committee are proposing to terminate the remaining seven (7) years of school property tax and 6 years of town/county property tax incentives through the payment in lieu of tax (PILOT) agreement, along with the expiration of \$29,679 in sales tax benefits. If Bureau Veritas is unable to maintain the new minimum employment requirement, the Agency retains the right to recapture all or a portion of \$762,750 of tax incentives previously realized by the respective entities.

After brief discussion Frank LoTempio made a motion to terminate financial assistance for Bureau Veritas Consumer Products Services, Inc. and Northpointe Commerce Park, LLC and terminate the PILOT and Lease Agreements and approve the Modification of Employment Agreement. William Tuyn seconded the motion. Votes of aye to approve the motion were cast by Brock, Tuyn, Agostino, Drury, LoTempio and Gavigan. Motion to approve passed by a vote of 6-0

9:04 am – Frank LoTempio made a motion to adjourn the meeting. Anthony Agostino seconded the motion. The motion to adjourn passed unanimously.

6. Executive Director's Report

Boulevard Mall – The court ruled in favor of the Town regarding JCPenney's challenge to the eminent domain action effectively ending the last legal hurdle to the potential taking of all or a portion of the 64-acre mall property. Discussions with the 2 major landowners (Benderson, Douglas Development) continue. We also completed our third quarter outreach to an expanding list of for-profit and affordable developers. An RFP for development of all or portions of the site is still expected to be solicited in the first quarter of 2024.

Uniland/Willowbrook Hospitality – Hampton Inn – Enclosed in this packet is correspondence requesting an update on the company's efforts to meet the tourism destination objectives included in the lease agreement dated February 1, 2020, which followed a 2018 AIDA inducement of the project. In August of this year, Uniland filed a lawsuit against the Town contending that it improperly closed a portion of Amherst Manor drive impacting the ability of patrons to get to the hotel. The court filing states that the reason the hotel was sited at the location was its proximity to the University at Buffalo North Campus, excluding any information regarding attracting out of region visitors to Northtown Center activities. Our inquiry seeks to understand the discrepancy.

7. Finance and Audit Committee – 2024 AIDA Budget

The Finance and Audit Committee met on 9/19 and reviewed and recommended forwarding the enclosed 2024 AIDA Budget. The budget recognizes the impact that the current interest rate environment is having on delaying and in some cases canceling projects. Operationally, the budget reflects 2024 priorities around implementation of the Town's new Strategic Economic Development Plan and Boulevard Mall Implementation.

9.c. Nominating Committee

The AIDA By-Laws state that the Chairperson shall appoint a Nominating Committee in October that consists of three (3) members of the Board whose terms are not expiring. The purpose of this committee is to solicit interest for officer and committee positions for the 2024 calendar year and present the slate of candidates at the annual meeting held in January/February each year.

	2023 Budget	2023 Estimated	2024 Prelim
REVENUES:			
Administrative Fees (Agency 1%)	\$ 785,000	\$ 400,000	\$ 867,000
Management Fee (ADC fees)	\$ 80,000	\$ 3,000	\$ -
Application Fees	\$ 5,000	\$ 2,000	\$ 5,000
Interest Income (NR)	\$ 1,000	\$ 27,000	\$ 15,000
Other Revenue	\$ 2,000	\$ 3,000	\$ 3,500
subtotal	\$ 873,000	\$ 435,000	\$ 890,500
EXPENSES			
ADMINISTRATION:			
Payroll	\$ 358,000	\$ 272,000	\$ 277,000
Employer FICA Expense	\$ 27,000	\$ 21,000	\$ 22,000
Pension Fund	\$ 29,000	\$ 21,000	\$ 23,000
Health Insurance	\$ 79,000	\$ 47,300	\$ 52,000
subtotal	\$ 493,000	\$ 361,300	\$ 374,000
OPERATION:			
Office Expense	\$ 10,000	\$ 9,000	\$ 10,000
Postage	\$ 500	\$ 500	\$ 500
Travel	\$ 5,000	\$ 6,500	\$ 6,500
Telephone	\$ 7,000	\$ 6,700	\$ 7,000
Fees & Dues	\$ 7,000	\$ 6,000	\$ 7,000
Subscriptions/Publications	\$ 2,000	\$ 1,000	\$ 2,000
Legal Fees-General Counsel	\$ 20,000	\$ 12,000	\$ 20,000
Legal Fee - Litigation	\$ 5,000	\$ -	\$ 5,000
Bldg Interest	\$ 16,000	\$ 14,200	\$ 14,000
Bldg Utilities	\$ 7,000	\$ 6,500	\$ 7,000
Bldg Property Tax	\$ 9,500	\$ 9,000	\$ 9,500
Bldg Inside Maint	\$ 25,000	\$ 7,000	\$ 15,000
Bldg Outside Maint	\$ 11,000	\$ 11,000	\$ 15,000
Meetings	\$ 3,000	\$ 3,000	\$ 3,000
Equipment	\$ 15,000	\$ 5,000	\$ 10,000
Equipment Rental	\$ 4,000	\$ 3,450	\$ 4,000
Professional Services	\$ 32,000	\$ 24,000	\$ 60,000
Insurance	\$ 22,000	\$ 22,000	\$ 24,000
Depreciation	\$ 22,000	\$ 22,000	\$ 22,000
subtotal	\$ 223,000	\$ 168,850	\$ 241,500
SPECIAL PROJECTS:			
Marketing	\$ 60,000	\$ 6,000	\$ 60,000
Invest BN	\$ 20,000	\$ 20,000	\$ 20,000
Education	\$ 6,000	\$ 2,000	\$ 6,000
Special Events	\$ 3,000	\$ -	\$ 5,000
Strategic Partnerships	\$ 10,000	\$ 40,000	\$ 125,000
Local Redevelopment Initiatives	\$ 25,000	\$ -	\$ -
Capital Improvements	\$ 30,000	\$ -	\$ 30,000
subtotal	\$ 154,000	\$ 68,000	\$ 246,000
Total Expenses (non-restricted)	\$ 870,000	\$ 598,150	\$ 861,500
Excess Revenue over/(under)	\$ 3,000	\$ (163,150)	\$ 29,000

PROJECT PROFILE:
KISTLER INSTRUMENT CORPORATION
\$1,840,000
October 20, 2023



ELIGIBILITY

- Manufacturing Project under NYS Law
- Eligible Project under Countywide Eligibility Policy

COMPANY INCENTIVES (EST.)

- Sales Tax = \$78,750

PROJECT BENEFITS (EST.)

- Income Taxes = \$1,618,646
- Sales Taxes = \$550,789

EMPLOYMENT

- 5 Construction and Supply Related Jobs Created
- 53.5 Full-Time Equivalent Direct Positions Retained, 3 New Jobs Created supporting 41 Indirect Positions Overall

PROJECT SCHEDULE (EST.)

- Work begins October 2023
- Project completion December 2026

Project Address:

75 John Glenn Drive
 Amherst, New York 14228
 (Sweet Home School District)

Investment:

Renovations: \$450,000
 Manufacturing Equipment: \$700,000
 Non-Manu Equipment: \$490,000
 Soft Costs: \$200,000



Project Description:

Kistler Instrument Corporation is headquartered in Switzerland with locations throughout the world, including a facility in Novi, Michigan. The company is a global leader in dynamic measurement solutions with a core competence in sensors based on piezoelectricity. The Amherst facility focuses on accelerometers and its accessories. The vast majority (over 96%) of the company's products are sold outside of New York State.

The Amherst location has stagnating revenue the last several years and is in need of capital infusion. New management has developed a local growth strategy with investments in capital infrastructure, people and equipment over the next five years. The goals are to bring a new product line from overseas (now produced in China and Germany), update and enhance production and engineering, improve worker workstations, and improve aesthetics of the facility for worker recruitment/retention and customer visits

The applicant is seeking assistance in support of investing in this facility, which could lead not only to the project summarized above, but also a future investment that would expand the building on a vacant parcel the company owns next to the current facility. AIDA incentives, in the form of a sales tax exemption on qualifying portions of the investment, are one piece of an incentive package coordinated by Empire State Development. Financial incentives for this project ensure the full scope of investment instead of continued component manufacturing overseas. The facility in Michigan is also a consideration as an alternative location.

PROJECT PROFILE:**KISTLER INSTRUMENT CORPORATION****\$1,840,000****AIDA COMPANY HISTORY:**

None

MATERIAL TERMS:

1. Investment of not less than \$1,564,000 at the project location as noted in the application.
2. Creation and retention of employment achieving 56 full-time equivalent jobs and maintenance of those jobs three years after project completion
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project.

AIDA Project Evaluation Criteria - Warehouse/Distribution

Wage Rates:	Existing salaries average \$78,000
Regional Wealth Creation:	96% of business is done outside of NYS
In Region Purchases:	Applicant indicates use of local representation, A&E, other local vendors
Research & Development Activities:	14 R&D positions are located in Amherst focusing on software and hardware development
Investments in Energy Efficiency:	Investing in new energy efficient equipment
Locational Land Use Factors:	Interior investments will improve aesthetics of the facility
LEED/Renewable Resources:	None
Retention/Flight Risk:	Global company with multiple production facilities that can manage work done in Amherst
Workforce Access/Public Transportation:	NFTA bus stop less than 1/4 mile from project site

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE RENOVATION AND EQUIPPING OF AN APPROXIMATELY 32,000 SQUARE FOOT FACILITY BY KISTLER INSTRUMENT CORPORATION, LOCATED AT 75 JOHN GLENN DRIVE, AMHERST, NEW YORK FOR SALE OR LEASE TO THE AGENCY AND RECONVEYANCE OR SUBSEQUENT LEASE PURSUANT TO AN INSTALLMENT SALE CONTRACT OR LEASE AGREEMENT 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, Kistler Instrument Corporation, for itself or for related individuals or entities (the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the renovation and equipping by the Agency of an existing 32,000 square foot office and production facility and related site improvements (the “Improvements”); (ii) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”); and (iii) the conveyance of the Project pursuant to a lease or installment sale of the Project to the Company, such Project to be located at 75 John Glenn Drive in the Town of 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 of an existing 32,000+/- square foot building and related site improvements located at 75 John Glenn Drive, Amherst, New York for commercial and manufacturing purposes, all at a cost of approximately \$1,840,000.00; that the Company anticipates that fifty-four (54) full-time equivalent positions will be retained and three (3) full-time equivalent positions 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 substantial employment and result in substantial capital investment; (iii) that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary 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 an exemption 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 must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, based on the Agency’s review of the Application and the EAF, the Project qualifies as a Type II action under SEQRA and therefore no further environmental review is required.

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

Section 1. The Agency, based upon the representations made by the Company to the Agency in the Application and EAF, hereby finds and determines that the Project qualifies as a Type II action pursuant to Sections 617.5(c)(1), 617.5(c)(2) and 617.5(c)(31) of the SEQRA regulations and no further environmental review is required.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith consists of 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 \$900,000.00 (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 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) creation and retention of employment achieving fifty-six (56) full-time equivalent jobs, and the maintenance of those jobs for three (3) years after Project completion; and

(c) investment of not less than \$1,564,000.00 at the Project location as noted in the Application.

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 \$900,000.00 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. Reserved.

Section 9. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 10. 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 11. 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 three (3) years after Project completion 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 12. 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 13. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any "hazardous substance" (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 14. 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 15. 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 16. 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 10 and 11 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 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 17. This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: October 20, 2023

ACCEPTED AND AGREED TO: _____, 2023

Kistler Instrument Corporation

By: _____
 Name:
 Title:

Town of Amherst Industrial Development Agency

MRB Cost Benefit Calculator

Date October 5, 2023
Project Title Kistler Instrument Corporation
Project Location 75 John Glenn



Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

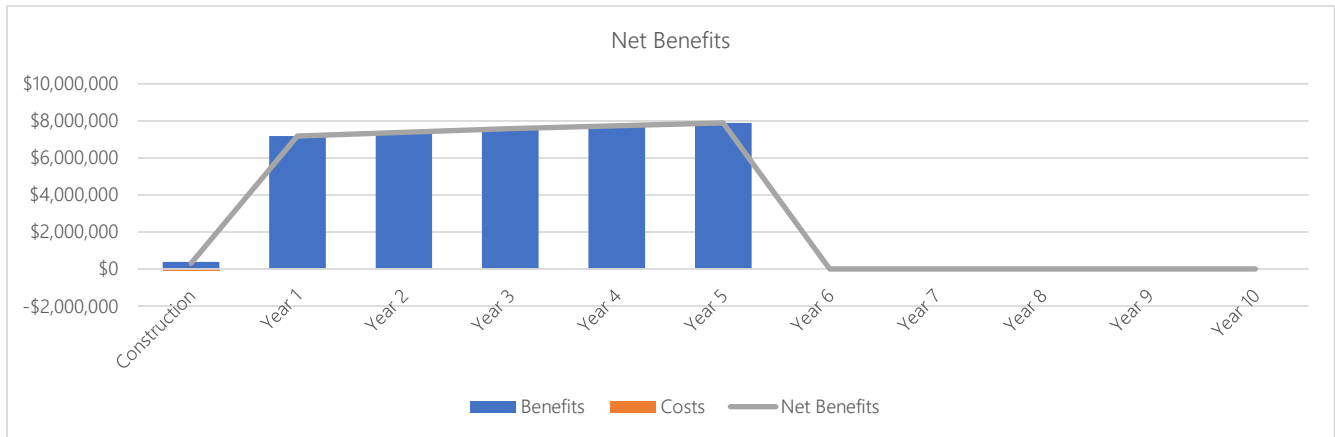
Project Total Investment

\$1,840,000

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	3	2	5
Earnings	\$231,077	\$126,204	\$357,281
Local Spend	\$552,000	\$390,836	\$942,836

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	57	41	97
Earnings	\$21,950,183	\$13,662,436	\$35,612,619

Figure 1



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

Figure 2

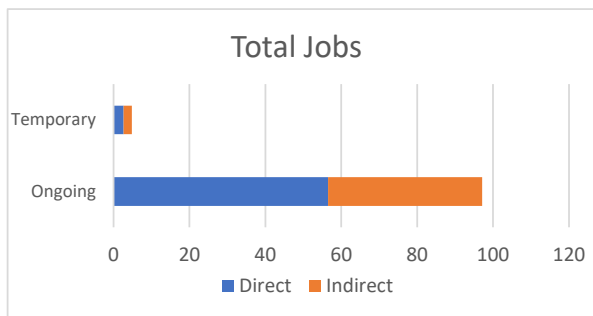
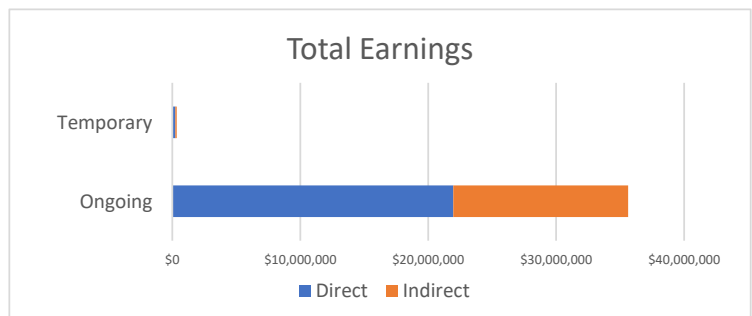


Figure 3



Fiscal Impacts

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$0	\$0
Sales Tax Exemption	\$78,750	\$78,750
Local Sales Tax Exemption	\$42,750	\$42,750
State Sales Tax Exemption	\$36,000	\$36,000
Mortgage Recording Tax Exemption	\$0	\$0
Local Mortgage Recording Tax Exemption	\$0	\$0
State Mortgage Recording Tax Exemption	\$0	\$0
Total Costs	\$78,750	\$78,750

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$36,268,900	\$34,179,592
To Private Individuals	\$35,969,900	\$33,897,817
Temporary Payroll	\$357,281	\$357,281
Ongoing Payroll	\$35,612,619	\$33,540,536
Other Payments to Private Individuals	\$0	\$0
To the Public	\$299,000	\$281,776
Increase in Property Tax Revenue	\$0	\$0
Temporary Jobs - Sales Tax Revenue	\$2,970	\$2,970
Ongoing Jobs - Sales Tax Revenue	\$296,030	\$278,806
Other Local Municipal Revenue	\$0	\$0
State Benefits	\$1,870,435	\$1,762,686
To the Public	\$1,870,435	\$1,762,686
Temporary Income Tax Revenue	\$16,078	\$16,078
Ongoing Income Tax Revenue	\$1,602,568	\$1,509,324
Temporary Jobs - Sales Tax Revenue	\$2,501	\$2,501
Ongoing Jobs - Sales Tax Revenue	\$249,288	\$234,784
Total Benefits to State & Region	\$38,139,335	\$35,942,279

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$34,179,592	\$42,750	800:1
State	\$1,762,686	\$36,000	49:1
Grand Total	\$35,942,279	\$78,750	456:1

*Discounted at 2%

Additional Comments from IDA

Investment by Manufacturer in Audubon Industrial Park. Empire State Development also involved.

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

PROJECT PROFILE:
2635 NORTH FOREST ROAD, LLC
\$52,500,000
October 20, 2023



ELIGIBILITY

- Commercial Project under NYS Law
- Eligible Project under Countywide Eligibility Policy

COMPANY INCENTIVES (EST.)

- Property Tax = \$4,637,256
- Sales Tax = \$1,828,750
- Mortgage Tax = \$315,000

PROJECT BENEFITS (EST.)

- Property Taxes = \$1,886,064
- Income Taxes = \$1,271,106
- Sales Taxes = \$432,529

EMPLOYMENT

- 343 Construction and Supply Related Jobs Created
- 3 Full-Time Direct Positions Created, 3 Full-Time Indirect Positions Created
- \$195,000 Annual Payroll

PROJECT SCHEDULE (EST.)

- Work begins March 2024
- Project completion September 2025

Project Address:

2635-2691 North Forest Road
 Williamsville, New York 14068
 (Williamsville School District)

Investment:

Acquisition: \$3,500,000
 Construction: \$44,000,000
 Soft/Other Costs: \$5,000,000



Company Description:

The project developer is Paul Bliss who has focused on specialty mixed-use projects throughout the Town of Amherst. Mr. Bliss's projects are known for their visual and construction quality with several successful developments in the community.

Project Description:

The applicant has the property under contract with the intention of building a 222 unit multi-family apartment community with related site improvements. The site is currently vacant and generates \$32,199 in annual town, county & school taxes. 10% of the units will be priced at a monthly rent considered workforce housing, which in this case is rents approximating one-third of approximately 80% of area median income.

The project is 4-stories and encompasses 250,000 square feet with a mixture of one and two bedroom apartments. Off site improvements are also part of the project that addresses a number of Town requests to improve pedestrian safety including sidewalks on North Forest Road that extend to Audubon Parkway and the construction of a pathway connecting North Forest Road to Audubon Parkway.

The applicant states that Agency assistance is necessary to complete the project due to material and labor increases, and stringent and higher cost lending requirements. Additionally, the requested assistance will enable the applicant to pay for off-site sidewalk and pathway improvements beyond the project's property and include the requested workforce housing units.

PROJECT PROFILE:

2635 NORTH FOREST ROAD, LLC
\$52,500,000

AIDA COMPANY HISTORY:

In April 2020, the AIDA Board approved incentives for a \$5.6 million Mixed Use project at 6770 Main Street.

In May 2022, the AIDA Board approved incentives for a \$18.6 million Mixed Use project at 6842 Main Street that included workforce housing units.

MATERIAL TERMS:

1. Investment of not less than \$44,625,000 at the project location as noted in the application.
2. Creation of 2.5 full-time equivalent jobs and maintenance of those jobs throughout the PILOT term.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project.
4. Maintenance of 10% of total units as Workforce Housing for 15-years.

AIDA Project Evaluation Criteria - Neighborhood Redevelopment

Distressed Census Tracts	No
Designated Enhancement Area	No
Age of Structure	Vacant Land
Building Vacancy	Vacant Land
Redevelopment Supports Local Community Development Plan	Entire Audubon Area is under study by the Town analyzing demographic trends, connections to SUNY Buffalo Amherst Campus, improving quality of life and addressing vacant and underutilized parcels and buildings.
Environmental or Safety Issues	The project seeks to improve pedestrian safety by providing off road sidewalks and pathways connecting Audubon Parkway and North Forest Road.
LEED/Renewal Resources	None
Building has Historic Designation	None
Site or Structure has Delinquent Property or Other Local Taxes	No
Impediments to Conventionally Finance Project	Lending Requirements are more stringent, such as increased equity, along with interest rates not seen in decades
Transit Oriented Development	The project supports density on the site and includes workforce housing
Increased Property Value	The property generates \$32,199 a year in Town, County and School Taxes. Even with a PILOT, it will pay approximately \$125,000 in combined taxes in Year 1.
Provides Workforce and/or Affordable Housing	Workforce Housing is defined as pricing for 80-120% of Area Median Income. This project provides 10% of the units at approximately 80%.

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING A PROJECT CONSISTING OF THE CONSTRUCTION AND EQUIPPING OF FOUR, 4-STORY MULTI-FAMILY APARTMENT BUILDINGS AGGREGATING APPROXIMATELY 250,000 SQUARE FEET BY 2635 NORTH FOREST ROAD, LLC TO BE LOCATED AT 2635-2691 NORTH FOREST ROAD, AMHERST, NEW YORK, FOR LEASE OR SALE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO AN INSTALLMENT SALE CONTRACT TO 2635 NORTH FOREST ROAD, LLC, THE EXECUTION OF A MORTGAGE AGREEMENT, LEASE AGREEMENTS AND/OR INSTALLMENT SALE CONTRACT, A PILOT AGREEMENT 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, 2635 North Forest Road, LLC, for itself or for related individuals or entities (the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the acquisition of a leasehold interest in certain property located at 2635-2691 North Forest Road in Amherst, New York (SBL Nos. 41.03-1-106.2, 41.03-1-45.1, and 41.03-1-46)(the “Premises”); (ii) the construction of a four, four-story, apartment buildings consisting of an aggregate of 250,000+/- square feet that will include 222 apartment units, related site improvements, and off-site improvements including sidewalk improvements on North Forest Road and pathway connections to Audubon Parkway (collectively, the “Improvements”); and (iii) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”); and

WHEREAS, the Company 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 construction of a four, four-story, 220 unit multi-family apartment buildings that will include a workforce housing component that will apply to ten percent (10%) of units and related on-site and off-site improvements located at 2635-2691 North Forest Road in Amherst, New York for commercial purposes, all at a cost of approximately \$52,500,000.00; that the Company anticipates that three (3) new full-time equivalent jobs will be created as a result of the Project at the end of two (2) years of operation thereof; that the Project will result in substantial capital investment; that if Agency financing is

disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project; and

WHEREAS, the Company has submitted additional information to the Agency regarding the Project, including the following: that the Town of Amherst has a need for attractive, multifamily housing to retain workers in the Town of Amherst and attract new business; that there is a lack of affordable and safe multifamily housing in the Town of Amherst; that the Project will promote and maintain job opportunities, health, general prosperity and economic welfare of residents in the Town of Amherst and improve their standard of living; and that the Project will assist the Town of Amherst in addressing economic deterioration as a result of dramatic changes in market conditions; and

WHEREAS, in Opinion of the State Comptroller Number 85-51 (“OSC Op. 85-51”), the State Comptroller opined that the determination of whether a project consisting of the construction of an apartment complex constitutes a commercial activity within the meaning of the Act is to be made based upon all of the facts relevant to the proposed project, and that any such determination should take into account the stated purpose of the Act to promote employment opportunities and prevent economic deterioration; and

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on October 5, 2023, and has considered all oral and written presentations made at or in connection with said public hearing; and

WHEREAS, the Agency has reviewed the Application, prepared a cost-benefit analysis with respect to the Project and has evaluated 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 is expected to undertake and complete the Project by obtaining a conventional loan from a third party, and the Company has requested that the Agency execute any and all documents required by the parties, including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

WHEREAS, the Town of Amherst Planning Board (the “Planning Board”) served as lead agency and conducted an environmental review pursuant to the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617)(“SEQRA”) for the Company’s project and at its February 16, 2023 meeting, declared the Project a Type I action and issued a negative declaration pursuant to SEQRA that the project is not expected to have a significant adverse effect on the environment, a copy of which is attached hereto as part of Exhibit A; and

WHEREAS, the Agency was not identified as an involved agency in the long-form Environmental Assessment Form (“EAF”) submitted to the Planning Board, and the Company has submitted to the Agency an additional Part 1 of a long-form EAF in accordance with the provisions of SEQRA, a copy of which is attached hereto as part of Exhibit A, in order for the Agency 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. Based upon the Agency’s review of the Company’s Application, the Planning Board’s SEQRA determination and the Agency’s SEQRA review, the Agency hereby: (a) ratifies and confirms the proceedings undertaken by the Planning Board under SEQRA, including the Planning Board’s determination and issuance of a negative declaration stating that the Project is not expected to have a significant adverse impact on the environment; (b) adopts the Planning Board’s negative declaration with regard to the Project; and (c) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance (as defined herein) contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

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 \$20,900,000.00, an exemption from mortgage recording taxes for one or more mortgages having a principal amount not to exceed \$42,000,000.00 and an abatement from real property taxes in accordance with the Agency’s ten (10) year payment in lieu of tax schedule (collectively, 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 to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) Investment of no less than \$44,625,000.00 at the Project location as noted in the Application;
- (b) Creation of two and one-half (2.5) full-time equivalent jobs and maintenance of those jobs throughout the ten-year term of the PILOT Agreement;
- (c) Compliance with the Agency’s Local Labor Policy in connection with the construction of the Project; and
- (d) Maintenance of ten percent (10%) of the total units as workforce housing for a period of fifteen (15) years.

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. The Agency has reviewed OSC Op. 85-51 and specifically finds that the Project is for a commercial purpose within the meaning of the Act and will promote employment opportunities and prevent economic

deterioration in the Town of Amherst. The Project is generally consistent with the policies of the Town of Amherst Bicentennial Comprehensive Plan and planning objectives for the Audubon New Community and New Community District zoning classification. The construction of the Project will promote employment opportunities by targeting twenty-two (22) units for workforce housing to attract and retain residents to live within the Town, which will promote economic growth and improve the neighborhood. The Project will create temporary construction jobs and three (3) full-time equivalent jobs, increase the availability of affordable, multifamily housing in the Town of Amherst, and help prevent economic deterioration through the development of a currently vacant and unused site.

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 the buildings thereon, if any, and to make renovations or additions 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 agents of the Agency, to initiate the construction of a building or building addition constituting the Project, and the acquisition of machinery and equipment 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 \$20,900,000.00 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 the provision of the Financial Assistance authorized herein (the "Project Agreement") and to acquire an interest in the Project site and construct 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 Sale Contract") between the Agency and the Company, a Payment in Lieu of Tax Agreement between the Agency and the Company (the "PILOT Agreement"), 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 PILOT Agreement shall provide for payments in accordance with the Agency's ten (10) year payment in lieu of tax schedule. The Agency Lease Agreement shall include provisions as required by the Agency to monitor and confirm the Company's compliance with the Material Factor relating to workforce housing, including: (i) requirements for income verification of tenants at rent-up and upon refilling a vacancy at the Premises; (ii) availability of one and two bedroom units at workforce rents as defined by the United States Department of Housing and Urban Development and confirmed with the Town of Amherst; and (iii) renting to individual(s) that are income independent. 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, the PILOT Agreement 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. In the event the Company obtains one or more conventional loans to finance the cost of the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure such loans ("Mortgage Agreement"), and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$42,000,000.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

Section 9. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 10. 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 11. In the event a lease 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 time period during which the Company is receiving Financial Assistance from the Agency 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, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) 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 (x) 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, (y) any exemption from real estate taxes received by reason of the Agency’s leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency’s involvement with the Project. 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 12. 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 hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 13. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any “hazardous substance” (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 14. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Mortgage Agreement, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement 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 15. 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 16. 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 pursuant to Sections 10 and 11 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 17. This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: October 20, 2023

ACCEPTED AND AGREED TO: _____, 2023

2635 North Forest Road, LLC

By: _____

Name:

Title:

Exhibit A

EAF and Negative Declaration

See attached.

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Multifamily Project		
Project Location (describe, and attach a general location map): 2635 North Forest Road - Erie County - Town of Amherst		
Brief Description of Proposed Action (include purpose or need): The project ("action") consists of a multifamily project to be located at 2635 North Forest Road ("Project Site") consisting of 220 attached residential units for lease and related site improvements including 301 parking spaces. The Project Site is properly zoned New Community District General Commercial ["NCD-GC"]. The proposed action has been defined broadly to include all required discretionary approvals required from the municipal boards of the Town of Amherst and involved agencies and the construction of the multifamily building [totaling 220 units], 301 parking spaces as well as all necessary site improvements including parking spaces, access onto North Forest Road, access aisles, landscaping, lighting, an on-site storm water management system, water and sanitary sewer lines as well as utility connections. It is important to mention that the Town Board previously completed a coordinated environmental review of the project pursuant to SEQRA that resulted in its issuance of a negative declaration on July 25, 2022. A copy of the negative declaration issued by the Town Board is provided at Attachment "A" of this Part 1 of the Full EAF. The Planning Board also issued a negative declaration during its meeting on February 16, 2023. A copy of the negative declaration issued by the Planning Board on February 16, 2023 is provided at Exhibit "3" of the AIDA Application.		
Name of Applicant/Sponsor: 2635 North Forest Road, LLC c/o Sean Hopkins, Esq.	Telephone: (716) 510-4338 E-Mail: shopkins@hsmlegal.com	
Address: 5500 Main Street, Suite 343		
City/PO: Williamsville	State: NY	Zip Code: 14221
Project Contact (if not same as sponsor; give name and title/role): Same as Above	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor): Menorah Campus, Inc.	Telephone: E-Mail:	
Address: 2700 North Forest Road		
City/PO: Amherst	State: NY	Zip Code: 14068

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees		
b. City, Town or Village <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Planning Board or Commission		
c. City, Town or <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Town of Amherst IDA - PILOT and Incentives	September 2023
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐Yes☒No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒Yes☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒Yes☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☒Yes☐No

If Yes, identify the plan(s):

NYS Heritage Areas: West Erie Canal Corridor

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes☒No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?

New Community District General Commercial ["NCD-GC"]

b. Is the use permitted or allowed by a special or conditional use permit? ☒ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☒ No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Sweet Home Central School District

b. What police or other public protection forces serve the project site?

Town of Amherst Police Department

c. Which fire protection and emergency medical services serve the project site?

Volunteer Fire Department in which the Project Site is located.

d. What parks serve the project site?

Various parks includes Nature View Park.

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Multifamily use.

b. a. Total acreage of the site of the proposed action? 8.2 acres

b. Total acreage to be physically disturbed? 7.2 acres

c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 8.2 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No

i. If No, anticipated period of construction: _____ months

ii. If Yes:

- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year

• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	220
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes,	
i. Purpose of the impoundment: <u>Storm water management for bioretention purposes.</u> ii. If a water impoundment, the principal source of the water: <input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____ Runoff from impervious surfaces on the Project Site iii. If other than water, identify the type of impounded/contained liquids and their source. Not Applicable iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ .25 acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): <u>The stormwater management facility will consist of fill and does not constitute a regulated dam as defined by the NYSDEC.</u>	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe. _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? <input type="checkbox"/> Yes <input type="checkbox"/> No ix. Summarize site reclamation goals and plan: _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____	

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☒ Yes ☐ No
If Yes:

i. Total anticipated water usage/demand per day: _____ 42,680 gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No
If Yes:

- Name of district or service area: ECWA Consolidated Water District
- Does the existing public water supply have capacity to serve the proposal? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No
- Do existing lines serve the project site? ☒ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☒ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☒ No
If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☒ Yes ☐ No
If Yes:

i. Total anticipated liquid waste generation per day: _____ 42,680 gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____
Sanitary wastewater.

iii. Will the proposed action use any existing public wastewater treatment facilities? ☒ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: Town of Amherst Wastewater Treatment Plant
- Name of district: Town of Amherst Consolidated Sewer District
- Does the existing wastewater treatment plant have capacity to serve the project? ☒ Yes ☐ No
- Is the project site in the existing district? ☒ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☒ No

<ul style="list-style-type: none"> • Do existing sewer lines serve the project site? _____ • Will a line extension within an existing district be necessary to serve the project? _____ <p>If Yes:</p> <ul style="list-style-type: none"> • Describe extensions or capacity expansions proposed to serve this project: _____ _____ _____ 	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____</p> <p>If Yes:</p> <ul style="list-style-type: none"> • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____ 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____ _____ _____</p>		
<p>vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____ _____ _____</p>		
<p>e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____</p> <p>If Yes:</p> <p>i. How much impervious surface will the project create in relation to total size of project parcel?</p> <p style="margin-left: 40px;"> _____ Square feet or _____ 4.5 acres (impervious surface) _____ Square feet or _____ 8.2 acres (parcel size) </p> <p>ii. Describe types of new point sources. _____</p> <p>iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____</p> <p style="margin-left: 40px;">On-Site Stormwater Management Facility. _____</p> <p style="margin-left: 40px;">• If to surface waters, identify receiving water bodies or wetlands: _____</p> <p style="margin-left: 40px;">Not Applicable. _____</p> <p style="margin-left: 40px;">• Will stormwater runoff flow to adjacent properties? _____</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____</p>		
<p>f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____</p> <p>If Yes, identify:</p> <p>i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____</p> <p>ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____</p> <p>iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____</p> <p>If Yes:</p> <p>i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____</p> <p>ii. In addition to emissions as calculated in the application, the project will generate:</p> <ul style="list-style-type: none"> • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs) 		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No

<p>h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Estimate methane generation in tons/year (metric): _____</p> <p>ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____</p>			
<p>i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____</p>			
<p>j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. When is the peak traffic expected (Check all that apply): <input type="checkbox"/> Morning <input type="checkbox"/> Evening <input type="checkbox"/> Weekend <input type="checkbox"/> Randomly between hours of _____ to _____.</p> <p>ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____</p> <p>iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____</p> <p>iv. Does the proposed action include any shared use parking? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____</p> <p>vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Estimate annual electricity demand during operation of the proposed action: _____</p> <p>ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____</p> <p>iii. Will the proposed action require a new, or an upgrade, to an existing substation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>			
<p>l. Hours of operation. Answer all items which apply.</p> <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 7:00 a.m to 7:00 p.m. • Saturday: _____ 7:00 a.m. to 5:00 p.m. • Sunday: _____ As needed • Holidays: _____ Not Applicable </td> <td style="width: 50%; vertical-align: top;"> <p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Not Applicable [Multifamily Project]</u> • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> </tr> </table>		<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 7:00 a.m to 7:00 p.m. • Saturday: _____ 7:00 a.m. to 5:00 p.m. • Sunday: _____ As needed • Holidays: _____ Not Applicable 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Not Applicable [Multifamily Project]</u> • Saturday: _____ • Sunday: _____ • Holidays: _____
<p>i. During Construction:</p> <ul style="list-style-type: none"> • Monday - Friday: _____ 7:00 a.m to 7:00 p.m. • Saturday: _____ 7:00 a.m. to 5:00 p.m. • Sunday: _____ As needed • Holidays: _____ Not Applicable 	<p>ii. During Operations:</p> <ul style="list-style-type: none"> • Monday - Friday: <u>Not Applicable [Multifamily Project]</u> • Saturday: _____ • Sunday: _____ • Holidays: _____ 		

<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:</p> <p style="margin-left: 20px;"><u>There will be temporary and unavoidable short-term noise impacts resulting from the use of construction equipment during the construction of the proposed project.</u></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>n. Will the proposed action have outdoor lighting? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes:</p> <p>i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:</p> <p style="margin-left: 20px;"><u>There will be on-site lighting pursuant to the lighting standards contained in the Zoning Code.</u></p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Describe: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Product(s) to be stored _____</p> <p>ii. Volume(s) _____ per unit time _____ (e.g., month, year)</p> <p>iii. Generally, describe the proposed storage facilities: _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe proposed treatment(s): _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>ii. Will the proposed action use Integrated Pest Management Practices? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p>i. Describe any solid waste(s) to be generated during construction or operation of the facility:</p> <ul style="list-style-type: none"> • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) <p>ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> • Construction: _____ • Operation: _____ 	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): Weinberg Campus [assisted living, nursing home and senior apartments]

ii. If mix of uses, generally describe:

Mixture of uses including office buildings, senior uses, single-family homes, etc.

b. Land uses and covertypes on the project site.

Land use or Covertypes	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0.17	4.5	+ 4.33
• Forested	5.0	0.0	- 5.0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	2.2	0.0	- 2.2
• Agricultural (includes active orchards, field, greenhouse etc.)	0.0	0.0	0.0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0.0	0.0	0.0
• Wetlands (freshwater or tidal)	0.0	0.0	0.0
• Non-vegetated (bare rock, earth or fill)	0.0	0.0	0.0
• Other Describe: <u>Greenspace and Landscaping</u>	0.83	3.7	+ 2.87

<p>c. Is the project site presently used by members of the community for public recreation? <i>i. If Yes: explain:</i> _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? If Yes, <i>i. Identify Facilities:</i> The Weinberg Campus which includes a licensed skilled nursing home facility is located at 2700 North Forest Road. _____</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>e. Does the project site contain an existing dam? If Yes: <i>i. Dimensions of the dam and impoundment:</i></p> <ul style="list-style-type: none"> • Dam height: _____ feet • Dam length: _____ feet • Surface area: _____ acres • Volume impounded: _____ gallons OR acre-feet <p><i>ii. Dam's existing hazard classification:</i> _____ <i>iii. Provide date and summarize results of last inspection:</i> _____ _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? If Yes: <i>i. Has the facility been formally closed?</i> • If yes, cite sources/documentation: _____ <i>ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:</i> _____ _____ <i>iii. Describe any development constraints due to the prior solid waste activities:</i> _____ _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? If Yes: <i>i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:</i> _____ _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? If Yes: <i>i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:</i></p> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Yes – Spills Incidents database <input type="checkbox"/> Yes – Environmental Site Remediation database <input type="checkbox"/> Neither database </div> <div> Provide DEC ID number(s): _____ Provide DEC ID number(s): _____ </div> </div> <p><i>ii. If site has been subject of RCRA corrective activities, describe control measures:</i> _____ _____ _____</p> <p><i>iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?</i> If yes, provide DEC ID number(s): _____</p> <p><i>iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):</i> _____ _____</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

v. Is the project site subject to an institutional control limiting property uses? <input type="checkbox"/> Yes <input type="checkbox"/> No													
<ul style="list-style-type: none"> • If yes, DEC site ID number: _____ • Describe the type of institutional control (e.g., deed restriction or easement): _____ • Describe any use limitations: _____ • Describe any engineering controls: _____ • Will the project affect the institutional or engineering controls in place? <input type="checkbox"/> Yes <input type="checkbox"/> No • Explain: _____ _____ 													
E.2. Natural Resources On or Near Project Site													
a. What is the average depth to bedrock on the project site? _____ >5 feet													
b. Are there bedrock outcroppings on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %													
c. Predominant soil type(s) present on project site: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Cosad Loamy Fine Sand</td> <td style="width: 20%; text-align: right;">73 %</td> <td style="width: 20%;"></td> </tr> <tr> <td>Cheektowaga Fine Sandy Loam</td> <td style="text-align: right;">27 %</td> <td></td> </tr> <tr> <td>_____</td> <td style="text-align: right;">_____ %</td> <td></td> </tr> </table>		Cosad Loamy Fine Sand	73 %		Cheektowaga Fine Sandy Loam	27 %		_____	_____ %				
Cosad Loamy Fine Sand	73 %												
Cheektowaga Fine Sandy Loam	27 %												
_____	_____ %												
d. What is the average depth to the water table on the project site? Average: _____ >3 feet													
e. Drainage status of project site soils: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><input type="checkbox"/> Well Drained:</td> <td style="width: 30%; text-align: right;">_____ % of site</td> <td style="width: 40%;"></td> </tr> <tr> <td><input type="checkbox"/> Moderately Well Drained:</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Poorly Drained</td> <td style="text-align: right;">100 % of site</td> <td></td> </tr> </table>		<input type="checkbox"/> Well Drained:	_____ % of site		<input type="checkbox"/> Moderately Well Drained:	_____ % of site		<input checked="" type="checkbox"/> Poorly Drained	100 % of site				
<input type="checkbox"/> Well Drained:	_____ % of site												
<input type="checkbox"/> Moderately Well Drained:	_____ % of site												
<input checked="" type="checkbox"/> Poorly Drained	100 % of site												
f. Approximate proportion of proposed action site with slopes: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;"><input checked="" type="checkbox"/> 0-10%:</td> <td style="width: 20%; text-align: right;">100 % of site</td> <td style="width: 40%;"></td> </tr> <tr> <td><input type="checkbox"/> 10-15%:</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> <tr> <td><input type="checkbox"/> 15% or greater:</td> <td style="text-align: right;">_____ % of site</td> <td></td> </tr> </table>		<input checked="" type="checkbox"/> 0-10%:	100 % of site		<input type="checkbox"/> 10-15%:	_____ % of site		<input type="checkbox"/> 15% or greater:	_____ % of site				
<input checked="" type="checkbox"/> 0-10%:	100 % of site												
<input type="checkbox"/> 10-15%:	_____ % of site												
<input type="checkbox"/> 15% or greater:	_____ % of site												
g. Are there any unique geologic features on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe: _____ _____													
h. Surface water features.													
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No													
ii. Do any wetlands or other waterbodies adjoin the project site? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <small>[There are not any jurisdictional wetlands located on the Project Site per the Jurisdictional Determination issued by the USACE on October 26, 2020. A copy of the JD is provided at Attachment "C" of this Part 1 of the Full EAF.]</small>													
If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i.													
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No													
iv. For each identified regulated wetland and waterbody on the project site, provide the following information: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">• Streams:</td> <td style="width: 40%;">Name _____</td> <td style="width: 50%;">Classification _____</td> </tr> <tr> <td>• Lakes or Ponds:</td> <td>Name _____</td> <td>Classification _____</td> </tr> <tr> <td>• Wetlands:</td> <td>Name Federal Waters</td> <td>Approximate Size _____</td> </tr> <tr> <td>• Wetland No. (if regulated by DEC)</td> <td colspan="2">_____</td> </tr> </table>		• Streams:	Name _____	Classification _____	• Lakes or Ponds:	Name _____	Classification _____	• Wetlands:	Name Federal Waters	Approximate Size _____	• Wetland No. (if regulated by DEC)	_____	
• Streams:	Name _____	Classification _____											
• Lakes or Ponds:	Name _____	Classification _____											
• Wetlands:	Name Federal Waters	Approximate Size _____											
• Wetland No. (if regulated by DEC)	_____												
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, name of impaired water body/bodies and basis for listing as impaired: _____ _____													
i. Is the project site in a designated Floodway? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No													
j. Is the project site in the 100-year Floodplain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No													
k. Is the project site in the 500-year Floodplain? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No													
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes:													
i. Name of aquifer: _____													

<p>m. Identify the predominant wildlife species that occupy or use the project site: _____</p> <p style="margin-left: 20px;">Typical suburban species _____</p> <p>_____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>Spiny Softshell</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
<p>E.3. Designated Public Resources On or Near Project Site</p>	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____ 	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [A copy of the No Impact Determination letter issued by SHPO dated April 18, 2022 is provided at Attachment "B".]	
g. Have additional archaeological or historic site(s) or resources been identified on the project site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Describe possible resource(s): _____ ii. Basis for identification: _____ 	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles. 	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes: <ul style="list-style-type: none"> i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? <input type="checkbox"/> Yes <input type="checkbox"/> No 	

F. Additional Information

Attach any additional information which may be needed to clarify your project.

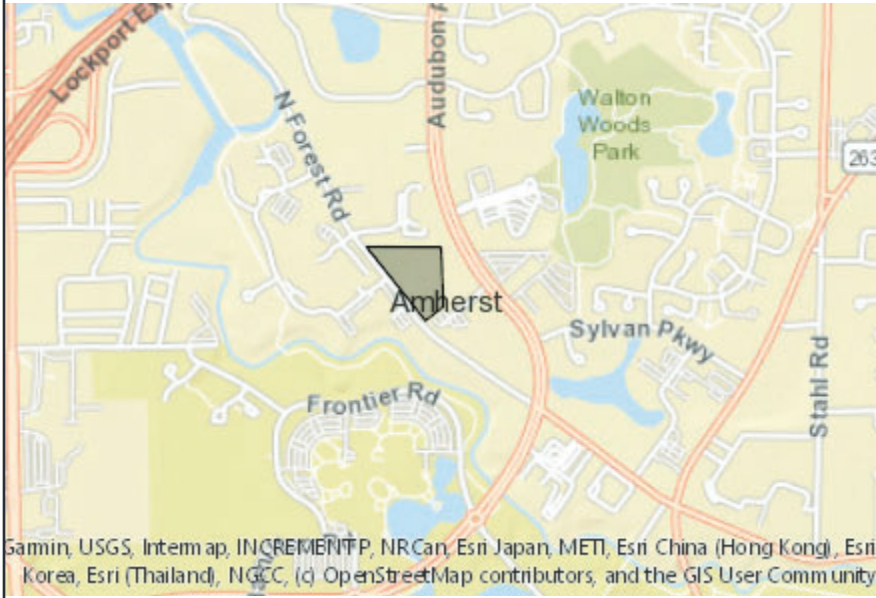
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name 2635 Noth Forest Road, LLC Date September 19, 2023

Signature  Title Counsel for Project Sponsor



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	Yes
E.2.p. [Rare Plants or Animals - Name]	Spiny Softshell
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



Town of Amherst Planning Department

Erie County, New York



Brian J. Kulpa
Supervisor

Daniel C. Howard, AICP
Planning Director

Daniel J. Ulatowski, AICP
Assistant Planning Director

SEQR Negative Declaration

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Lead Agency: Town of Amherst
Planning Board

Project: SP-2022-14

Address: 5583 Main Street
Williamsville, NY 14221
(716) 631-7051

Date: February 16, 2023

This notice is issued pursuant to Part 617 and Local Law #3-82, as amended, of the implementing regulations pertaining to Article 8 (State Environmental Quality Review) of the Environmental Conservation Law.

The Lead Agency has determined that the proposed action described below will not have a significant adverse effect on the environment.

Title of Action: Site Plan Review for a Multifamily Residential Development

SEQR Status: Type I Action

Description of Action: Construction of four 4-story buildings containing 222-dwelling units with 247 surface parking spaces, 53 garage spaces and amenity facilities. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

Location: 2635, 2675 & 2691 North Forest Road, Amherst, Erie County

Petitioner: PB Investors, LLC

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Reasons Supporting This Determination

Based on information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I, (as amended) Part II and a complete site plan application, a preliminary staff analysis was undertaken. Compared to the criteria listed in Section 617.7, all indications are that this action will not have a significant impact on the environment, as follows:

1. The project is not expected to cause a substantial adverse change in existing air quality, ground or surface water quality or quantity, or noise levels; a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems. The Engineering Department on January 30, 2023 reviewed the Grading, Drainage and Utility Plans submitted on January 20, 2023, Engineer's Report submitted on November 14, 2022, Erosion Control Plan submitted on January 20, 2023, Geotechnical Report prepared by Barron & Associates, PC submitted on November 14, 2022, and the Stormwater Pollution Prevention Plan (SWPPP) submitted on November 14, 2022 was also reviewed. Based on its review of these documents, the Department has determined that the project has or will have met all applicable requirements and has no objection to its approval.
2. The project will not result in the removal or destruction of large quantities of vegetation or fauna; or in significant adverse impacts to fish or wildlife species, habitats or other natural resources. The Planning Department reviewed a Landscape Plan submitted on January 20, 2023 and determined that it meets or exceeds Zoning Ordinance requirements for greenspace. The Landscape Plan has or will have met all Zoning Ordinance and Town requirements for landscaping. The USACE has issued a Jurisdictional Determination letter indicating 5 wetlands and 1 stream that are non-jurisdictional and disturbance of one water course associated with the drainage ditch will be permitted.
3. The project is not expected to create any substantive conflict with the Town Comprehensive Plan. The Planning Department in their review of January 26, 2023 and the Zoning Enforcement Officer in his/her review of January 26, 2023 have reviewed the application documents and Building Department in their review of January 10, 2023 has reviewed the application documents along with the Geotechnical Report submitted on November 14, 2023 and determined that the subject project has or will have met all International Building Code – 2015 and Zoning Ordinance regulations.
4. The project is within an area identified by the State as having potential archaeological or historical significance. A report (02SR52571) conducted in 2002 by Panamerican Consultants, Inc. did not identify any archaeological sites. The New York State Office of Parks Recreation and Historic Preservation states in a letter dated April 18, 2022, and received by the Planning Department on November 14, 2022, that no archaeological and/or historical resources listed in or eligible for the State or National Registers of Historic Places will be impacted by this project.
5. The project will not impair the character or quality of important aesthetic resources or of existing community or neighborhood character. The project is located in the NCD-GC zoning district; neighboring uses include a mix of single and multifamily residences, office, religious/recreation and elder care uses, which are zoned NCD-GC and NCD-SA; therefore, the project is consistent with surrounding land use.

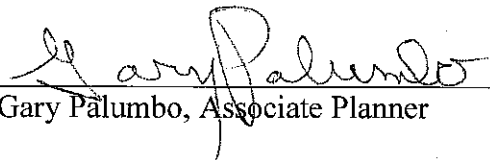
'23 FEB 24 AM 9:32

6. The proposed subject development will include four 4-story multifamily residential structures which will increase energy usage over the existing single-family residence, however, it will not cause a major change in the use of either the quantity or type of energy, over what is anticipated in the NCD, or exceed the capacity of suppliers.
7. The project will not create any hazard to human health. The Fire Chief's Council on February 3, 2023, has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency has or will have been met.
8. The project will not cause a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. Although an intensification of use over the existing single family residence on site, the 222-unit apartment development will be consistent with the scale of surrounding land uses along this section of North Forest Road and backing up to John James Audubon Parkway, and is consistent with the Audubon Development Plan. The multifamily residential development will serve the intent of the NCD to provide a mix of housing types.
9. Although the function of the proposed 222-unit apartment development will increase the number of people using the site over its previous level of use, the site is designed to adequately support demand for the proposed number of residents and all required road and utility infrastructure will be in place to accommodate the development.
10. Review by the Town Traffic/Safety Board dated February 1, 2023 and Erie County Dept. of Public Works - Highways Division dated February 7, 2023 indicate that significant negative traffic impacts are not expected to result from the proposed project.

Review of the Traffic Impact Study (TIS) prepared by SRF Associates, submitted to the planning Department on November 14, 2022 and reviewed by Town Traffic/Safety Board indicates that significant negative traffic impacts are not expected to result from the proposed project.
11. A coordinated review of the project has been undertaken by Town Departments including, in addition to those mentioned above, Highway on December 1, 2022, Assessor on November 22, 2022, Plumbing Division on December 23, 2022, and Right-of-Way Agent on February 15, 2023. These reviews did not identify any potential significant adverse environmental issues and indicated that the proposal will not have a significant damaging impact on the environment.
12. Issues not specifically mentioned above and/or those not specifically reviewed were not raised by Town departments, outside agencies or the public and are not determined to cause significant negative environmental impacts.

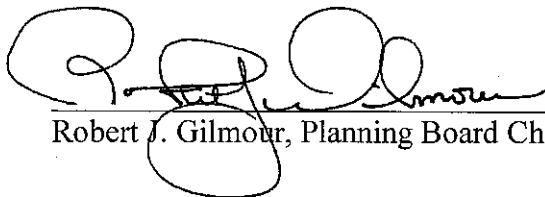
Planning Board Adoption:

Moved by: Penberthy; Second by: Chmiel Ayes 7; Noes 0



Gary Palumbo, Associate Planner

2.23.2023
Date



Robert J. Gilmour, Planning Board Chair

2.23.23.
Date

GP/ac

X:\Current Planning\Files\Site Plans\2022\SP-2022-14_(2635_2675_&_2691_N_Forest_Rd)_2022\SP-2022-14_neg_dec_021623.doc.docx

cc: Amherst Building Department

ECDEP

NYSDEC

PB Investors, LLC, c/o Sean Hopkins, 5500 Main Street, Suite 343, Williamsville, NY 14221

Patrick Sheedy, Carmina Wood Design, 487 Main Street, Suite 500, Buffalo, NY 14203

Town of Amherst Industrial Development Agency

MRB Cost Benefit Calculator

Date October 5, 2023
 Project Title 2635 North Forest Road, LLC - Workforce Housing & Infrastructure
 Project Location 2635-2691 North Forest Road, 14068



Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

Project Total Investment

\$52,500,000

Temporary (Construction)

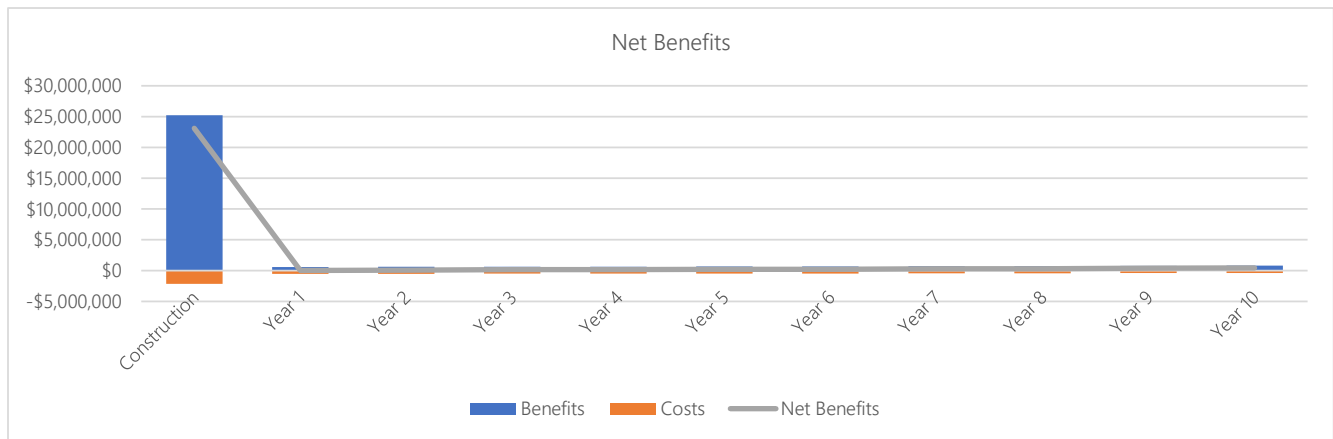
	Direct	Indirect	Total
Jobs	196	147	343
Earnings	\$15,402,645	\$8,402,744	\$23,805,389
Local Spend	\$36,750,000	\$26,019,339	\$62,769,339

Ongoing (Operations)

Aggregate over life of the PILOT

	Direct	Indirect	Total
Jobs	3	3	6
Earnings	\$2,063,679	\$2,377,715	\$4,441,394

Figure 1



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

Figure 2

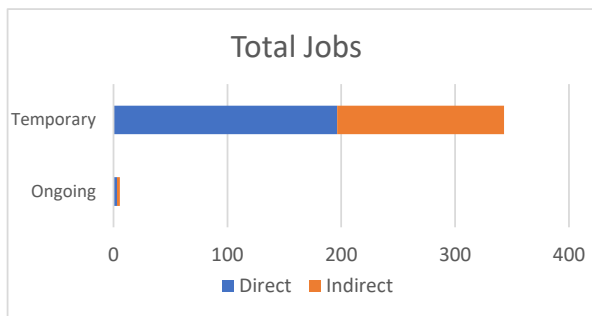
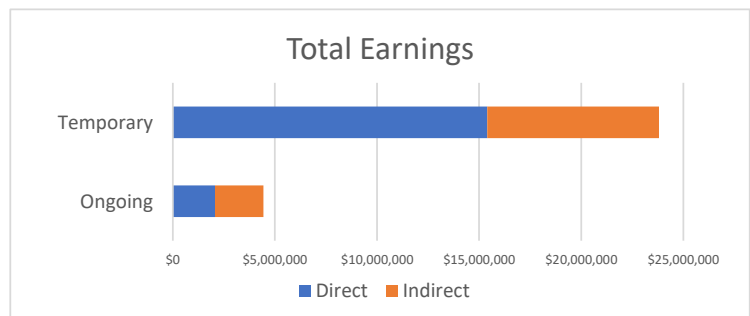


Figure 3



Fiscal Impacts

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$4,637,256	\$4,190,703
Sales Tax Exemption	\$1,828,750	\$1,828,750
Local Sales Tax Exemption	\$992,750	\$992,750
State Sales Tax Exemption	\$836,000	\$836,000
Mortgage Recording Tax Exemption	\$315,000	\$315,000
Local Mortgage Recording Tax Exemption	\$105,000	\$105,000
State Mortgage Recording Tax Exemption	\$210,000	\$210,000
Total Costs	\$6,781,006	\$6,334,453

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$30,688,839	\$29,972,346
To Private Individuals	\$28,246,783	\$27,783,955
Temporary Payroll	\$23,805,389	\$23,805,389
Ongoing Payroll	\$4,441,394	\$3,978,566
Other Payments to Private Individuals	\$0	\$0
To the Public	\$2,442,055	\$2,188,391
Increase in Property Tax Revenue	\$1,886,064	\$1,668,925
Temporary Jobs - Sales Tax Revenue	\$197,882	\$197,882
Ongoing Jobs - Sales Tax Revenue	\$36,919	\$33,072
Other Local Municipal Revenue	\$321,190	\$288,512
State Benefits	\$1,468,833	\$1,444,766
To the Public	\$1,468,833	\$1,444,766
Temporary Income Tax Revenue	\$1,071,243	\$1,071,243
Ongoing Income Tax Revenue	\$199,863	\$179,035
Temporary Jobs - Sales Tax Revenue	\$166,638	\$166,638
Ongoing Jobs - Sales Tax Revenue	\$31,090	\$27,850
Total Benefits to State & Region	\$32,157,671	\$31,417,111

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$29,972,346	\$5,288,453	6:1
State	\$1,444,766	\$1,046,000	1:1
Grand Total	\$31,417,111	\$6,334,453	5:1

*Discounted at 2%

Additional Comments from IDA

Workforce Housing 10% of units for 15-years and offsite pedestrian improvements

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

David S. Mingoia
Executive Director



October 12, 2023

Via Deliver Service

Willowbrook Hospitality, LLC
100 Corporate Parkway
Suite 500
Amherst, New York 14226
Attn: Michael Montante

RE: Town of Amherst Industrial Development Agency
Willowbrook Hospitality, LLC
2020 Amherst Manor Hotel Project

Dear Mr. Montante:

This is a request for information concerning the above-referenced project ("Project") made pursuant to Sections 3.3, 5.1 and 8.5 of the Lease Agreement between Willowbrook Hospitality, LLC (the "Company") and the Town of Amherst Industrial Development Agency (the "Agency") dated as of February 1, 2020 (the "Lease Agreement").

Information Pertaining to USA Hockey Material Factor

Pursuant to Section 8.5 (a)(vi) of the Lease Agreement, the Company agreed, as a Material Factor for the Project, to:

"exercis[e] its best efforts [during the term of the Lease Agreement] to cause the following to occur; it being understood that the Company does not control the operations of the Northtown Center complex or have a direct contractual relationship with USA Hockey:

(A) *having USA Hockey declare the Northtown Center as the "National Home of the USA National Sled Hockey Programs," with such designation to remain in effect throughout the Compliance Period;*

(B) *having USA Hockey Disabled Disciplines host at least three (3) tournaments at the Northtown Center during each year of the Compliance Period;*

(C) *having USA Hockey host annual training programs, camps and festivals at the Northtown Center during each year of the Compliance Period; and*

(D) *having USA Hockey house the USA National Deaf/Hard of Hearing, Blind Hockey and Standing/Amputee teams for their training weeks during each year of the Compliance Period.*

Please provide the following information and supporting documentation with respect to the Company's compliance with the USA Hockey Material Factor:

1. Please confirm in writing whether USA Hockey has declared the Northtown Center as the "National Home of the USA National Sled Hockey Programs." If USA Hockey has not made this declaration, please provide a detailed written statement, including dates and supporting documentation (in the form of emails, correspondence and other documents) demonstrating the Company's best efforts from February 1, 2020 through the date of this letter to have USA Hockey declare the Northtown Center as the "National Home of the USA National Sled Hockey Programs."

2. Please confirm in writing whether USA Hockey Disabled Disciplines has hosted at any tournaments at Northtown Center from February 1, 2020 through the date of this letter and if so, please provide the dates that such tournaments were hosted. If USA Hockey Disabled Disciplines has hosted less than three (3) tournaments in any year (measured from February 1 to January 31, starting with February 1, 2020), please provide a detailed written statement, including dates and supporting documentation (in the form of emails, correspondence and other documents) demonstrating the Company's best efforts to have USA Hockey Disabled Disciplines host at least three (3) tournaments at the Northtown Center.

3. Please confirm in writing whether USA Hockey has hosted annual training programs, camps and festivals at the Northtown Center from February 1, 2020 through the date of this letter and provide the dates that such annual training programs, camps and festivals were hosted. Please provide a detailed written statement, including dates and supporting documentation (in the form of emails, correspondence and other documents) demonstrating that the best efforts undertaken by the Company have caused USA Hockey to host training programs, camps and festivals at the Northtown Center since February 1, 2020.

4. Please confirm in writing whether USA Hockey housed at the hotel the USA National Deaf/Hard of Hearing, Blind Hockey and Standing/Amputee teams for their training weeks each year from February 1, 2020 through the date of this letter, and if so, please provide the dates and number of hotel rooms that were booked for such purpose. If USA Hockey did not utilize the hotel for the USA National Deaf/Hard of Hearing, Blind Hockey and Standing/Amputee teams for their training weeks in any year (measured from February 1 to January 31, starting with February 1, 2020), please provide a detailed written statement, including dates and supporting documentation (in the form of emails and correspondence) demonstrating the Company's best efforts to have USA Hockey house at the hotel the USA National Deaf/Hard of Hearing, Blind Hockey and Standing/Amputee teams for their training weeks each year from February 1, 2020 through the date of this letter.

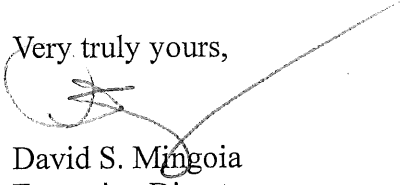
Information Concerning the Project's Designation as a Tourism Destination

In Section 3.3 of the Lease Agreement, the Company represented and warranted to the Agency that the Project is a "tourism destination with facilities likely to attract a significant number of visitors from outside the local development region the Project is located." In Section 12.4 of the Lease Agreement, the Company committed to operating the Project as a qualified "project" in accordance with and as defined under the Industrial Development Agency Act.

Please provide in the form of a written statement with supporting documentation demonstrating the Company's compliance with these requirements. Please include in your response detailed hotel visitor information—the Agency is specifically requesting data demonstrating that individuals living outside of the WNY economic development region stayed at the hotel in order to attend events that were hosted at the Northtown Center for the period commencing as of February 1, 2020 through the date of this letter. For purposes of this response, please note that the WNY economic development region includes Erie, Niagara, Cattaraugus, Chautauqua and Allegany counties.

Please provide your response within thirty (30) days from the date of this letter. Thank you for your anticipated cooperation.

Very truly yours,



David S. Mingoia
Executive Director

cc: Susan Hassinger, Esq. (*via delivery service*)
Uniland Development Company
100 Corporate Parkway
Suite 500
Amherst, New York 14226

Carlton Brock, AIDA Chair