

# **TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

## **Executive Committee Meeting Agenda**

**November 7, 2024 – 8:30 am  
Agency Offices, 4287 Main Street**

1. Roll Call of Members
2. Reading and Approval of Minutes
3. New Business
  - a. Public Hearing and Project Review – 6812 Main Street Redevelopment and Workforce Housing Project
  - b. Public Hearing and Project Review – NED – New Energy Solar 8, LLC 1050 New Road
  - c. Hurwitz & Fine Engagement Letter
4. Adjournment

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**  
**Minutes of the Executive Committee Meeting**  
**September 5, 2024 – 8:30 AM**  
**Agency Office, 4287 Main Street**

Executive Committee: Carlton N. Brock Jr.  
William W. Tuyn  
Anthony Agostino  
David S. Mingoia, Executive Director

Guests: Nicole Gavigan  
Frank LoTempio III  
Jacqui Berger

Mr. Brock opened the meeting at 8:30 AM and requested a motion to approve the previous meeting's minutes. Mr. Agostino made the motion, seconded by Mr. Tuyn and carried unanimously.

Mr. Mingoia reviewed the request from Iskalo Development for a revised sales tax exemption figure for the 26 west Spring Street adaptive reuse project. After discussion, Mr. Tuyn made a motion to move the request to the Board of Directors, seconded by Mr. Agostino and carried unanimously.

Mr. Mingoia then provided information on the ownership change for the New Road Solar project and a request to amend the resolution to account for it. After discussion, Mr. Tuyn made a motion to forward the request to the Board of Directors, seconded by Mr. Agostino and carried unanimously.

At 8:50 AM, Mr. Agostino made a motion to adjourn, seconded by Mr. Tuyn and carried unanimously.

**NOTICE OF PUBLIC HEARING  
TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY**

The Town of Amherst Industrial Development Agency will hold a public hearing on Thursday, November 7, 2024 commencing at 8:30 a.m. at the Agency's offices located at 4287 Main Street, Amherst, New York 14226, to consider proposed financial assistance requested of the Agency with respect to the following projects:

**Mixed-Use Workforce Housing Project 6812 Main Street, LLC** – 6812 Main Street, LLC for itself or an affiliate or subsidiary formed or to be formed (the "Applicant"), has submitted an application to the Agency requesting the Agency to undertake a certain project (the "Project") consisting of: (a) the acquisition of a leasehold interest in property located at 6812-6832 Main Street and 29 & 37 Tennyson Terrace in Amherst, New York (the "Premises"); (b) the demolition of an existing commercial building and single family home on the Premises and the construction thereon of a 5-story mixed use building that includes 34 market rate apartments with detached garages, with at least twenty percent of the apartments considered workforce housing; and 14,000 square feet of 1<sup>st</sup> floor commercial space for a project totaling approximately 61,600 square feet (the "Improvements"); and (c) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the "Equipment"). The total cost of the Project is an amount up to \$14,370,000. The Project is located in the Clarence Central School District.

The Agency contemplates that it will provide financial assistance for qualifying portions of the projects in the form of a sales tax exemption, mortgage recording tax exemption and real property tax exemption on qualifying improvements and equipment in accordance with the Agency's Uniform Tax Exemption Policy.

**NED-NEW ENERGY SOLAR 8 LLC**, on behalf of itself or an affiliate, subsidiary or other entity formed or to be formed (the "Applicant") has submitted an application to the Agency requesting the Agency to undertake a certain project (the "Project") consisting of: (i) the acquisition of an interest in a 39.6 +/- acre parcel of vacant land located at 1050 New Road (the "Land"); (ii) the construction thereon 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 of and installation in and around the Land and Improvements by the Applicant of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, together with the Land and the Improvements, the "Facility"). The total cost of the Project is an amount up to \$10,330,944 and is located in the Williamsville Central School District.

The Agency contemplates that it will provide financial assistance for the Project in the form of a sales tax exemption and real property tax exemption on qualifying Improvements and Equipment in accordance with the Agency's Uniform Tax Exemption Policy.

The applications are available for inspection at the Agency's offices and its website, [www.amherstida.com](http://www.amherstida.com). Written comments may be addressed to David S. Mingoia, Executive Director; Town of Amherst Industrial Development Agency; 4287 Main Street; Amherst, New York 14226; (716) 688-9000.

**PROJECT PROFILE:**  
**6810 MAIN STREET MIXED-USE & WORKFORCE HOUSING**  
**\$14,370,000**  
**NOVEMBER 22, 2024**



**DRAFT**

<b>ELIGIBILITY</b>
<ul style="list-style-type: none"> <li>Commercial Project under NYS Law</li> <li>Eligible Project under Countywide Eligibility Policy</li> </ul>
<b>COMPANY INCENTIVES (EST.)</b>
<ul style="list-style-type: none"> <li>Property Tax = \$923,592</li> <li>Sales Tax = \$436,406</li> <li>Mortgage Tax = \$80,775</li> </ul>
<b>PROJECT BENEFITS (EST.)</b>
<ul style="list-style-type: none"> <li>Property Taxes = \$1,004,308</li> <li>Income Taxes = \$400,725</li> <li>Sales Taxes = \$177,629</li> </ul>
<b>EMPLOYMENT</b>
<ul style="list-style-type: none"> <li>47 Construction and Supply Related Jobs Created</li> <li>1 Full-Time Equivalent Direct Position Created</li> <li>9 Full-Time Indirect Positions Created from Household Spending</li> </ul>
<b>PROJECT SCHEDULE (EST.)</b>
<ul style="list-style-type: none"> <li>Work begins May 2025</li> <li>Project completion March 2026</li> </ul>

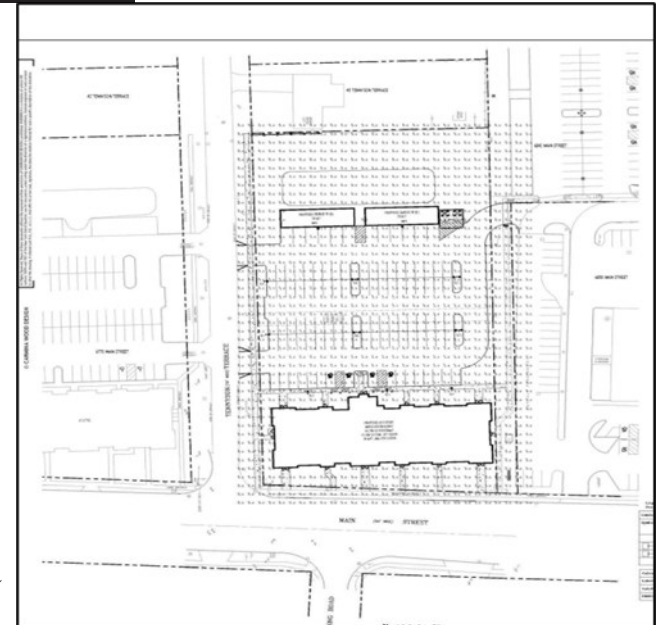
**Project Address:**  
 6810 Main Street  
 Amherst, New York 14221  
 (Clarence School District)

**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.



**AIDA Project Evaluation Criteria - Neighborhood Redevelopment**

**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.

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.

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

(1) Source: Applicant

<b>Terms of the Senior (Long Term) Debt</b>			
	<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)
<b>Equity Dividend Rates</b>			
Average	2.60%	0.67%	
Minimum	0.76%	-1.44%	4.7%
Maximum	3.82%	2.65%	to 12.33%
Year Benchmarks Met	n/a	n/a	
<b>Cash Flow</b>			
Average	\$93,504	\$24,139	
Minimum	\$27,460	(\$51,992)	
Maximum	\$137,681	\$95,566	n/a
Cumulative	\$935,039	\$241,391	
Year Investment Recouped	n/a	n/a	
<b>Debt Service Coverage</b>			
Average	1.12	1.03	1.00
Minimum	1.03	0.94	to
Maximum	1.20	1.12	1.86
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
<b>Operating Cash Flow</b>											
<u>Residential Income</u>											
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
<u>Commercial/Industrial Income</u>											
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
<u>Other Income</u>											
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
<b>Effective Gross Income (EGI)</b>	<b>\$ -</b>	<b>\$ 1,250,400</b>	<b>\$ 1,275,408</b>	<b>\$ 1,300,916</b>	<b>\$ 1,326,934</b>	<b>\$ 1,353,473</b>	<b>\$ 1,380,543</b>	<b>\$ 1,408,153</b>	<b>\$ 1,436,317</b>	<b>\$ 1,465,043</b>	<b>\$ 1,494,344</b>
<u>Operating Expenses (enter positive numbers)</u>											
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
<b>Operating Expenses</b>	<b>24%</b>	<b>\$ 296,520</b>	<b>\$ 302,450</b>	<b>\$ 308,499</b>	<b>\$ 314,669</b>	<b>\$ 320,963</b>	<b>\$ 327,382</b>	<b>\$ 333,930</b>	<b>\$ 340,608</b>	<b>\$ 347,420</b>	<b>\$ 354,369</b>
<b>Pre-Tax Operating Income (Revenue less Operating Expenses)</b>	<b>\$ -</b>	<b>\$ 953,880</b>	<b>\$ 972,958</b>	<b>\$ 992,417</b>	<b>\$ 1,012,265</b>	<b>\$ 1,032,510</b>	<b>\$ 1,053,161</b>	<b>\$ 1,074,224</b>	<b>\$ 1,095,708</b>	<b>\$ 1,117,622</b>	<b>\$ 1,139,975</b>
<b>Real Property Taxes (assuming no PILOT)*</b>		\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524	\$ 227,524
<b>Net Operating Income (NOI) after Taxes</b>	<b>\$ -</b>	<b>\$ 726,356</b>	<b>\$ 745,434</b>	<b>\$ 764,893</b>	<b>\$ 784,741</b>	<b>\$ 804,986</b>	<b>\$ 825,637</b>	<b>\$ 846,700</b>	<b>\$ 868,184</b>	<b>\$ 890,098</b>	<b>\$ 912,451</b>
<u>Loan or Mortgage (Debt Service)</u>											
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
<b>Cash Flow After Financing and Reserve</b>	<b>\$ -</b>	<b>\$ 29,850</b>	<b>\$ 48,928</b>	<b>\$ (51,992)</b>	<b>\$ (32,144)</b>	<b>\$ (11,898)</b>	<b>\$ 8,752</b>	<b>\$ 29,815</b>	<b>\$ 51,300</b>	<b>\$ 73,214</b>	<b>\$ 95,566</b>
<b>Cash on Cash / Average</b>	<b>0.7%</b>		<b>1.36%</b>	<b>-1.44%</b>	<b>-0.89%</b>	<b>-0.33%</b>	<b>0.24%</b>	<b>0.83%</b>	<b>1.42%</b>	<b>2.03%</b>	<b>2.65%</b>
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	
<b>Operating Cash Flow</b>												
<u>Residential Income</u>												
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	
<u>Commercial/Industrial Income</u>												
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)	\$ -	\$ (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	
<u>Other Income</u>												
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	
<b>Effective Gross Income (EGI)</b>	<b>\$ -</b>	<b>\$ 1,229,400</b>	<b>\$ 1,253,988</b>	<b>\$ 1,279,068</b>	<b>\$ 1,304,649</b>	<b>\$ 1,330,742</b>	<b>\$ 1,357,357</b>	<b>\$ 1,384,504</b>	<b>\$ 1,412,194</b>	<b>\$ 1,440,438</b>	<b>\$ 1,469,247</b>	
<u>Operating Expenses (enter positive numbers)</u>												
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	
<b>Operating Expenses</b>	<b>24%</b>	<b>\$ 296,520</b>	<b>\$ 302,450</b>	<b>\$ 308,499</b>	<b>\$ 314,669</b>	<b>\$ 320,963</b>	<b>\$ 327,382</b>	<b>\$ 333,930</b>	<b>\$ 340,608</b>	<b>\$ 347,420</b>	<b>\$ 354,369</b>	
<b>Pre-Tax Operating Income (Revenue less Operating Expenses)</b>	<b>\$ -</b>	<b>\$ 932,880</b>	<b>\$ 951,538</b>	<b>\$ 970,568</b>	<b>\$ 989,980</b>	<b>\$ 1,009,779</b>	<b>\$ 1,029,975</b>	<b>\$ 1,050,574</b>	<b>\$ 1,071,586</b>	<b>\$ 1,093,018</b>	<b>\$ 1,114,878</b>	
<b>Real Property Taxes (assuming PILOT)*</b>		\$ 109,164	\$ 117,351	\$ 126,224	\$ 126,224	\$ 135,096	\$ 135,096	\$ 143,969	\$ 143,969	\$ 152,841	\$ 161,714	
<b>Net Operating Income (NOI) after Taxes</b>	<b>\$ -</b>	<b>\$ 823,716</b>	<b>\$ 834,187</b>	<b>\$ 844,344</b>	<b>\$ 863,756</b>	<b>\$ 874,683</b>	<b>\$ 894,879</b>	<b>\$ 906,605</b>	<b>\$ 927,617</b>	<b>\$ 940,177</b>	<b>\$ 953,164</b>	
<u>Loan or Mortgage (Debt Service)</u>												
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	
<b>Cash Flow After Financing and Reserve</b>	<b>\$ -</b>	<b>\$ 127,210</b>	<b>\$ 137,681</b>	<b>\$ 27,460</b>	<b>\$ 46,871</b>	<b>\$ 57,799</b>	<b>\$ 77,994</b>	<b>\$ 89,721</b>	<b>\$ 110,732</b>	<b>\$ 123,292</b>	<b>\$ 136,279</b>	
<b>Cash on Cash / Average</b>	<b>2.5%</b>		<b>3.82%</b>	<b>0.76%</b>	<b>1.30%</b>	<b>1.61%</b>	<b>2.17%</b>	<b>2.49%</b>	<b>3.08%</b>	<b>3.42%</b>	<b>3.79%</b>	
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

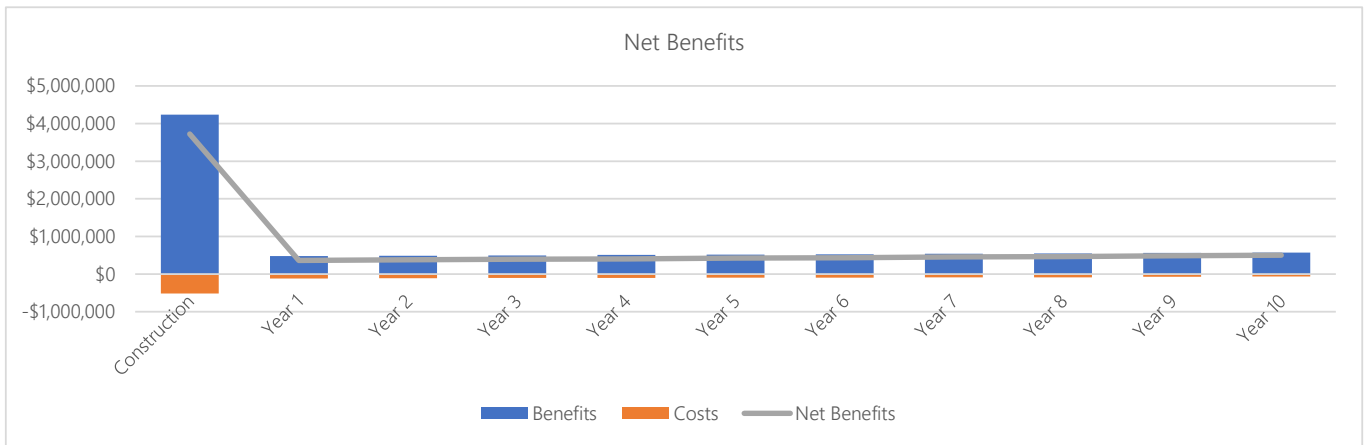
Project Total Investment  
 \$14,370,000

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

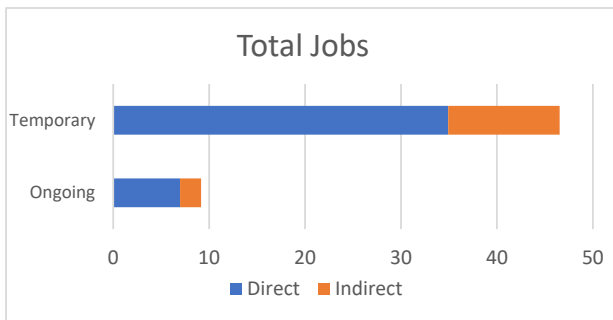
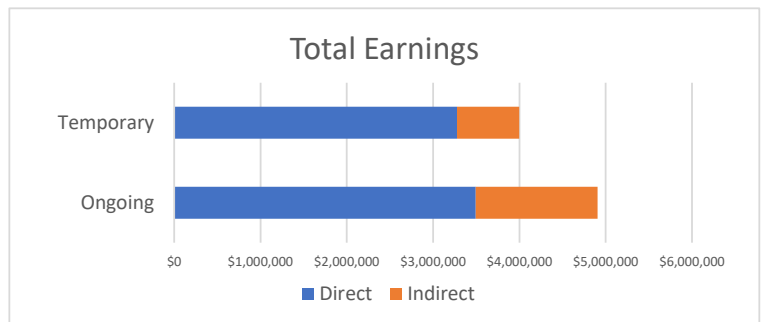


Figure 3



# 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

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



**DRAFT**

**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**

**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

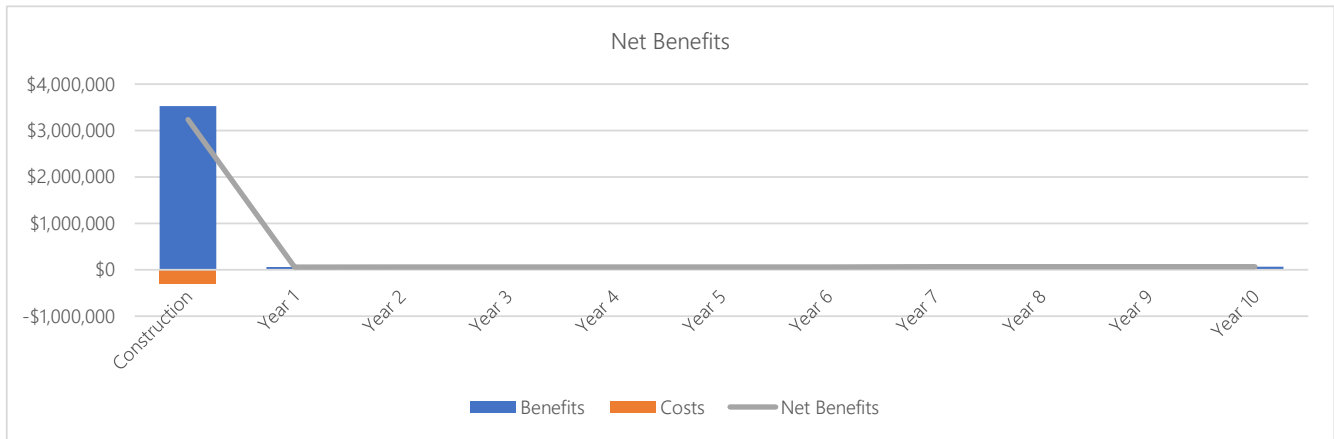
\$10,330,994

	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)		
	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

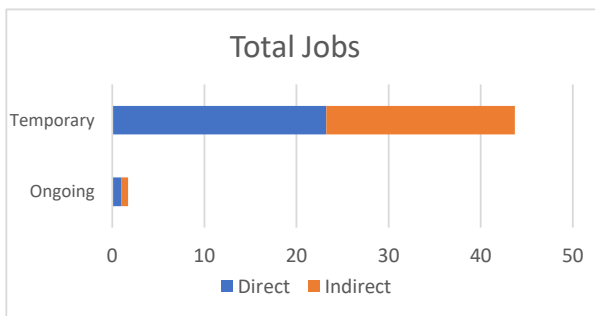
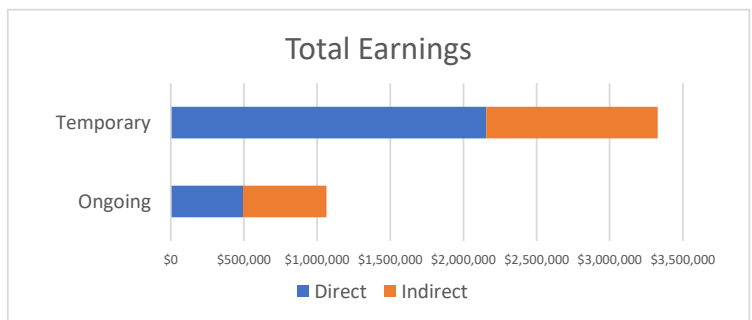


Figure 3



Ongoing earnings are all earnings over the life of the PILOT.

# 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



**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



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 'Kevin J. Zanner', is written over a light blue horizontal line.

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