

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

**Agenda – 552<sup>nd</sup> Meeting**

**Friday, November 22, 2024-8:30 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
  - I. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
8. Unfinished Business
9. New Business
  - I. 6812 Main Street LLC - Redevelopment and Workforce Housing Project
  - II. NED – New Energy Solar 8, LLC 1050 New Road
  - III. Hurwitz & Fine Engagement Letter
10. Adjournment

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

**Minutes of the 550th Meeting  
Friday, October 18, 2024 – 8:30 am  
James J. Allen Boardroom  
Agency Offices, 4287 Main Street**

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

**GUESTS :** AIDA Staff  
Sean Hopkins  
Supervisor Brian Kulpa  
Jessica O'Neill

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 Hadar Borden, seconded by Anthony Agostino and unanimously carried, the minutes of the September 2024 meeting were approved as presented.

**BILLS & COMMUNICATIONS**

There were no Bills & Communications presented at this meeting.

**TREASURER'S REPORT**

Treasurer Agostino reviewed the highlights of the Treasurer's Reports for September 2024.

Upon a motion by Willaim Tuyn, seconded by Hadar Borden and unanimously carried, the Treasurer's Report for July and August 2024 was approved as presented.

**PUBLIC COMMENT**

There was no Public Comment at this meeting.

**EXECUTIVE DIRECTOR'S REPORT**

David Mingoia presented the Executive Director's Report.

## **COMMITTEE REPORTS**

### **I. Finance & Audit Committee – 2025 Budget Recommendations**

Treasurer Agostino presented the draft 2025 Agency Budget reviewed at this month's Finance & Audit Committee Meeting, noting that it was similar to the 2024 Agency Budget and based on anticipated projects. Upon a motion by Frank LoTempio, III, seconded by Willaim Tuyn, the 2025 Agency Budget was approved as presented.

## **UNFINISHED BUSINESS**

### **I. Sawyer's Landing, LLC – Amendment Request**

The applicant was seeking a modification to previously approved AIDA project consisting of approximately 5 acres of a larger 18-acre parcel to construct a mixed-use development consisting of 146 residential units and 27,470 square feet of commercial space. The new project removes townhomes from the AIDA portion of the project, reducing the number of units to 112. The modified project still includes a workforce housing component consisting of over 22% of the units that will be leased at 80% of area median income (AMI) and consists of a combination of studio, one bedroom and two-bedroom units along with offsite recreation trails.

After discussion Frank LoTempio made a motion to approve the request of Sawyer's Landing, LLC to modify the project resulting in a decrease of the sales and use tax exemption benefits to an amount of \$3,024,560. Anthony Agostino seconded the motion to approve. Votes to approve were cast by Brock, Tuyn, Agostino, Borden, LoTempio and Gavigan. Motion to approve passed by a vote of 6-0.

## **NEW BUSINESS**

### **I. The Greens on North French Workforce Housing and North Amherst Soccer Complex Concession Building – Authorization Resolution**

The applicant proposed a project consisting of 162 apartments across five 3-story buildings near the corner of North French Road and Millersport Highway. 20% of the units will be priced at a monthly rent considered workforce housing as defined by rents approximating one-third of approximately 80% of area median income. The 32 workforce housing units will consist of 1, 2 and 3 bedroom apartments. The project also includes a condition that a Concessions building, estimated at \$650,000, will be constructed by the developer at the North Amherst Soccer Complex during the construction period. The construction of a Concession building, which will include restrooms, concessions and storage, has been on the Town of Amherst's capital list for many years without adequate funding.

After discussion Frank LoTempio made a motion to approve the project. Nicole Gavigan seconded the motion to approve. Votes to approve were cast by Brock, Tuyn, Agostino, Borden, LoTempio and Gavigan. Motion to approve passed by a vote of 6-0.

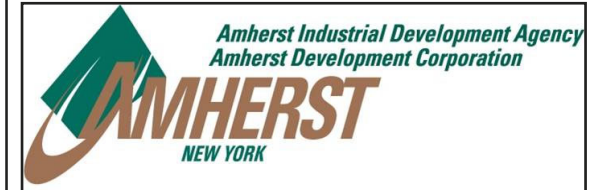
8:55 am – Frank LoTempio made a motion to adjourn the meeting. Hadar Borden second the motion. The motion to adjourn was passed unanimously.

## PROJECT PROFILE:

6812 MAIN STREET, LLC MIXED-USE & WORKFORCE HOUSING

\$14,370,000

NOVEMBER 22, 2024



### ELIGIBILITY

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

### COMPANY INCENTIVES (EST.)

- Property Tax = \$923,592
- Sales Tax = \$436,406
- Mortgage Tax = \$80,775

### PROJECT BENEFITS (EST.)

- Property Taxes = \$1,004,308
- Income Taxes = \$400,725
- Sales Taxes = \$177,629

### EMPLOYMENT

- 47 Construction and Supply Related Jobs Created
- 1 Full-Time Equivalent Direct Position Created
- 9 Full-Time Indirect Positions Created from Household Spending

### PROJECT SCHEDULE (EST.)

- Work begins May 2025
- Project completion March 2026

### Project Address:

6810 Main Street  
Amherst, New York 14221  
(Clarence School District)

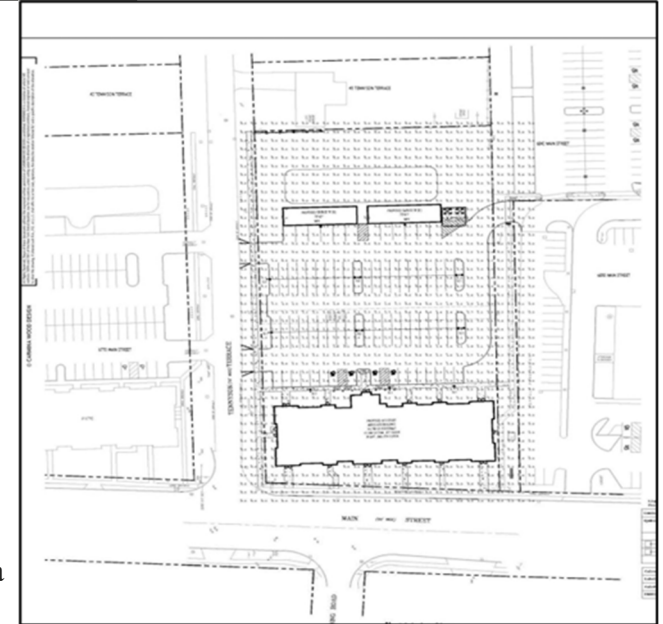
### Investment:

Acquisition: \$1,670,000  
Construction: \$10,500,000  
Soft/Other Costs: \$2,200,000

### Project Description:

The applicant is requesting assistance to construct a 5-story mixed-use building totaling approximately 51,600 square feet, featuring 14,000 square feet of commercial space and 34 market rate apartments on the upper floors. The project includes a workforce housing component consisting of 20% of the units that will be leased at 80% of area median income (AMI). The approximately 2.2 acres site currently houses an outdated one-story retail plaza building that will be demolished. AIDA benefits are limited to the construction of the project and will not include equipping and build out of the commercial space. The project resides in a Town of Amherst Enhancement Area designated for redevelopment of obsolete and underutilized parcels.

The project connects recent development projects completed and nearly complete at 6842 and 6670-6790 Main Street. The applicant states that Agency assistance is necessary to complete the project due to adherence to the new standards, site development and demolition, material and labor increases, and higher cost lending requirements. Offsite sewer infrastructure is also part of the project that sanitary improvement on the west side of Northhill Drive to an existing connection on the southern side of Sheridan Drive that alleviates capacity. The Reasonableness Assessment prepared by Camoin Associates notes the low return on investment even with the project incentives. Additionally, the requested assistance will enable the applicant to include the 7 requested workforce housing units.



**PROJECT PROFILE:  
6810 MAIN STREET MIXED-USE & WORK-  
FORCE HOUSING  
\$14,370,000**

**AIDA COMPANY HISTORY:**

In October 2023, the AIDA Board approved incentives for a \$52,500,000 Workforce Housing and Pedestrian Improvement Project at North Forest Road.

In May 2022, the AIDA Board approved incentives for a \$18,700,000 Mixed Use & Workforce Housing project at 6842 Main Street.

In August 2020, the AIDA Board approved incentives for a \$5,600,000 Mixed Use project at 6770 Main Street.

**MATERIAL TERMS:**

1. Investment of not less than \$12,214,500 at the project location as noted in the application.
2. Creation of 1 direct full-time equivalent job and maintenance of employment throughout the PILOT term.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project.
4. Maintenance of 20% of total units as Workforce Housing for 15-years.

**AIDA Project Evaluation Criteria - Neighborhood Redevelopment**

Distressed Census Tracts	No
Designated Enhancement Area	Yes
Age of Structure	Built in 1970
Building Vacancy	49%
Redevelopment Supports Local Community Development Plan	The project location is a Town of Amherst designated Enhancement Area and re-zoned per Comprehensive Zone updates to a Retrofit classification.
Environmental or Safety Issues	None
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. Camoin report lists marginal return on investment.
Transit Oriented Development	The project supports density on the site and includes workforce housing on bus routes.
Increased Property Value	The project maintains the existing taxes collected and provides double the taxes over the 10-Year PILOT.
Provides Workforce and/or Affordable Housing	Workforce Housing is defined as pricing for 80-120% of Area Median Income. This project provides 20% of the units at approximately 80%.

PREPARED FOR:

Town of Amherst Industrial Development Agency  
4287 Main Street  
Amherst, New York 14226

# Reasonableness Assessment for Financial Assistance

MIXED-USE PROJECT - 6810 MAIN STREET  
6812 MAIN STREET, LLC

OCTOBER 2024

PREPARED BY:



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## EXECUTIVE SUMMARY

### Project Description

The Town of Amherst Industrial Development Agency (Agency) received an application from 6812 Main Street, LLC (Applicant) for financial assistance to construct a five-story mixed-use building (Project) in Amherst, NY, featuring 14,000 square feet of commercial office space and 34 apartments with a portion reserved for workforce housing. The Project represents a \$14,370,000 investment. To support this project, the Applicant requests financial assistance in the form of a Payment In Lieu of Taxes (PILOT) agreement, sales tax exemption, and mortgage recording tax exemption.

### Purpose of this Analysis

An objective, third-party review of a project's assumptions and estimated operating and financial performance helps Industrial Development Agencies perform a complete evaluation of a proposed project. Camoin Associates was engaged to analyze the Project and deliver an analysis and opinion to answer three questions:

- ◆ Are the operating assumptions such as rent, vacancy, and expenses within norms for the region?
- ◆ Is the assistance necessary for the Project to be financially feasible, and therefore undertaken by the Applicant?
- ◆ If assistance is awarded, will the Applicant's rate of return on investment be similar to market expectations for similar projects in the region, and therefore reasonable?

**Findings: This analysis concludes that the answer to each of these questions is as follows:**

- **Assumptions are generally in line with local and regional benchmarks except for stated operating expenses, which are lower than the benchmarks.**
- **Over the life of the proposed PILOT, the Project has a positive cash flow and adequate debt service coverage but does not meet the minimum industry benchmark for expected equity dividend rates.**
- **A PILOT is required to have positive cash flow in year 5 of full operation.**

# 1. REVENUE ASSUMPTIONS

The Applicant's operating revenue assumptions are compared to CoStar estimates for rent in 2024 in the Town of Amherst. Overall, the rent assumed for the market rate units is within range (20%) of the current median rent in Amherst. The workforce units are above the 2023-2024 income limits set by the Amherst IDA, however they may be within limits once the project is complete. Office rent is 1.55 times higher than benchmark asking rates for office space in Amherst.

Section 2 of this report, Operating Performance, assesses other assumptions made by the Applicant, including expenses, vacancy rates, and income and expense escalation.

Apartment Unit Type, Rent, and Household Income							
	Type of Apartment (1)	Units in Project (1)	Average Rent per Month (1)	Rent per Year	Household Income Required (2)	Median Rent for Amherst (3)	Benchmarks
Market	1BR	6	\$1,950	\$23,400	\$78,000	\$1,625	Rent is 1.2 times higher than the benchmark for a 1 bedroom in Amherst (3)
	2BR	20	\$2,350	\$28,200	\$94,000	\$1,940	Rent is 1.2 times higher than the benchmark for a 2 bedroom in Amherst (3)
Workforce	1BR	2	\$1,350	\$16,200	\$54,000	\$1,625	Rent Exceeds the 2023-2024 80% of AMI income limit of \$1,300 (4)
	2BR	6	\$1,600	\$19,200	\$64,000	\$1,940	Rent Exceeds the 2023-2024 80% of AMI income limit of \$1,500 (4)

(1) Source: Applicant

(2) Income needed to pay no more than 30% on rent

(3) Median monthly rent for properties built in 2000 or later in the Town of Amherst, NY; Source: CoStar

(4) Workforce Housing Policy Addendum

Commercial and Retail Rent							
Use Type	Square Feet in Project (1)	\$/sf (1)	Rent per Month (1)	Rent Per Year (1)	Average Rent for Amherst (2)	Benchmarks (2)	
Office	14,000	\$ 30.00	\$ 35,000	\$ 420,000	\$19.35	Rent is 1.55 times higher than the benchmark for office space in Amherst (2)	

(1) Source: Applicant

(2) Median office asking rent for properties built in 2000 or later in the Town of Amherst, NY; Source: CoStar

## 2. OPERATING PERFORMANCE

The operating performance of the Project is measured using Year 5 of the Applicant's Pro Forma (five years of full operation, year 5 of the pro forma provided). The Applicant assumes that gross revenue will escalate at 2% per year and expenses will grow by 2% per year. Applicant assumes there will be a 5% vacancy for residential once stabilized and that the commercial office will have a 5% vacancy once stabilized. Operating expenses are lower than benchmarks and both PILOT scenarios deliver high net operating income as a percentage of gross income. Without a PILOT, cash flow is negative \$11,898 after 5 years of operation.

**Operations Snapshot, Year 5 of Full Operation**

	10 Year PILOT				10 Year No PILOT			
	Project Performance (1)	Share of Gross Operating Income	Benchmark Performance (2)	Evaluation	Project Performance (1)	Share of Gross Operating Income	Benchmark Performance (2)	Evaluation
<u>Calculation of Net Operating Income Residential</u>								
Gross Operating Income	\$922,232	67%	n/a	n/a	\$922,232	67%	n/a	n/a
Vacancy Rate and Concessions	5%	n/a	4%	Within range	5%	n/a	4%	Within range
<u>Calculation of Net Operating Income, Non-Residential</u>								
Gross Operating Income	\$454,622	33%	n/a	n/a	\$454,622	33%	n/a	n/a
Vacancy Rate	5%	n/a	11%	More efficient	5%	n/a	11%	More efficient
Effective Gross Income (EGI), All Uses (3)	\$1,330,742	97%	96%	Within range	\$1,353,473	98%	96%	Within range
Operating Expenses and Reserve	(\$320,963)	23%	51%	More efficient	(\$320,963)	23%	51%	More efficient
Real Property Taxes	(\$135,096)	10%	n/a	n/a	(\$227,524)	17%	n/a	n/a
Net Operating Income	\$874,683	64%	48%	More efficient	\$804,986	58%	47%	More efficient
Less: Debt Service	(\$816,885)	59%	n/a	n/a	(\$816,885)	59%	n/a	n/a
Cashflow after Operating Costs, Taxes, Debt	\$57,799	4%	n/a	n/a	(\$11,898)	-1%	n/a	n/a

(1) Source: Applicant

(2) Source: RealtyRates Q3 2024 for Northeast Region

(3) Net of vacancy and concessions

### 3. FINANCING PLAN

- ◆ The Sources and Uses of Funds show the total project costs and capital structure of debt and equity.
- ◆ The Terms of the Senior (Long Term) Debt are within the range of the benchmarks.

#### Sources and Uses of Funds

<u>Sources of Funds</u>	<u>Amount (1)</u>	<u>Share</u>
Bank Financing	\$10,770,000	75%
Equity and Working Capital	<u>\$3,600,000</u>	<u>25%</u>
Total Sources	\$14,370,000	100%

<u>Uses of Funds</u>		
Acquisition and Transaction Costs	\$1,907,700	13%
Construction Costs	<u>\$12,462,300</u>	<u>87%</u>
Total Uses	\$14,370,000	100%

(1) Source: Applicant

#### Terms of the Senior (Long Term) Debt

	<u>Terms (1)</u>	<u>Benchmark (2)</u>	<u>Evaluation</u>
Amount Borrowed	\$10,770,000	n/a	n/a
Loan to Total Project Cost	75%	55% - 90%	Within Range
Annual Interest Rate	6.50%	4.7% - 12.33%	Within Range
Maturity in Years	30	15 - 40	Within Range

(1) Source: Applicant

(2) Source: RealtyRates Q3 2024

## 4. RATE OF RETURN

An estimated return on investment is calculated using the Applicant's operating pro forma and capital structure. This analysis measures whether financial assistance is necessary and reasonable. Financial performance is estimated over the full PILOT period (10 years) and compared to a no PILOT scenario, which starts in the first year of full operation.

### Three metrics are used to evaluate outcomes:

- ♦ **The Equity Dividend Rate** is net cashflow for each year, divided by the initial equity investment. Equity Dividend Rates are benchmarked using current market information from RealtyRates.com for similar projects in the region. Equity Dividend Rates close to the benchmarks indicate an outcome in line with the current market, meaning the Applicant is earning a reasonable return.

Very low or negative rates indicate the Project is unlikely to be undertaken when compared to other possible investments. Equity Dividend Rates are based on an initial equity investment of \$3,600,000 and are included over the life of the PILOT.

**The Project does not achieve this benchmark under either scenario.**

- ♦ **Cash Flow** is the income stream to the Applicant over time. There are currently no cash flow benchmarks available.

**Cumulative Cash Flow and average cash flow are positive, but the initial investment is not recouped over the 10-year period in either scenario.**

- ♦ **Debt Service Coverage** estimates how well the Project's net income, after taxes, supports the repayment of debt.

**Debt Service Coverage meets benchmarks in year 1 under both scenarios due to interest-only loans in years 1 & 2.**

### Comparison of Return on Investment

	10 Year PILOT	10 Year No PILOT	Benchmarks (1)
<u>Equity Dividend Rates</u>			
Average	2.60%	0.67%	4.7% to 12.33%
Minimum	0.76%	-1.44%	
Maximum	3.82%	2.65%	
Year Benchmarks Met	n/a	n/a	
<u>Cash Flow</u>			
Average	\$93,504	\$24,139	n/a
Minimum	\$27,460	(\$51,992)	
Maximum	\$137,681	\$95,566	
Cumulative	\$935,039	\$241,391	
Year Investment Recouped	n/a	n/a	
<u>Debt Service Coverage</u>			
Average	1.12	1.03	1.00 to 1.86
Minimum	1.03	0.94	
Maximum	1.20	1.12	
Years Benchmarks Met	1	1	

(1) Source: RealtyRates for Q3 2024 for Northeast Region for Apartments



# ATTACHMENT 1: PRO FORMAS

6810 Main Street	Date	10/16/2024										
Annual Cashflows (Pro Forma) - No PILOT												
	Construction	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Operating Cash Flow												
Residential Income												
Gross Operating Income	\$	-	\$ 852,000	\$ 869,040	\$ 886,421	\$ 904,149	\$ 922,232	\$ 940,677	\$ 959,490	\$ 978,680	\$ 998,254	\$ 1,018,219
Less: Vacancy Allowance (enter as a negative number)	\$	-	\$ (42,600)	\$ (43,452)	\$ (44,321)	\$ (45,207)	\$ (46,112)	\$ (47,034)	\$ (47,975)	\$ (48,934)	\$ (49,913)	\$ (50,911)
Net Rental Income, Residential	\$	-	\$ 809,400	\$ 825,588	\$ 842,100	\$ 858,942	\$ 876,121	\$ 893,643	\$ 911,516	\$ 929,746	\$ 948,341	\$ 967,308
Commercial/Industrial Income												
Gross Operating Income	\$	-	\$ 420,000	\$ 428,400	\$ 436,968	\$ 445,707	\$ 454,622	\$ 463,714	\$ 472,988	\$ 482,448	\$ 492,097	\$ 501,939
Less: Vacancy Allowance (enter as a negative number)	\$	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net Rental Income, Commercial/Industrial	\$	-	\$ 420,000	\$ 428,400	\$ 436,968	\$ 445,707	\$ 454,622	\$ 463,714	\$ 472,988	\$ 482,448	\$ 492,097	\$ 501,939
Other Income												
Parking Income	\$	-	\$ 21,000	\$ 21,420	\$ 21,848	\$ 22,285	\$ 22,731	\$ 23,186	\$ 23,649	\$ 24,122	\$ 24,605	\$ 25,097
Other Income / Late Fees / Pet Rent	\$	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Other Income	\$	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net Income, Other	\$	-	\$ 21,000	\$ 21,420	\$ 21,848	\$ 22,285	\$ 22,731	\$ 23,186	\$ 23,649	\$ 24,122	\$ 24,605	\$ 25,097
Effective Gross Income (EGI)	\$	-	\$ 1,250,400	\$ 1,275,408	\$ 1,300,916	\$ 1,326,934	\$ 1,353,473	\$ 1,380,543	\$ 1,408,153	\$ 1,436,317	\$ 1,465,043	\$ 1,494,344
Operating Expenses (enter positive numbers)												
Management Fee	\$	-	\$ 62,520	\$ 63,770	\$ 65,046	\$ 66,347	\$ 67,674	\$ 69,027	\$ 70,408	\$ 71,816	\$ 73,252	\$ 74,717
Maintenance / Contracts / Asset Fee	\$	-	\$ 140,000	\$ 142,800	\$ 145,656	\$ 148,569	\$ 151,541	\$ 154,571	\$ 157,663	\$ 160,816	\$ 164,032	\$ 167,313
Deposit to replacement reserve	\$	-	\$ 9,000	\$ 9,180	\$ 9,364	\$ 9,551	\$ 9,742	\$ 9,937	\$ 10,135	\$ 10,338	\$ 10,545	\$ 10,756
Insurance	\$	-	\$ 30,000	\$ 30,600	\$ 31,212	\$ 31,836	\$ 32,473	\$ 33,122	\$ 33,785	\$ 34,461	\$ 35,150	\$ 35,853
Other / Marketing / Utilities	\$	-	\$ 55,000	\$ 56,100	\$ 57,222	\$ 58,366	\$ 59,534	\$ 60,724	\$ 61,939	\$ 63,178	\$ 64,441	\$ 65,730
Operating Expenses	24%	\$	296,520	\$ 302,450	\$ 308,499	\$ 314,669	\$ 320,963	\$ 327,382	\$ 333,930	\$ 340,608	\$ 347,420	\$ 354,369
Pre-Tax Operating Income (Revenue less Operating Expenses)	\$	-	\$ 953,880	\$ 972,958	\$ 992,417	\$ 1,012,265	\$ 1,032,510	\$ 1,053,161	\$ 1,074,224	\$ 1,095,708	\$ 1,117,622	\$ 1,139,975
Real Property Taxes (assuming no PILOT)*		\$	227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524
Net Operating Income (NOI) after Taxes	\$	-	\$ 726,356	\$ 745,434	\$ 764,893	\$ 784,741	\$ 804,986	\$ 825,637	\$ 846,700	\$ 868,184	\$ 890,098	\$ 912,451
Loan or Mortgage (Debt Service)												
Interest Payment	\$	-	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506
Principal Payment	\$	-	\$ -	\$ -	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379
Refinance - Continue mortgage												
Debt Service	\$	-	\$ 696,506	\$ 696,506	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885
Cash Flow After Financing and Reserve	\$	-	\$ 29,850	\$ 48,928	\$ (51,992)	\$ (32,144)	\$ (11,898)	\$ 8,752	\$ 29,815	\$ 51,300	\$ 73,214	\$ 95,566
Cash on Cash / Average	0.7%			1.36%	-1.44%	-0.89%	-0.33%	0.24%	0.83%	1.42%	2.03%	2.65%
Debt Service Coverage Ratio (DSCR)			1.04	1.07	0.94	0.96	0.99	1.01	1.04	1.06	1.09	1.12
Equity Dividend Rate			0.83%	1.36%	-1.44%	-0.89%	-0.33%	0.24%	0.83%	1.42%	2.03%	2.65%

## Reasonableness Assessment for 6812 Main Street, LLC – Town of Amherst Industrial Development Agency

6810 Main Street	Date	10/16/2024										
Annual Cashflows (Pro Forma) - PILOT												
	Construction	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Operating Cash Flow												
Residential Income												
Gross Operating Income	\$ -	\$ 852,000	\$ 869,040	\$ 886,421	\$ 904,149	\$ 922,232	\$ 940,677	\$ 959,490	\$ 978,680	\$ 998,254	\$ 1,018,219	
Less: Vacancy Allowance (enter as a negative number)	\$ -	\$ (42,600)	\$ (43,452)	\$ (44,321)	\$ (45,207)	\$ (46,112)	\$ (47,034)	\$ (47,975)	\$ (48,934)	\$ (49,913)	\$ (50,911)	
Net Rental Income, Residential	\$ -	\$ 809,400	\$ 825,588	\$ 842,100	\$ 858,942	\$ 876,121	\$ 893,643	\$ 911,516	\$ 929,746	\$ 948,341	\$ 967,308	
Commercial/Industrial Income												
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Less: Vacancy Allowance (enter as a negative number)	\$ -	\$ (21,000)	\$ (21,420)	\$ (21,848)	\$ (22,285)	\$ (22,731)	\$ (23,186)	\$ (23,649)	\$ (24,122)	\$ (24,605)	\$ (25,097)	
Net Rental Income, Commercial/Industrial	\$ -	\$ 399,000	\$ 406,980	\$ 415,120	\$ 423,422	\$ 431,890	\$ 440,528	\$ 449,339	\$ 458,326	\$ 467,492	\$ 476,842	
Other Income												
Parking Income	\$ -	\$ 21,000	\$ 21,420	\$ 21,848	\$ 22,285	\$ 22,731	\$ 23,186	\$ 23,649	\$ 24,122	\$ 24,605	\$ 25,097	
Other Income / Late Fees / Pet Rent	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Other Income	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Net Income, Other	\$ -	\$ 21,000	\$ 21,420	\$ 21,848	\$ 22,285	\$ 22,731	\$ 23,186	\$ 23,649	\$ 24,122	\$ 24,605	\$ 25,097	
Effective Gross Income (EGI)	\$ -	\$ 1,229,400	\$ 1,253,988	\$ 1,279,068	\$ 1,304,649	\$ 1,330,742	\$ 1,357,357	\$ 1,384,504	\$ 1,412,194	\$ 1,440,438	\$ 1,469,247	
Operating Expenses (enter positive numbers)												
Salaries and Wages	\$ -	\$ 62,520	\$ 63,770	\$ 65,046	\$ 66,347	\$ 67,674	\$ 69,027	\$ 70,408	\$ 71,816	\$ 73,252	\$ 74,717	
Maintenance / Contracts / Asset Fee	\$ -	\$ 140,000	\$ 142,800	\$ 145,656	\$ 148,569	\$ 151,541	\$ 154,571	\$ 157,663	\$ 160,816	\$ 164,032	\$ 167,313	
Deposit to replacement reserve	\$ -	\$ 9,000	\$ 9,180	\$ 9,364	\$ 9,551	\$ 9,742	\$ 9,937	\$ 10,135	\$ 10,338	\$ 10,545	\$ 10,756	
Insurance	\$ -	\$ 30,000	\$ 30,600	\$ 31,212	\$ 31,836	\$ 32,473	\$ 33,122	\$ 33,785	\$ 34,461	\$ 35,150	\$ 35,853	
Other / Marketing / Utilities	\$ -	\$ 55,000	\$ 56,100	\$ 57,222	\$ 58,366	\$ 59,534	\$ 60,724	\$ 61,939	\$ 63,178	\$ 64,441	\$ 65,730	
Operating Expenses	24%	\$ 296,520	\$ 302,450	\$ 308,499	\$ 314,669	\$ 320,963	\$ 327,382	\$ 333,930	\$ 340,608	\$ 347,420	\$ 354,369	
Pre-Tax Operating Income (Revenue less Operating Expenses)	\$ -	\$ 932,880	\$ 951,538	\$ 970,568	\$ 989,980	\$ 1,009,779	\$ 1,029,975	\$ 1,050,574	\$ 1,071,586	\$ 1,093,018	\$ 1,114,878	
Real Property Taxes (assuming PILOT)*		\$ 109,164	\$ 117,351	\$ 126,224	\$ 126,224	\$ 135,096	\$ 135,096	\$ 143,969	\$ 143,969	\$ 152,841	\$ 161,714	
Net Operating Income (NOI) after Taxes	\$ -	\$ 823,716	\$ 834,187	\$ 844,344	\$ 863,756	\$ 874,683	\$ 894,879	\$ 906,605	\$ 927,617	\$ 940,177	\$ 953,164	
Loan or Mortgage (Debt Service)												
Interest Payment		\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	\$ 696,506	
Principal Payment		\$ -	\$ -	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	\$ 120,379	
Refinance - Continue mortgage												
Debt Service	\$ -	\$ 696,506	\$ 696,506	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	\$ 816,885	
Cash Flow After Financing and Reserve	\$ -	\$ 127,210	\$ 137,681	\$ 27,460	\$ 46,871	\$ 57,799	\$ 77,994	\$ 89,721	\$ 110,732	\$ 123,292	\$ 136,279	
Cash on Cash / Average	2.5%		3.82%	0.76%	1.30%	1.61%	2.17%	2.49%	3.08%	3.42%	3.79%	
Debt Service Coverage Ratio (DSCR)		1.18	1.20	1.03	1.06	1.07	1.10	1.11	1.14	1.15	1.17	
Equity Dividend Rate		3.53%	3.82%	0.76%	1.30%	1.61%	2.17%	2.49%	3.08%	3.42%	3.79%	

## Appendix A: Scope of Services

To assist with its evaluation of the Applicant's request for financial assistance, Camoin was commissioned by the Town of Amherst Industrial Development Agency to conduct the above analyses. The analyses are comprised of four tasks:

- ◆ *Test Assumptions* by comparing rents, operating costs, and vacancy rates to real estate benchmarks for similar projects and noting any significant differences. Operating performance and net income are also evaluated.
- ◆ *Review the Financing Plan* and perform an objective third-party evaluation of the estimated return on investment (ROI) to the Applicant with and without a PILOT agreement. We also analyze whether the capital structure and terms of the long-term debt are within market benchmarks for obtaining bank financing.
- ◆ *Evaluate the effects of one or more PILOTs* recommended by the Agency and determine whether the PILOT would result in a return that is within what would normally be anticipated in the current market for a similar project.
- ◆ *Provide an objective, third-party opinion* about the need for and reasonableness of the financial assistance.

### Sources Consulted

- ◆ Project financing and annual cashflow workbook submitted by the Applicant in October 2024.
- ◆ Real estate tax information and estimates received from the Agency, including anticipated future assessed value of the Project.
- ◆ CoStar
- ◆ RealtyRates.com
- ◆ National Apartment Association 2020 Survey of Operating Income and Expenses in Rental Apartment Communities



CoStar is the leading source of commercial real estate intelligence in the U.S. It provides a full market inventory of properties and spaces—available as well as fully leased—by market and submarket. Details on vacancy, absorption, lease rates, inventory, and other real estate market data are provided, as well as property-specific information including photos and floor plans. More at **[www.costar.com](http://www.costar.com)**.



RealtyRates.com™ is a comprehensive resource for real estate investment and development news, trends, analytics, and market research that supports real estate professionals involved with more than 50 income producing and sell-out property types throughout the US. RealtyRates.com™ is the publisher of the award-winning Investor, Developer and Market Surveys, providing data essential to the appraisal, evaluation, disposition and marketing of investment and development real estate nationwide.



## APPENDIX B: DEFINITIONS

**Equity Dividend Rate:** This is calculated as the rate of return on the equity component of a project. It is calculated as follows: (Source: RealtyRates.com)

$$\text{Equity Dividend} / \text{Equity Investment} = \text{Equity Dividend Rate, where Equity Dividend} = \text{Net Operating Income} - \text{Debt Service.}$$

**Debt Service Coverage Ratio (DSCR):** The ratio of annual debt repayment, including principal and interest, to total Net Operating Income (NOI). (Source: RealtyRates.com)

**Net Operating Income (NOI):** Income net of all operating costs including vacancy and collection loss but not including debt service. Appraisers also typically expense reserves for repairs and replacements. However, because reserves are not usually reported along with other transaction data, RealtyRates.com tracks lender requirements but does not include them in calculations. (Source: RealtyRates.com)

## ABOUT CAMOIN ASSOCIATES

Camoin Associates has provided economic development consulting services to municipalities, economic development agencies, and private enterprises since 1999. Through the services offered, Camoin Associates has had the opportunity to serve EDOs and local and state governments from Maine to California; corporations and organizations that include Lowes Home Improvement, FedEx, Amazon, Volvo (Nova Bus) and the New York Islanders; as well as private developers proposing projects over \$6 billion. Our reputation for detailed, place-specific, and accurate analysis has led to projects in 32 states and garnered attention from national media outlets including Marketplace (NPR), Crain's New York Business, Forbes magazine, The New York Times, and The Wall Street Journal. Additionally, our marketing strategies have helped our clients gain both national and local media coverage for their projects to build public support and leverage additional funding. We are based in Saratoga Springs, NY, with regional offices in Portland, ME; Boston, MA; Richmond, VA and Brattleboro, VT. To learn more about our experience and projects in all of our service lines, please visit our website at [www.camoinassociates.com](http://www.camoinassociates.com). You can also find us on Twitter [@camoinassoc](https://twitter.com/camoinassoc) and [Facebook](#) and [LinkedIn](#).

### THE PROJECT TEAM

Thomas Galvin  
*Real Estate Specialist*

Town of Amherst Industrial Development Agency

MRB Cost Benefit Calculator

Date: October 17, 2024  
Project Title: 6812 Main Street Mixed-Use Workforce Housing  
Project Location: 6812 Main Street, 14221



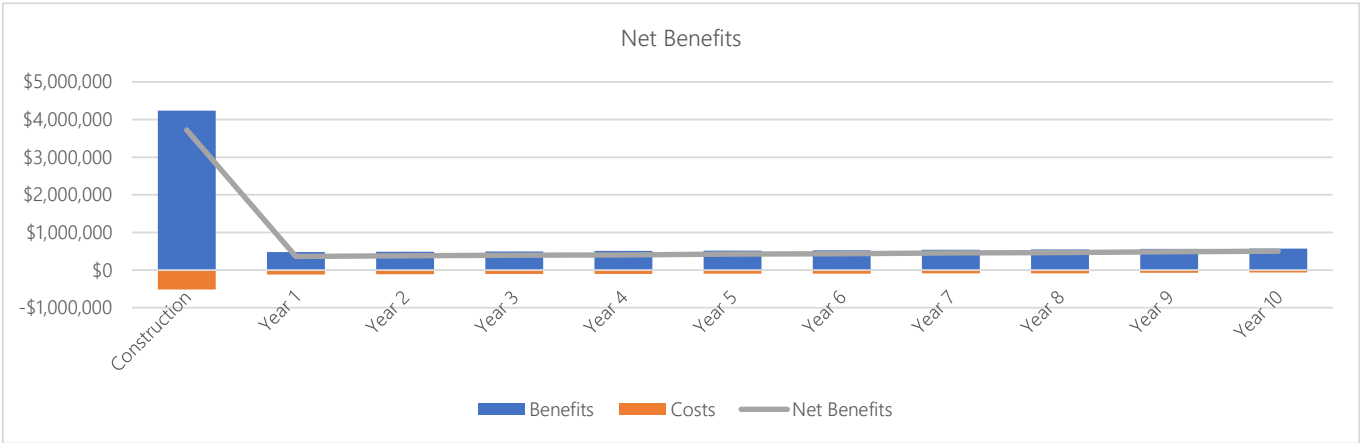
Economic Impacts

Summary of Economic Impacts over the Life of the PILOT  
Project Total Investment  
\$14,370,000

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	35	12	47
Earnings	\$3,276,308	\$722,192	\$3,998,500
Local Spend	\$8,500,000	\$1,952,830	\$10,452,830

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	7	2	9
Earnings	\$3,494,593	\$1,411,895	\$4,906,489

Figure 1



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

Figure 2

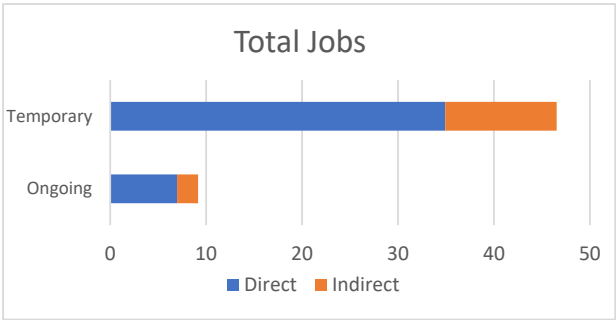
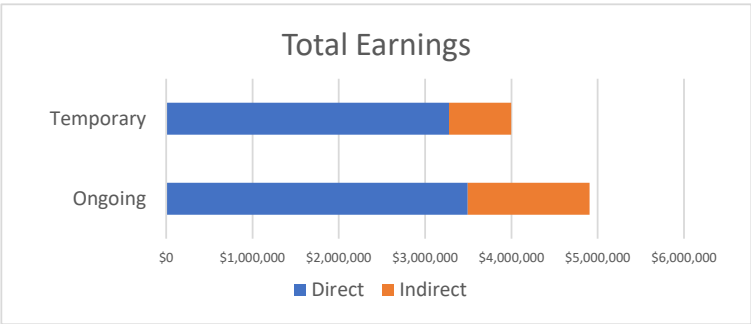


Figure 3



# Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

## Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$923,592	\$837,297
Sales Tax Exemption	\$436,406	\$436,406
Local Sales Tax Exemption	\$236,906	\$236,906
State Sales Tax Exemption	\$199,500	\$199,500
Mortgage Recording Tax Exemption	\$80,775	\$80,775
Local Mortgage Recording Tax Exemption	\$26,925	\$26,925
State Mortgage Recording Tax Exemption	\$53,850	\$53,850
<b>Total Costs</b>	<b>\$1,440,773</b>	<b>\$1,354,478</b>

## State and Local Benefits

	Nominal Value	Discounted Value*
<b>Local Benefits</b>	<b>\$10,005,724</b>	<b>\$9,376,129</b>
To Private Individuals	<b>\$8,904,989</b>	<b>\$8,391,856</b>
Temporary Payroll	\$3,998,500	\$3,998,500
Ongoing Payroll	\$4,906,489	\$4,393,356
Other Payments to Private Individuals	\$0	\$0
To the Public	<b>\$1,100,734</b>	<b>\$984,272</b>
Increase in Property Tax Revenue	\$1,004,308	\$894,456
Temporary Jobs - Sales Tax Revenue	\$33,238	\$33,238
Ongoing Jobs - Sales Tax Revenue	\$63,189	\$56,579
Other Local Municipal Revenue	\$0	\$0
<b>State Benefits</b>	<b>\$481,926</b>	<b>\$453,268</b>
To the Public	<b>\$481,926</b>	<b>\$453,268</b>
Temporary Income Tax Revenue	\$179,933	\$179,933
Ongoing Income Tax Revenue	\$220,792	\$197,701
Temporary Jobs - Sales Tax Revenue	\$27,990	\$27,990
Ongoing Jobs - Sales Tax Revenue	\$53,212	\$47,645
<b>Total Benefits to State &amp; Region</b>	<b>\$10,487,649</b>	<b>\$9,829,397</b>

## Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$9,376,129	\$1,101,128	9:1
State	\$453,268	\$253,350	2:1
<b>Grand Total</b>	<b>\$9,829,397</b>	<b>\$1,354,478</b>	<b>7:1</b>

\*Discounted at 2%

## Additional Comments from IDA

Prepared by DM

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

**RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING A PROJECT CONSISTING OF THE CONSTRUCTION AND EQUIPPING OF A 5-STORY MIXED-USE BUILDING BY 6812 MAIN STREET, LLC TO BE LOCATED AT 6812, 6814 AND 6832 MAIN STREET AND 29 & 37 TENNYSON TERRACE IN AMHERST, NEW YORK, FOR LEASE OR SALE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO AN INSTALLMENT SALE CONTRACT TO 6812 MAIN STREET, 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**, 6812 Main Street, 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 6812, 6814 and 6832 Main Street and 29 & 27 Tennyson Terrace in Amherst, New York (the “Premises”); (ii) the demolition of existing on-site structures and the construction of a five-story, mixed-use building totaling approximately 61,600 square feet and consisting of 34 apartments (seven of which will be designated for workforce housing), 14,000 square feet of first floor commercial space, and related site improvements (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 mixed-use building containing commercial space, apartments that will include a workforce housing component that will apply to twenty percent (20%) of units, and related on-site improvements located at 6812, 6814 and 6832 Main Street and 29 & 37 Tennyson Terrace in Amherst, New York for commercial purposes, all at a cost of \$14,370,000.00; that the Company anticipates that one (1) new full-time equivalent job 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**, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on November 7, 2024, 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 retained Camoin Associates (“Camoin”) to prepare an independent reasonableness assessment to evaluate whether the financial assistance to be provided by the Agency is necessary for the Project to be financially feasible, and Camoin concluded in its written report that the proposed PILOT is necessary for the Project to achieve positive cash flow; 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 Company has completed and submitted to the Agency Part 1 of an Environmental Assessment Form (“EAF”) in accordance with the provisions of the State Environmental Quality Review Act and regulations adopted pursuant thereto (collectively, “SEQRA”); and

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

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

**Section 1.** The Agency hereby resolves that the proposed Project will not have a significant impact on the environment for the reasons more particularly set forth in the negative declaration prepared by the Agency and, in accordance with SEQRA, hereby adopts such negative declaration with regard to the Project. A copy of the EAF and negative declaration is attached hereto as Exhibit A.

**Section 2.** The Project is described in the recitals to this Resolution. The financial

assistance to be provided in connection therewith include: (i) 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 \$4,987,500.00 and which shall not include tenant finishings or equipment with respect to the non-housing elements of the Project; (ii) an exemption from mortgage recording taxes for one or more mortgages having a principal amount not to exceed \$10,770,000.00; and (iii) 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 \$12,214,500.00 at the Project location as noted in the Application;
- (b) Creation of one (1) direct full-time equivalent job and maintenance of employment throughout the term of the PILOT Agreement;
- (c) Compliance with the Agency's Local Labor Policy in connection with the construction of the Project; and
- (d) Maintaining twenty percent (20%) of the total housing 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 further determines that the Project is consistent with the Countywide Industrial Development Agency Uniform Tax Exemption Policy. The Agency makes the following findings and determinations with respect to the Project:

The Project is for a commercial purpose within meaning of the Act and the Project will promote employment opportunities in the municipality in which the Project is to be located. The Project is located in a Town Designated Enhancement Area within the part of the Town of Amherst that has been identified as appropriate for mixed-use development of the kind proposed by the Company. The Project is generally consistent with the policies of the Town of Amherst Bicentennial Comprehensive Plan. The construction of the Project will promote employment opportunities by designating twenty percent (20%) of the housing 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 help prevent economic deterioration through the reuse of a site that presently includes an outdated retail plaza and a single family residence that will be demolished.

**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 agent of the Agency, to initiate the construction of the building and improvements 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 \$4,987,500.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company, or any tenant finishings or equipment with respect to the non-housing elements of the Project. 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 Company 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 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 subject to the Agency exemption shall not exceed \$10,770,000.00. 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 the 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 and use 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 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.** Certain construction work done under contract in connection with financial assistance from the Agency may be subject to the requirements of Section 224-a of the Labor Law of the State, including without limitation the requirement that such construction be subject to the prevailing wage requirements of Sections 220 and 220-b of the Labor Law. In addition, such construction work may be required by Section 224-a of the Labor Law to comply with the objectives and goals of minority and women-owned business enterprises pursuant to Article 15-A of the Executive Law and service-disabled veteran-owned business pursuant to Article 17-B of the Executive Law. The Company acknowledges receipt of notice pursuant to Section 224-a(8)(d) of the Labor Law that the sales and use tax exemption benefit amount referred to in Section 8.5(d) and real property tax benefit amount referred to herein are "public funds" and not otherwise excluded under Section 224-a(3) of the New York Labor Law. The Company represents and warrants that it understands the requirements of Section 224-a of the Labor Law and the applicability of such requirements to the Project and shall comply therewith.

**Section 18.** This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: November 22, 2024

ACCEPTED AND AGREED TO: \_\_\_\_\_, 2024

**6812 Main Street, LLC**

By: \_\_\_\_\_

Name:

Title:

**Exhibit A**

**EAF and Negative Declaration**

See attached.

# *Short Environmental Assessment Form*

## *Part 1 - Project Information*

### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. 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.

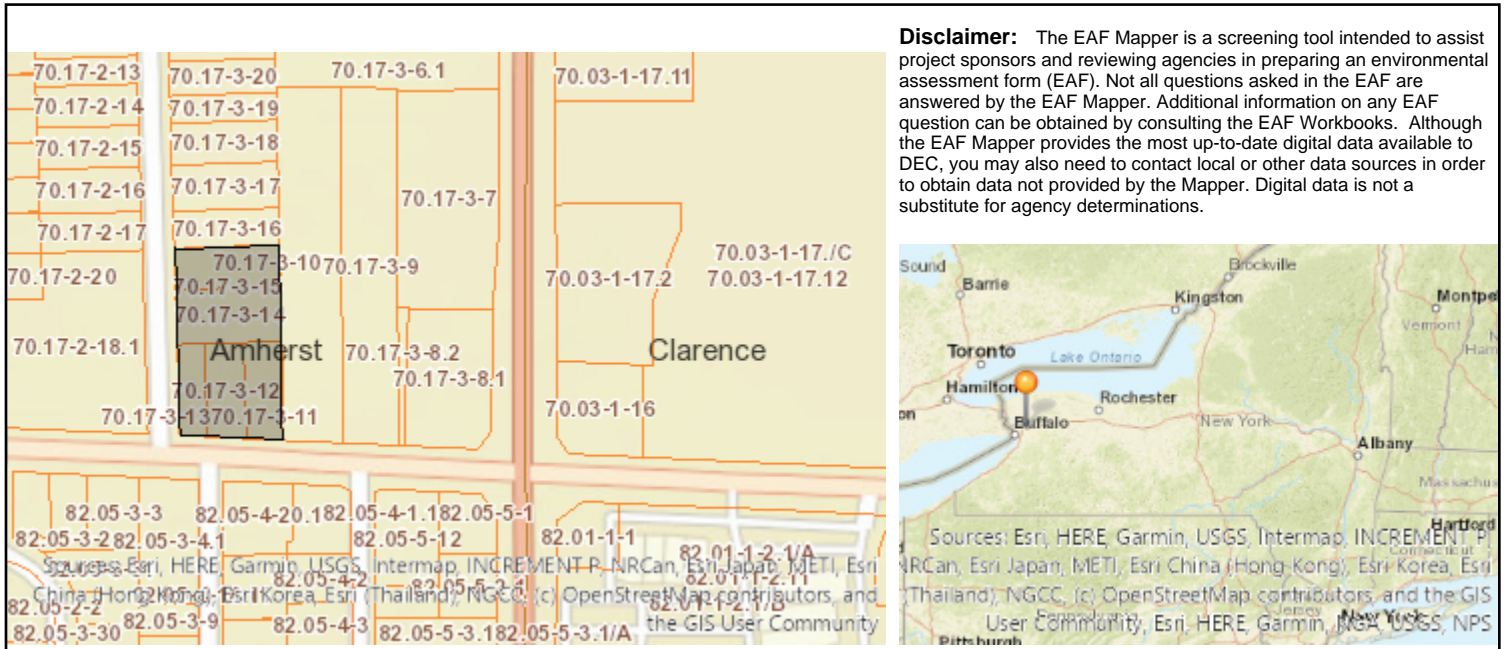
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action:				
Name of Applicant or Sponsor:			Telephone:	
			E-Mail:	
Address:				
City/PO:		State:	Zip Code:	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO	YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<input type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency?			NO	YES
If Yes, list agency(s) name and permit or approval:			<input type="checkbox"/>	<input type="checkbox"/>
3.   a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned _____ acres or controlled by the applicant or project sponsor?				
4. Check all land uses that occur on, are adjoining or near the proposed action: 5.       Urban       Rural (non-agriculture)       Industrial       Commercial       Residential (suburban) <input type="checkbox"/> Forest       Agriculture       Aquatic       Other(Specify): <input type="checkbox"/> Parkland				

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. 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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
A copy of the No Impact Determination Letter issued by SHPO is provided at Attachment "A"	<input type="checkbox"/>	<input type="checkbox"/>	
b. 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?			
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			



# EAF Mapper Summary Report



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	Yes
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	No
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

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**Attachment A of Short Environmental  
Assessment Form – SHPO No Impact  
Determination Letter dated March 11, 2024**

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**New York State  
Parks, Recreation and  
Historic Preservation**

**KATHY HOCHUL**  
Governor

**RANDY SIMONS**  
Commissioner Pro Tempore

March 11, 2024

Scott Marshall  
Principal Planner  
Town of Amherst  
5583 Main Street  
Williamsville, NY 14221

Re: DEC  
Proposed Mixed Use "The Chuck"  
6812 Main St, Town of Amherst, Erie County, NY  
24PR02011

Dear Scott Marshall:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the project in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the OPRHP and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project.

Based upon this review, it is the opinion of OPRHP that no properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places will be impacted by this project.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above. If you have any questions, please contact Sydney Snyder at the following email address:

[Sydney.Snyder@parks.ny.gov](mailto:Sydney.Snyder@parks.ny.gov)

Sincerely,

R. Daniel Mackay

Deputy Commissioner for Historic Preservation  
Division for Historic Preservation

Project:

Date:

## *Short Environmental Assessment Form*

### *Part 2 - Impact Assessment*

**Part 2 is to be completed by the Lead Agency.**

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Agency Use Only [If applicable]  
Project:   
Date:

***Short Environmental Assessment Form  
Part 3 Determination of Significance***

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

The project redevelops an existing commercial plaza on a State arterial (Main Street - Route 5) that was originally developed in the 1970's. The mixed use project that will be constructed on the site after the demolition and site work has a goal of improving pedestrian connections at the property and its connection to the larger transportation system.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Amherst Industrial Development Agency	November 14, 2024
_____ Name of Lead Agency	_____ Date
David Mingola	Executive Director/CEO
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

**PRINT FORM**

# PROJECT PROFILE: NED-NEW ENERGY SOLAR 8, LLC COMMUNITY SOLAR \$10,330,944 November 22, 2024



## ELIGIBILITY

- Renewable Energy Project under NYS IDA Law
- Eligible Project Under Uniform Tax Exemption Policy

## COMPANY INCENTIVES (EST.)

- Mortgage Tax = \$76,025
- Sales Tax = \$217,392

## PROJECT BENEFITS (EST.)

- Property Taxes = \$659,376 (\$4,700 per MW increasing 2% a year for 25 years)
- Income Tax = \$197,662
- Sales Tax = \$67,259

## EMPLOYMENT

- 44 Construction and Related Jobs Created
- 2 Part-Time Jobs Created
- Total Payroll of New Jobs = \$16,000

## PROJECT SCHEDULE

- April 2025 - Work Begins
- October 2025 - Project Complete

## Project Address:

1050 New Road  
Amherst, New York 14228  
(Williamsville School District)

## Investment:

Land: \$1,259,861  
Construction: \$8,219,043  
Soft/Other costs: \$852,040



## Project Description:

National Energy Development, LLC (NED) is a renewable energy company operating in the Northeast with over 70 megawatts (MW) under development.

The applicant is seeking to develop a 4.384 MW community solar farm on approximately 40 acres of land at 1050 New Road. The renewable electricity generated by the system is fed directly into the local utility distribution system, where it can then be purchased by area homes and businesses as credits against their electricity bill. The expected electric generation capacity of this project is enough to power about 1,000 homes. NED anticipates that this project will be transferred to an equity investor in order to claim federal tax credits as is the case in most solar projects across the industry. Three residential lots that were part of the Town of Amherst site plan approval are not part of the AIDA project.

This project meets NY's Climate Leadership and Community Protection Act which includes a target of 70% renewable energy generation by 2030 with a goal of a zero emissions electricity sector by 2040. In 2022, General Municipal Law was amended to include language specifically for Industrial Development Agencies to support renewable energy projects. In addition, the New York State Energy Research and Development Authority developed a guidebook and guidelines for siting and incentivizing solar facilities including a PILOT calculator. Locally, the town introduced zoning for solar projects and determined which sites were suitable, mainly properties that have little market value for other uses. The applicant intends to engage local skilled labor and vendors for maintenance and other ground related tasks.

IDAs play an important role as we manage the project on behalf of all taxing jurisdictions and provide certainty for financiers of the project. Under state law, solar projects are exempt from property taxes but for negotiated local PILOTS. The applicant is required per the Town's granting a special use permit to provide a performance bond to remove the solar panels after the useful life of the project is complete.

**PROJECT PROFILE:  
NED-NEW ENERGY SOLAR 8, LLC COMMUNITY SOLAR  
\$10,330,944**

**Page 2**

**AIDA COMPANY HISTORY:**

None

**MATERIAL TERMS:**

1. Investment of not less than \$8,781,302 at the project location as noted in the application.
2. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project
3. Execution and delivery of Community Benefit Agreement with Town of Amherst
4. Creation within two (2) years of Project completion of two new part-time jobs and retention of such jobs throughout the Compliance Period

**AIDA Project Evaluation Criteria - Energy Production**

Advances Renewable Energy Production/Transmission Goals	Adds clean, renewable energy source to meet NYS renewable energy goals.
Provides Capacity or Transmission to Meet Local Demand	Adds additional source of community solar for local residents to opt in to.
Wage Rates	2 part-time jobs created with total payroll of \$16,000. Project Construction is also subject to Prevailing Wage.
In Region Purchases	The applicant will be sourcing local for vegetation maintenance and other services such as snow plowing and equipment operation and maintenance.
Local Official(s) Support	The Town supports the PILOT and requested AIDA approval prior to approving a special use permit.

# Town of Amherst Industrial Development Agency

## MRB Cost Benefit Calculator

Date October 22, 2024  
 Project Title NED - New Energy Solar 8, LLC Tier III Solar Energy Project  
 Project Location 1050 New Road, Amherst 14228



## Economic Impacts

Summary of Economic Impacts over the Life of the PILOT

Project Total Investment

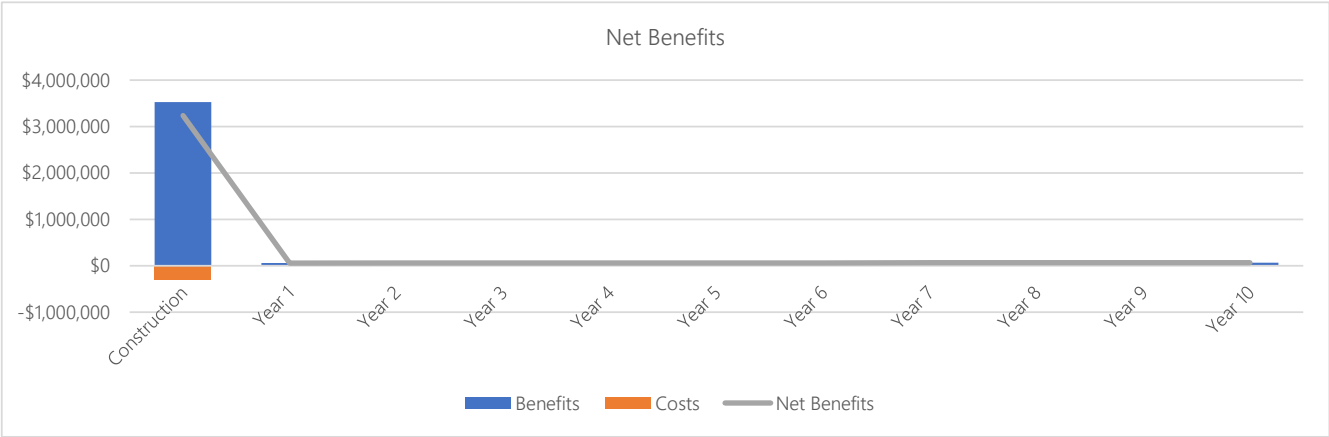
\$10,330,994

Temporary (Construction)			
	Direct	Indirect	Total
Jobs	23	20	44
Earnings	\$2,156,057	\$1,172,003	\$3,328,059
Local Spend	\$5,165,497	\$3,633,511	\$8,799,008

Ongoing (Operations)			
Aggregate over life of the PILOT			
	Direct	Indirect	Total
Jobs	1	1	2
Earnings	\$493,519	\$570,903	\$1,064,423

Figure 1



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

Figure 2

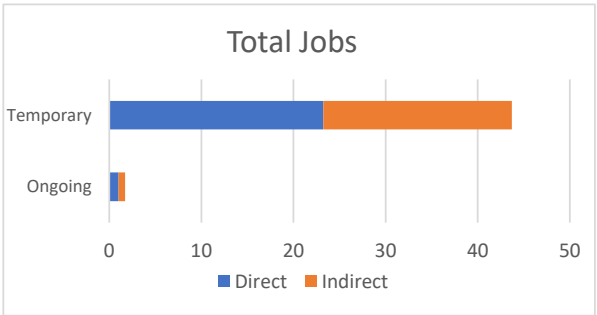
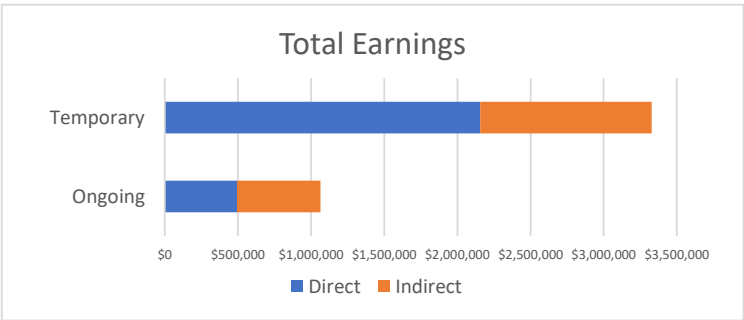


Figure 3



## Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

### Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$0	\$0
Sales Tax Exemption	\$217,392	\$217,392
Local Sales Tax Exemption	\$118,013	\$118,013
State Sales Tax Exemption	\$99,379	\$99,379
Mortgage Recording Tax Exemption	\$76,025	\$76,025
Local Mortgage Recording Tax Exemption	\$25,342	\$25,342
State Mortgage Recording Tax Exemption	\$50,683	\$50,683
<b>Total Costs</b>	<b>\$293,417</b>	<b>\$293,417</b>

### State and Local Benefits

	Nominal Value	Discounted Value*
<b>Local Benefits</b>	<b>\$5,088,371</b>	<b>\$4,681,981</b>
<b>To Private Individuals</b>	<b>\$4,392,482</b>	<b>\$4,142,984</b>
Temporary Payroll	\$3,328,059	\$3,328,059
Ongoing Payroll	\$1,064,423	\$814,925
Other Payments to Private Individuals	\$0	\$0
<b>To the Public</b>	<b>\$695,888</b>	<b>\$538,997</b>
Increase in Property Tax Revenue	\$659,376	\$504,559
Temporary Jobs - Sales Tax Revenue	\$27,664	\$27,664
Ongoing Jobs - Sales Tax Revenue	\$8,848	\$6,774
Other Local Municipal Revenue	\$0	\$0
<b>State Benefits</b>	<b>\$228,409</b>	<b>\$215,435</b>
<b>To the Public</b>	<b>\$228,409</b>	<b>\$215,435</b>
Temporary Income Tax Revenue	\$149,763	\$149,763
Ongoing Income Tax Revenue	\$47,899	\$36,672
Temporary Jobs - Sales Tax Revenue	\$23,296	\$23,296
Ongoing Jobs - Sales Tax Revenue	\$7,451	\$5,704
<b>Total Benefits to State &amp; Region</b>	<b>\$5,316,780</b>	<b>\$4,897,417</b>

### Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$4,681,981	\$143,354	33:1
State	\$215,435	\$150,063	1:1
<b>Grand Total</b>	<b>\$4,897,417</b>	<b>\$293,417</b>	<b>17:1</b>

\*Discounted at 2%

### Additional Comments from IDA

Prepared by DM

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

**RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE CONSTRUCTION AND EQUIPPING OF A 4.384 MEGAWATT (MW) AC GROUND MOUNTED, UTILITY GRADE COMMUNITY SOLAR ELECTRIC GENERATING FACILITY BY NED-NEW ENERGY SOLAR 8 LLC TO BE LOCATED IN THE TOWN OF AMHERST, NEW YORK, FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASE TO NED-NEW ENERGY SOLAR 8 LLC, THE EXECUTION OF LEASE AGREEMENTS, MORTGAGE AGREEMENT AND 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**, NED-New Energy Solar 8 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 a 39.6+/- acre parcel of vacant land located at 1050 New Road in Amherst, New York (the “Premises”); (ii) the construction and equipping of an approximately 4.384 megawatt (MW) AC community solar electric generating facility, including panels, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, screening and related improvements (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 an approximately 4.384 megawatt (MW) AC community solar electric generating facility and related on-site improvements, to be located on approximately 39.6+/- acres of a 42.8 acre site located at 1050 New Road in Amherst, New York, all at a cost of approximately \$10,330,994.00; 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**, as set forth in the Countywide Uniform Tax Exemption Policy (the “UTEP”), renewable energy projects are eligible for financial assistance from the Agency and PILOT agreements structured with payments based upon a formula expressed as a dollar value per megawatt (MW) multiplied by the total MWs to be generated by the project are deemed to be in compliance



with the UTEP and are not considered a deviation from the UTEP; and

**WHEREAS**, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on November 7, 2024, 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 Project advances renewable energy production and provides capacity or transmission to meet local demand, 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; and

**WHEREAS**, it is anticipated that the Company and the Town of Amherst will enter into a host community agreement in connection with the Project (the “Host Community Agreement”); and

**WHEREAS**, the Town of Amherst Planning Board (the “Planning Board”) acted as “lead agency” under the State Environmental Quality Review Act (ECL Article 8 and its implementing regulations at 6 NYCRR Part 617) (“SEQRA”) for the project, and determined that the Project was a Type I action, and the Company provided to the Agency a copy of the Company’s completed Part 1 of the long-form Environmental Assessment Form (“EAF”); and

**WHEREAS**, on June 25, 2024, the Planning Board issued a negative declaration under SEQRA with respect to the Project. A copy of the EAF and the negative declaration is attached hereto as Exhibit A (the “Negative Declaration”).

**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 EAF, and the Planning Board’s SEQRA determination, 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 by the Agency in connection with the Project includes: (i) 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 \$2,484,485.00; (ii) an exemption from mortgage recording taxes for one or more mortgages having a principal amount not to exceed \$10,136,787.00; and and (ii) a twenty-five (25) year partial abatement from real property taxes consistent with the renewable energy PILOT schedule as set forth in the UTEP and in accordance with the payment in lieu of tax schedule set forth in Exhibit B attached hereto (the “Financial Assistance”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”) 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) Investment of no less than \$8,781,302.00 at the Project location as noted in the Application;
- (c) Execution and delivery of a Community Benefit Agreement between the Company and the Town of Amherst; and
- (d) Creation within two (2) years of Project completion two (2) new part-time jobs and retention of such jobs throughout the Compliance Period.

**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 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 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 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 \$2,484,485.00 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”), to acquire an interest in the Project site and construct a facility thereon, and execute and deliver a lease by the Company 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, 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 a form satisfactory to Agency counsel. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or Assistant Secretary are each hereby 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 subject to the Agency exemption shall not exceed \$10,136,787.00. 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 to 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 term, 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) any exemption from mortgage recording tax received by reason of the Agency’s involvement with the Project and/or (y) 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, and/or (z) any exemption from real property taxes received by reason of the Agency’s leasehold interest in 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 Documents, 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 (except for the obligations in this Section 15), 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, 11 and 15 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 to complete such transactions.

**Section 17.** Certain construction work done under contract in connection with financial

assistance from the Agency may be subject to the requirements of Section 224-a of the Labor Law of the State, including without limitation the requirement that such construction be subject to the prevailing wage requirements of Sections 220 and 220-b of the Labor Law. In addition, such construction work may be required by Section 224-a of the Labor Law to comply with the objectives and goals of minority and women-owned business enterprises pursuant to Article 15-A of the Executive Law and service-disabled veteran-owned business pursuant to Article 17-B of the Executive Law. The Company acknowledges receipt of notice pursuant to Section 224-a(8)(d) of the Labor Law that the sales and use tax exemption benefit amount referred to in Section 8.5(d) and real property tax benefit amount referred to herein are “public funds” and not otherwise excluded under Section 224-a(3) of the New York Labor Law. The Company represents and warrants that it understands the requirements of Section 224-a of the Labor Law and the applicability of such requirements to the Project and shall comply therewith.

**Section 18.** This Resolution is subject to the Company’s receipt of all necessary municipal approvals in connection with the Project and compliance with all local building and zoning requirements.

ADOPTED: November 22, 2024

ACCEPTED AND AGREED TO: November\_\_\_\_, 2024.

**NED-New Energy Solar 8 LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**EAF and Negative Declaration**

See attached.

**Full Environmental Assessment Form  
Part 1 - Project and Setting**



**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: Solar Energy Development and 3 Lot Residential Subdivision		
Project Location (describe, and attach a general location map): 1050 New Road, Amherst, NY 14228		
Brief Description of Proposed Action (include purpose or need): This Project consists of:  1) a proposed Tier III Solar Energy Project on the rear approximately 39.6 acres of an approximately 42.8 acres site (actual solar project located to rear 21.9 acres with 9.7 acres to remain vacant in middle of parcel) with a private driveway on New Road for access with the Solar Energy System size being 4.384 MW; and  2) a three-lot residential subdivision fronting upon New Road with lot sizes of 1.09 acres, 1.09 acres and 1.02 acres.  Project is a Type 1 Action per SEQRA because it constitutes the physical alteration of 10 or more acres.		
Name of Applicant/Sponsor: NED-NEW ENERGY SOLAR 8 LLC	Telephone: 716.683.2505 E-Mail: paul@NSTsolar.com	
Address: 166 Taylor Drive		
City/PO: Buffalo	State: NY	Zip Code: 14043
Project Contact (if not same as sponsor; give name and title/role): Peter J. Sorgi, Esq., Project Attorney	Telephone: 716.908.3289 E-Mail: psorgi@hsmlegal.com	
Address: 726 Main Street, Suite B		
City/PO: East Aurora	State: NY	Zip Code: 14052
Property Owner (if not same as sponsor): WCF Properties LLC	Telephone: 716.432.7694 E-Mail: maryandbillcroker@gmail.com	
Address: 295 Hopkins Road		
City/PO: Getzville	State: NY	Zip Code: 14068



**B. Government Approvals**

<b>B. Government Approvals, Funding, or Sponsorship.</b> ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
<b>Government Entity</b>	<b>If Yes: Identify Agency and Approval(s) Required</b>	<b>Application Date (Actual or projected)</b>
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Amherst Town Board -- Special Use Permit	9/2023
b. City, Town or Village Planning Board or Commission <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Amherst Planning Board -- Site Plan	9/2023
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Amherst Planning Dept -- subdivision Amherst Building Dept -- building permit	9/2023 9/2023
e. County agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Erie County -- Highway Work Permit Erie County -- Ag Data Statement	9/2023 9/2023
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC -- SPDES; NYSOPRHP -- archeological	9/2023 9/2023
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	US Army Corps of Engineers -- wetlands	9/2023
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**

<b>C.1. Planning and zoning actions.</b>	
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<ul style="list-style-type: none"> <li>If Yes, complete sections C, F and G.</li> <li>If No, proceed to question C.2 and complete all remaining sections and questions in Part 1</li> </ul>	
<b>C.2. Adopted land use plans.</b>	
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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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?  
Suburban Agricultural (SA)

- 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? Williamsville

- b. What police or other public protection forces serve the project site?  
Town of Amherst; Erie County Sheriff; NYS Police

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

- d. What parks serve the project site?  
Amherst Town Parks

### 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)? Solar, residential

- b. a. Total acreage of the site of the proposed action? 21.9 acres  
b. Total acreage to be physically disturbed? 1.0 acres  
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 42.8 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)  
Solar Tier 3 Array, residential

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

- iii. Number of lots proposed? 4

- iv. Minimum and maximum proposed lot sizes? Minimum 1.02 Ac Maximum 39.6 Ac

- 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? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>				
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	3			
At completion of all phases	3			

g. Does the proposed action include new non-residential construction (including expansions)? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
If Yes,	
i. Total number of structures <u>0</u>	
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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes,	
i. Purpose of the impoundment: _____	
ii. If a water impoundment, the principal source of the water: <span style="float: right;"><input type="checkbox"/> Ground water <input type="checkbox"/> Surface water streams <input type="checkbox"/> Other specify: _____</span>	
iii. If other than water, identify the type of impounded/contained liquids and their source. _____	
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ 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): _____	

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
(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?	
<ul style="list-style-type: none"> <li>• Volume (specify tons or cubic yards): _____</li> <li>• Over what duration of time? _____</li> </ul>	
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? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
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? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>	
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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
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: \_\_\_\_\_ 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: \_\_\_\_\_
- 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: \_\_\_\_\_ 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): \_\_\_\_\_

iii. Will the proposed action use any existing public wastewater treatment facilities?

☐ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: \_\_\_\_\_
- Name of 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

- Do existing sewer lines serve the project site? ☐ Yes ☐ No
  - Will a line extension within an existing district be necessary to serve the project? ☐ Yes ☐ No
- If Yes:
- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐ Yes ☒ No

If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- What is the receiving water for the wastewater discharge? \_\_\_\_\_

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):

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_

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? ☐ Yes ☒ No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (impervious surface)

\_\_\_\_\_ Square feet or \_\_\_\_\_ acres (parcel size)

ii. Describe types of new point sources. \_\_\_\_\_

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)?

- If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_

- Will stormwater runoff flow to adjacent properties? ☐ Yes ☒ No

iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐ Yes ☒ No

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? ☐ Yes ☒ No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

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? ☐ Yes ☒ No

If Yes:

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) ☐ Yes ☐ No

ii. In addition to emissions as calculated in the application, the project will generate:

- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)
- \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)
- \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)
- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
- \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☒ No

If Yes:

i. Estimate methane generation in tons/year (metric): \_\_\_\_\_

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

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i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

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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? ☐ Yes ☒ No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend  
☐ Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_

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iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_

iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_

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vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? ☐ Yes ☐ No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No

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k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐ Yes ☒ No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_

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ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): \_\_\_\_\_

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iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐ Yes ☐ No

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l. Hours of operation. Answer all items which apply.

<p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ 7 AM - 7 PM</li> <li>• Saturday: _____ 7 AM - 7 PM</li> <li>• Sunday: _____ None</li> <li>• Holidays: _____ None</li> </ul>	<p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ N/A</li> <li>• Saturday: _____ N/A</li> <li>• Sunday: _____ N/A</li> <li>• Holidays: _____ N/A</li> </ul>
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<p>m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If yes:</p> <p>i. Provide details including sources, time of day and duration:  <u>Typical construction noise during the hours listed in the previous item.</u></p>	
<p>ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>Describe: _____</p>	
<p>n. Will the proposed action have outdoor lighting? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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>ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>Describe: _____</p>	
<p>o. Does the proposed action have the potential to produce odors for more than one hour per day? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:          _____</p>	
<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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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>	
<p>q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p>i. Describe proposed treatment(s):          _____</p>	
<p>ii. Will the proposed action use Integrated Pest Management Practices? <span style="float: right;"><input type="checkbox"/> Yes <input type="checkbox"/> No</span></p>	
<p>r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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"> <li>• Construction: _____ tons per _____ (unit of time)</li> <li>• Operation : _____ tons per _____ (unit of time)</li> </ul> <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"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul> <p>iii. Proposed disposal methods/facilities for solid waste generated on-site:</p> <ul style="list-style-type: none"> <li>• Construction: _____</li> <li>• Operation: _____</li> </ul>	



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): \_\_\_\_\_

###### ii. If mix of uses, generally describe:

###### b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	1.0	+1.0
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	37.8	+37.8
• Agricultural (includes active orchards, field, greenhouse etc.)	42.8	0	-42.8
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: Residential Lots	0	3.2	+3.2



c. Is the project site presently used by members of the community for public recreation? ☐ Yes ☒ No  
i. If Yes: explain: \_\_\_\_\_

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? ☐ Yes ☒ No  
If Yes,  
i. Identify Facilities: \_\_\_\_\_  
\_\_\_\_\_

e. Does the project site contain an existing dam? ☐ Yes ☒ No  
If Yes:  
i. Dimensions of the dam and impoundment:  
• Dam height: \_\_\_\_\_ feet  
• Dam length: \_\_\_\_\_ feet  
• Surface area: \_\_\_\_\_ acres  
• Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
ii. Dam's existing hazard classification: \_\_\_\_\_  
iii. Provide date and summarize results of last inspection: \_\_\_\_\_  
\_\_\_\_\_

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? ☐ Yes ☒ No  
If Yes:  
i. Has the facility been formally closed? ☐ Yes ☐ No  
• If yes, cite sources/documentation: \_\_\_\_\_  
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: \_\_\_\_\_  
\_\_\_\_\_

iii. Describe any development constraints due to the prior solid waste activities: \_\_\_\_\_  
\_\_\_\_\_

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? ☐ Yes ☒ No  
If Yes:  
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: \_\_\_\_\_  
\_\_\_\_\_

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? ☐ Yes ☒ No  
If Yes:  
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes ☐ No  
☐ Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
☐ Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
☐ Neither database  
ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
\_\_\_\_\_

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐ Yes ☒ No  
If yes, provide DEC ID number(s): \_\_\_\_\_  
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): \_\_\_\_\_  
\_\_\_\_\_

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☒ No

- 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? ☐ Yes ☐ No
- Explain: \_\_\_\_\_

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**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? ☐ Yes ☒ No  
If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ %

c. Predominant soil type(s) present on project site:

Chenango gravelly loam	20.2 %
Gelen very fine sandy loam	24.6 %
Williamson silt loam	20.8 %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ feet

e. Drainage status of project site soils: ☒ Well Drained: \_\_\_\_\_ 80 % of site  
☐ Moderately Well Drained: \_\_\_\_\_ % of site  
☒ Poorly Drained: \_\_\_\_\_ 20 % of site

f. Approximate proportion of proposed action site with slopes: ☒ 0-10%: \_\_\_\_\_ 100 % of site  
☐ 10-15%: \_\_\_\_\_ % of site  
☐ 15% or greater: \_\_\_\_\_ % of site

g. Are there any unique geologic features on the project site? ☐ Yes ☒ No  
If Yes, describe: \_\_\_\_\_

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h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☒ Yes ☐ No

ii. Do any wetlands or other waterbodies adjoin the project site? ☒ Yes ☐ No  
If Yes to either i or ii, 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? ☒ Yes ☐ No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

• 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? ☐ Yes ☒ No  
If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_

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i. Is the project site in a designated Floodway? ☐ Yes ☒ No

j. Is the project site in the 100-year Floodplain? ☒ Yes ☐ No

k. Is the project site in the 500-year Floodplain? ☒ Yes ☐ No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☒ No  
If Yes:  
i. Name of aquifer: \_\_\_\_\_

<p>m. Identify the predominant wildlife species that occupy or use the project site:</p> <table style="width: 100%; border: none;"> <tr> <td style="border-bottom: 1px solid black; width: 33%;">eastern gray squirrel</td> <td style="border-bottom: 1px solid black; width: 33%;">white-tailed deer</td> <td style="border-bottom: 1px solid black; width: 33%;">red fox</td> </tr> <tr> <td style="border-bottom: 1px solid black;">eastern cottontail</td> <td style="border-bottom: 1px solid black;">groundhog</td> <td style="border-bottom: 1px solid black;">other wildlife typically found in this area</td> </tr> </table>			eastern gray squirrel	white-tailed deer	red fox	eastern cottontail	groundhog	other wildlife typically found in this area
eastern gray squirrel	white-tailed deer	red fox						
eastern cottontail	groundhog	other wildlife typically found in this area						
<p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>								
<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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p>								
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>								
<p><b>E.3. Designated Public Resources On or Near Project Site</b></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? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: <u>ERIE017</u></p>								
<p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></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? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District</li> <li>ii. Name: _____</li> <li>iii. Brief description of attributes on which listing is based: _____</li> </ul>	
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? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span>	
g. Have additional archaeological or historic site(s) or resources been identified on the project site? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Describe possible resource(s): _____</li> <li>ii. Basis for identification: _____</li> </ul>	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Identify resource: _____</li> <li>ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____</li> <li>iii. Distance between project and resource: _____ miles.</li> </ul>	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span>	
If Yes: <ul style="list-style-type: none"> <li>i. Identify the name of the river and its designation: _____</li> <li>ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></li> </ul>	

#### 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

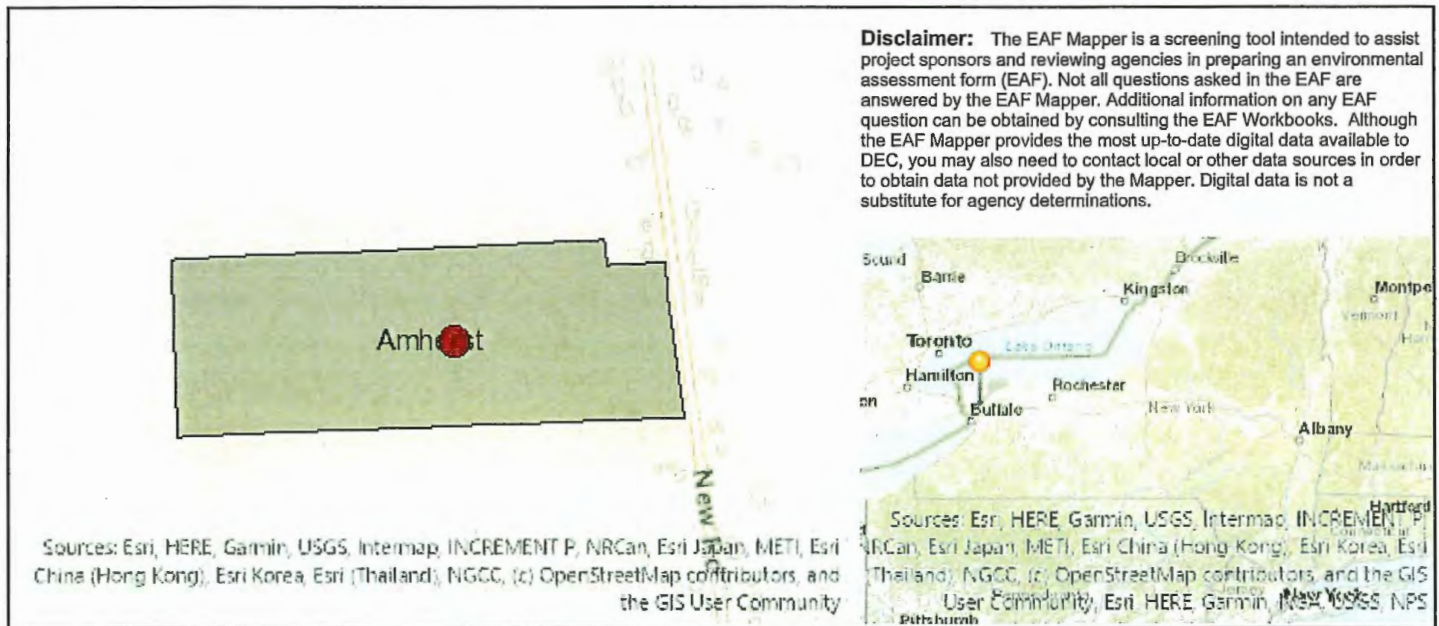
I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name NED-NEW ENERGY SOLAR 8 LLC Date 9.18.2023

Signature  Peter J. Sorgi, Esq. Title Project Attorney

**PRINT FORM**





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]	Yes
E.2.k. [500 Year Floodplain]	Yes
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]	No
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	ERIE017
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

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**SEQR  
Negative Declaration**

**NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

<b>Lead Agency:</b>	Town of Amherst Planning Board	<b>Project:</b>	SP-2023-09
<b>Address:</b>	5583 Main Street Williamsville, NY 14221 (716) 631-7051	<b>Date:</b>	June 25, 2024

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

**SEQR Status:** Type I Action

**Description of Action:** Construction of a 21.9± acre solar panel farm and creation of 2 single-family lots fronting on New Road. Work will include the site improvements not specifically stated above, including, stormwater, utilities, grading, lighting, paving, and landscaping.

**Location:** 1050 New Road, Amherst, Erie County

**Petitioner:** NED – New Energy Solar 8 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) 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 Service Department on January 18, 2024 reviewed the Engineer's Report submitted on September 20, 2024. The Stormwater Pollution Prevention Plan (SWPPP) submitted on September 20, 2024 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 October 31, 2024 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.
3. The project is not expected to create any substantive conflict with the Town Comprehensive Plan. The Planning Department in their review of June 10, 2024, the Zoning Enforcement Officer in his/her review dated June 10, 2024 has reviewed the application documents and Building Department in their review of September 26, 2023 has reviewed the application documents submitted and determined that the subject project has or will have met all NYS Building Code – 2020 and Zoning Ordinance regulations.
4. The project is not within an area identified by the State as potentially containing significant cultural or archeological resources, nor will it impair the character or quality of important historical resources.
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 Suburban Agricultural (SA) zoning district; neighboring uses are Rural Residential and Vacant lots and zoned Suburban Agricultural (SA); therefore, the project is consistent with surrounding land use.
6. The proposed subject development will include a 21.9 acre solar panel farm and 2 single family residential homes fronting on New Road which will not cause a major change in the use of either the quantity or type of energy.
7. The project will not create any hazard to human health. The Fire Chief's Association on November 29, 2024, has reviewed the project and has no objection to the approval of the site plan, as all requirements of this agency/these agencies has or will have been met.




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8. The project will 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. The 21.9 acre solar panel farm and 2 single family residential homes will be consistent with the scale of surrounding land uses.
9. The function of the proposed 21.9 acre solar panel farm and 2 single family residential homes will not significantly increase the number of people using the site over its previous level of use.
10. Review by the Town Traffic/Safety Board dated October 5, 2023, 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, in addition to those mentioned above, Highway on September 28, 2023, Assessor on September 29, 2023, Plumbing Division on September 26, 2023, and Right-of-Way Agent on October 11, 2023. These reviews have not identified any significant environmental issues and indicate 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 Approval

Moved by: Davis; Seconded by: Kahn; Ayes 4; Noes 0; Absent 3 (Chmiel, Penberthy, Raffaele)

  
James Quinn, Assistant Planner

6-28-24  
Date

  
for Michael J. Chmiel, Planning Board Chair

June 28, 2024  
Date

JQ/ac

X:\Current\_Planning\Files\Site Plans\2023\SP-2023-09\_(1050\_New\_Rd)\_2023\SP-2023-09\_neg dec\_062524 .doc

cc: Commissioner of Building

Town Engineer

Fire Chiefs'

Highway

Traffic/Safety

ECDEP

Jeff Palumbo, Block Longo LaMarca & Brzezinski, 9276 Main Street, Clarence, NY 14031

**EXHIBIT B**

**PILOT Schedule**

PILOT Payments shall be calculated as follows:

The PILOT Agreement between the Agency and the Company will provide for payments by the Company of \$4,700.00 per megawatt (MW) AC installed capacity, subject to an annual increase of two percent (2%). The PILOT Agreement will have a term of twenty-five (25) years.

In accordance with Section 858(15) of the General Municipal Law, PILOT payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the Project not been tax exempt due to the status of the Agency involved in the Project.



**Kevin J. Zanner**  
[kjz@hurwitzfine.com](mailto:kjz@hurwitzfine.com)

October 24, 2024

**VIA EMAIL**

Town of Amherst Industrial Development Agency  
Town of Amherst Development Corporation  
4287 Main Street  
Amherst, New York 14226  
Attn: David Mingoia, Executive Director

RE: Representation of Town of Amherst Industrial Development Agency  
and Town of Amherst Development Corporation

Dear Mr. Mingoia:

Hurwitz Fine P.C. is pleased to provide this letter to formally extend our engagement as general counsel and transaction counsel for the Town of Amherst Industrial Development Agency ("AIDA") and the Town of Amherst Development Corporation ("ADC"). This Letter of Engagement sets forth our proposed arrangement for representing AIDA and the ADC, sets forth the details of our billing, and is being provided to you in accordance with Part 1215 of the Joint Rules of the New York State Appellate Division.

I will remain principally responsible for handling this representation, but other firm attorneys will also work on AIDA and ADC matters as may be necessary or appropriate. Our continued engagement is anticipated to be for a five-year term and would be subject to review by AIDA's Board of Directors upon the expiration of the term.

For general legal services paid directly by AIDA or ADC, we will bill our time at a discounted blended rate for attorneys of \$185.00 per hour. For litigation services paid directly by AIDA or ADC, we will bill our time at a discounted blended rate for attorneys of \$280.00 per hour. Paralegals are billed at the rate of \$115.00 per hour. In keeping with our current arrangement, we will not invoice for attendance at AIDA and ADC Board meetings. Our firm typically adjusts its hourly rates on July 1<sup>st</sup> of each year. For this representation, we will limit any increase to no more than 3% annually.

Our fees in connection with IDA lease transactions will continue to be billed in accordance with the AIDA Fee and Expense Schedule then in effect. Work performed as issuer counsel for ADC tax-exempt bond transactions will be billed at our standard hourly rates.

We charge a minimum rate of one-tenth per hour for our work, including telephone and email communications. Invoices for matters that are billed to AIDA and ADC will be issued on a monthly basis. In



addition to time charges, our invoices will detail the actual costs of disbursements incurred and advanced on behalf of you, such as filing fees, disbursements, mileage at the federal rate, photocopying, long distance phone charges and express mail charges, as appropriate in handling the work, for which you would be responsible for paying. We reserve the right to withdraw as counsel if our fees or disbursements are not timely paid, although we do not anticipate that this will be an issue.

We appreciate that this letter might appear to you to be unduly formal. However, our Code of Professional Responsibility requires a clear statement in writing of the arrangements for the engagement of attorneys, and we believe that our clients prefer such statements to avoid any misunderstanding later. Additionally, the Office of Court Administration requires that we advise you that you may be entitled to resolve a fee dispute by arbitration. If a fee dispute arises that we cannot resolve between us and it is eligible for arbitration, we will provide you with written notice of your right to arbitrate as provided under the Part 137 of the Rules of the Chief Administrator of the Courts.

If the foregoing terms are acceptable, please sign a copy of this letter and return it via email to me at [kjz@hurwitzfine.com](mailto:kjz@hurwitzfine.com). Thank you for the opportunity to continue our role as counsel to AIDA and ADC and helping to advance economic development in the Town of Amherst.

Very truly yours,

HURWITZ FINE P.C.

A handwritten signature in blue ink, appearing to read 'K. Zanner', is written over a light blue circular background.

Kevin J. Zanner

The terms of this Engagement Letter are understood and accepted on behalf of the Town of Amherst Industrial Development Agency and the Town of Amherst Development Corporation this \_\_\_ day of November, 2024.

TOWN OF AMHERST INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
David S. Mingoia, Executive Director

TOWN OF AMHERST  
DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
David S. Mingoia, CEO