

# Niagara County Industrial Development Agency

Niagara County Center for Economic Development • 6311 Inducon Corporate Drive, Ste. 1 • Sanborn, NY 14132

## **REGULAR NCIDA/NCDC/NADC BOARD MEETING**

**DATE:** October 13, 2021  
**MEETING TIME:** 9:00 a.m.  
**MEETING PLACE:** Niagara County Industrial Development Agency  
Vantage Center, Suite One  
6311 Inducon Corporate Drive  
Sanborn, NY 14132

### **Board of Directors:**

\_\_\_ **Mark A. Onesi**, Chairperson  
\_\_\_ **Jerald I. Wolfgang**, 1<sup>st</sup> Vice Chairperson  
\_\_\_ **Kevin McCabe**, 2<sup>nd</sup> Vice Chairperson  
\_\_\_ **William L. Ross**, Secretary  
\_\_\_ **Mary Lynn Candella**, Asst. Secretary  
\_\_\_ **Robert B. Cliffe**, Member  
\_\_\_ **Scott Brydges**, Member  
\_\_\_ **Clifford Scott**, Member  
\_\_\_ **Jason Krempa**, Member

### **Staff Members:**

\_\_\_ **Susan C. Langdon**, Executive Director  
\_\_\_ **Andrea Klyczek**, Assistant Director  
\_\_\_ **Michael S. Dudley**, Finance Manager  
\_\_\_ **Caroline Caruso**, Accounting Associate  
\_\_\_ **Susan Barone**, Project Manager  
\_\_\_ **Mark J. Gabriele**, Agency Counsel  
\_\_\_ **Julie Lamoreaux**, Administrative Assistant

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*Because of the Novel Coronavirus (COVID-19) pursuant to S. 50001 / A. 40001 the New York State Senate and Assembly temporarily modified the Open Meetings Law, authorizing certain public bodies to conduct remote meetings without in-person access through January 15, 2022. Members of the public may listen to the Board meeting by logging on to the conference call using number 716-439-7740 and access code 8763 and access pin 1234#. Minutes of the Board Meeting will be transcribed and posted on the Agency's website.*

**1.0 Meeting Called to Order – M. Onesi**

**2.0 Roll Call – J. Lamoreaux**

**3.0 Introduction of Guests – M. Onesi**

**4.0 Pledge of Allegiance – M. Onesi**

**5.0 Approval of Meeting Minutes**

**5.1 Regular NCIDA/NCDC/NADC – September 8, 2021**

**5.2 Special NCIDA/NCDC/NADC Board Meeting – September 29, 2021**

- 6.0 **Finance & Audit Committee Reports – *K. McCabe***
  - 6.1 **Agency Payables – September 30, 2021**
  - 6.2 **Budget Variance Report – September 30, 2021**
  - 6.3 **2022 Proposed Budgets**
  
- 7.0 **Unfinished Business**
  - 7.1. **Metropolis Properties Management, LLC – *M. Gabriele***
    - 7.1.1 **Unpaid PILOT Payments**
  
- 8.0 **New Business**
  - 8.1 **Duncan’s Heating & Cooling Corp. – A. Klyczek**
    - 8.1.1 **Preliminary Resolution**
    - 8.1.2 **Authorize Public Hearing Date**
  
  - 8.2 **PEMM LLC – A. Klyczek**
    - 8.2.1 **Preliminary Resolution**
    - 8.2.2 **Authorize Public Hearing Date**
  
  - 8.3 **Covanta Holding Corporation – *M. Gabriele***
    - 8.3.1 **Amendment to the Indenture of Trust**
  
  - 8.4 **CDBG Cares Grant – *A.Klyczek***
    - 8.4.1 **Authorization to Sign**
  
  - 8.5 **Center for Kashmir Inc. – Cataract Fund – A. Klyczek**
    - 8.5.1 **Extension of Grant**
  
  - 8.6 **Craft Coffee, LLC – A.Klyczek**
    - 8.6.1 **Grant Increase**
  
  - 8.7 **D.R.C. Development LLC – *M.Gabriele***
    - 8.7.1 **Consent to Transfer of Ownership Units**
  
- 9.0 **Agency Counsel – *M. Gabriele***
  
- 10.0 **Information Items**
  - 10.1 **Authorization to issue RFP’s for Consultants – A. Klyczek**
    - 10.1.1 **NCIDA – General Consulting Services**
    - 10.1.2 **NCDC – OCR, Micro-enterprise, CARES Act**
  
- 11.0 **Any Other Matters the Board Wishes to Discuss**
  
- 12.0 **Next Regular NCIDA/NCDC/NADC Meeting:**
  - DATE: **November 10, 2021**
  - TIME: **\*\* 9:00 a.m. \*\***
  - PLACE: **Niagara County Center for Economic Development**
  
- 13.0 **Adjournment - *M. Onesi***

**5.1**

**MEETING**

**MINUTES**

## **REGULAR NCIDA/NCDC/NADC BOARD MEETING**

**DATE:** September 8, 2021  
**MEETING TIME:** 9:00 a.m.  
**MEETING PLACE:** Niagara County Industrial Development Agency  
Vantage Center, Suite One  
6311 Inducon Corporate Drive  
Sanborn, NY 14132

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### **1.0 Meeting Called to Order**

The regular meeting of Niagara County Industrial Development Agency was called to order by Chairperson Onesi at 9:00 a.m.

### **2.0 Roll Call**

Mark A. Onesi, Chairperson	Present
Jerald I. Wolfgang, 1 <sup>st</sup> Vice Chairperson	Present
Kevin McCabe, Vice Chairperson	Excused
William L. Ross, Secretary	Present
Mary Lynn Candella, Assistant Secretary	Present
Robert B. Cliffe, Member	Present
Clifford Scott, Member	Present
Scott Brydges, Member	Present
Jason Krempa	Present

### **3.0 Introductions**

#### **Guests Present**

Kenneth Scibetta, EW & KS Holdings LLC

#### **Staff Present**

Susan C. Langdon, Executive Director  
Andrea Klyczek, Assistant Director  
Michael S. Dudley, Finance Manager  
Caroline Caruso, Accounting Associate  
Susan Barone, Project Manager  
Julie Lamoreaux, Administrative Assistant  
Mark J. Gabriele, Agency Counsel

### **4.0 Mr. Onesi led the Pledge of Allegiance.**

**5.0 Approval of Meeting Minutes**

**5.1 Regular NCIDA/NCDC/NADC – August 11, 2021**

*Mr. Ross motioned to approve the meeting minutes; Mr. Wolfgang seconded the motion. The motion passed.*

**6.0 Finance & Audit Committee Reports**

**6.1 Agency Payables – August 31, 2021**

Mr. Ross stated that the monthly payables have been reviewed and found to be in order.

*Mr. Ross made a motion to approve the monthly payables; Mr. Brydges seconded the motion. The motion passed.*

**6.2 Budget Variance Report – August 31, 2021**

Mr. Ross stated that the reports have been reviewed and found to be in order.

*Mr. Ross made a motion to approve the Budget Variance Report; Mr. Brydges seconded the motion. The motion passed.*

**7.0 Unfinished Business**

**7.1 E W and KS Holdings LLC**

Ms. Klyczek stated that a public hearing was held on August 30, 2021 at 10:00 a.m. at the Village of Youngstown Office. Public comments were made during the hearing. The Agency also received two e-mails, one from the Village of Youngstown Board of Trustees, and one from Mr. Johnston, the Town of Porter Supervisor. Everyone generally supported the project, but there was an objection to the pilot that was originally submitted to the Board. The Town is requesting that the pilot be provided on the improvements only, and not applied to the existing building. The Agency submitted the project to the Board with the pilot to be applied to the existing building. There has been past practice of the Board including the building in the pilot if the building has been vacant for over a year.

Mr. Gabriele stated that there are a couple of our policies that come into play with this project. The first policy is that we have attempted for many years to encourage the re-use of existing buildings that have been abandoned for a period of time. This building has been abandoned for five and a half years. The building was purchased in 2019, and because of COVID, the project stopped. Because of the increased construction costs, EW and KS Holdings LLC decided to come to the Agency for assistance. The total assessed value of this project today is \$277,000.00 and EW and KS Holdings, LLC paid \$180,000.00 two years ago. Out of the \$180,000.00, \$71,000.00 is for land, which is taxed at 100%. Land is always taxed at 100% and cannot be included in a pilot. It is Agency practice that a manufacturing project, such as this receives a 15 year pilot.

## 7.1 E W and KS Holdings LLC (Continued)

The Board has the power to do something different if they would like. The building is still vacant, and no construction has been started. Only some site preparation has been undertaken. The cost benefit analysis is just an estimate because the Agency has no control over the assessed value. The Assessor for each jurisdiction has full control over the assessed value.

Mr. Scott asked if this project would create 20 plus jobs, Mr. Gabriele responded by saying yes.

Mr. Wolfgang stated that this is not a strong business area. He thinks the village struggles with getting business, and this building has been vacant for so long. He agrees that this would be good for the area by bringing more jobs to the community.

Mr. Scibetta from EW and KS Holdings, LLC stated that his company has never applied for incentives before. Mr. Scibetta stated that he and his business partner are both from Niagara County. This is EW and KS Holdings, LLC fourth business in Niagara County. The company has created hundreds of jobs and has spent well over a million dollars in the County.

Mr. Krempa asked if this project would not happen if it was not for the Agency.

Mr. Gabriele responded by saying that EW and KS Holdings LLC needs this help to continue, because of the increased construction costs due to COVID.

Mr. Wolfgang recommended a 15 year pilot and Mr. Krempa agreed.

The Board discussed and agreed to do the 15 year pilot including the building.

### 7.1.1 Final Resolution – EW and KS Holdings LLC

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF EW AND KS HOLDINGS LLC AND/OR AN INDIVIDUAL(S) OR AFFILIATE, SUBSIDIARY, OR ENTITY FORMED OR TO BE FORMED ON ITS BEHALF (AS MORE FULLY DEFINED BELOW); (ii) DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT, PILOT MORTGAGE AND RELATED DOCUMENTS: AND (iv) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION,

CONSTRUCTION AND EQUIPPING OF THE PROJECT, AND A MORTGAGE RECORDING TAX EXEMPTION FOR THE MORTGAGE RELATED TO THE PILOT AGREEMENT.

***Mr. Krempa made a motion to approve the Final Resolution; Mr. Wolfgang seconded the motion.***

**7.1.1 Final Resolution – EW and KS Holdings LLC (Continued)**

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe				x
William Ross	x			
Mary Lynn Candella	x			
Robert Cliffe	x			
Scott Brydges	x			
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

**7.2**

**Microenterprise OCR Grant**

**7.2.1 Approval of NCDC Agreement with Niagara County**

Ms. Klyczek stated that the NCIDA staff applied on behalf of the County for funds. The Agency is asking the Board to approve an agreement between the NCDC and Niagara County to administer the awarded amount, which is \$300,000.00 to continue the Microenterprise program.

***Mr. Wolfgang made a motion to approve the agreement; Mr. Krempa seconded the motion.***

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe				x
William Ross	x			
Mary Lynn Candella	x			
Robert Cliffe	x			
Scott Brydges	x			
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

## **8.0 New Business**

### **8.1 Ivy Lea Construction**

Mr. Gabriele stated that Ivy Lea Construction is an existing project. They are refinancing their debt with M&T Bank. As pursuant to our project documents, this requires the consent from the Agency in order for them to move forward. The existing pilot has been reviewed and Ivy Lea Construction is up to date on payments and not in default. The Agency is asking the Board for consent refinance.

#### **8.1.1 Consent to Refinance**

RESOLUTION AUTHORIZING THE CONSENT TO THE EXECUTION AND DELIVERY OF A MORTGAGE AND OTHER DOCUMENTS WITH REGARD TO THE 765 WALCK ROAD, INC. LLC PROJECT.

***Mr. Cliffe made a motion to approve the Resolution; Mr. Ross seconded the motion.***

### **8.2 Mass Mutual Asset Finance LLC**

Mr. Gabriele stated that Mass Mutual Asset Finance LLC submitted an application to the agency asking to assume the existing pilot currently held by Riester Wheatfield USA LLC. They would like to step into the shoes of the existing company that has a remaining 5 years left on the current pilot. The Agency is asking for a resolution approved by the Board agreeing to the Assignment and Assumption of the pilot by Mass Mutual Finance.

#### **8.2.1 Resolution Mass Mutual Asset Finance LLC**

RESOLUTION OF THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE ASSIGNMENT OF AND ASSUMPTION OF THE RIESTER WHEATFIELD USA LLC PROJECT TO MASSMUTUAL ASSET FINANCE LLC INCLUDING THE ORIGINAL LEASE, LEASEBACK, PILOT AGREEMENT, TOGETHER WITH ALL ASSOCIATED DOCUMENTS RELATING TO THE FACILITY CURRENTLY RECEIVING BENEFITS FROM THE AGENCY.

***Mr. Cliffe made a motion to approve the Assumption of PILOT; Mr. Ross seconded the motion.***



The question of the approval of the Agreement as duly put to a vote on roll call, which resulted as follows.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald Wolfgang	x			
Kevin McCabe				x
William Ross	x			
Mary Lynn Candella	x			
Robert Cliffe	x			
Scott Brydges	x			
Clifford Scott	x			
Jason Krempa	x			
Mark Onesi	x			

The Resolution was thereupon duly adopted.

#### 9.0 Agency Counsel

Mr. Gabriele stated that Niagara Shores Campground and Conference Center LLC was an RLF EDA Loan dating back to the end of 2019. The loan in the amount of \$130,000.00 was granted to the company based upon their business. Due to COVID, the business has fallen behind on repayment of the loan. The company is concerned that as the winter months approach, they will get further behind because it is a summer generated business. They are asking the Board for an extension of the payment term to include the next six months of interest only, followed by re-amortizing it for an additional year.

***Mr. Ross made a motion to approve the extension; Mr. Krempa seconded the motion. The motion passed.***

#### 10.0 Information Items

Mr. Gabriele stated that due to COVID, the open meetings law has been relaxed again. We will be eligible to hold these meetings remotely if the Board desires.

#### 11.0 Any Other Matters the Board Wishes to Discuss

#### 12.0 Next Regular NCIDA/NCDC/NADC Meeting:

**DATE: October 13, 2021**

**TIME: \*\* 9:00 a.m. \*\***

**PLACE: Niagara County Center for Economic Development**

**13.0 Adjournment**

***Mr. Onesi made a motion to adjourn; Mr. Wolfgang seconded the motion. The meeting adjourned at 9:34 a.m.***

Respectfully submitted:

Reviewed by:

Approved by:

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Julie Lamoreaux  
Recording Secretary

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Susan C. Langdon  
Executive Director

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William L. Ross  
Secretary

## **SPECIAL NCIDA/NCDC/NADC BOARD MEETING**

**DATE:** September 29, 2021  
**MEETING TIME:** 9:00 a.m.  
**MEETING PLACE:** Niagara County Industrial Development Agency  
Vantage Center, Suite One  
6311 Inducon Corporate Drive  
Sanborn, NY 14132

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### **1.0 Meeting Called to Order**

The special meeting of the NCIDA/NADC Board Meeting was called to order by Chairperson Onesi at 9:00 a.m.

### **2.0 Roll Call**

Mark A. Onesi, Chairperson	Present
Jerald I. Wolfgang, 1 <sup>st</sup> Vice Chairperson	Present
Kevin McCabe, 2 <sup>nd</sup> Vice Chairperson	Present
William L. Ross Secretary	Present
Mary Lynn Candella, Assistant Secretary	Excused
Robert B. Cliffe, Member	Present
Clifford Scott, Member	Present
Scott Brydges, Member	Present
Jason Krempa, Member	Present

### **3.0 Introduction of Guests**

Tom Prohaska, Buffalo News  
Milan Tyler, Catholic Health System, Inc.  
Kevin Connell, Catholic Health System, Inc.  
David Macholz, Catholic Health System, Inc.

### **4.0 Mr. Onesi led the Pledge of Allegiance.**

### **5.0 New Business**

#### **5.1 Catholic Health System, Inc.**

Mr. Gabriele stated that Catholic Health System, Inc. is constructing a 63,000 square foot hospital in Lockport, New York and is seeking Bond Financing for that project as well as additional projects at Catholic Health facilities in Niagara and Erie County.

Mr. Tyler explained that the new project will put between 80 and 90 million dollars into the local economy to maintain the high standard of healthcare in the Erie and Niagara County region.

Mr. Krempa asked if someone could explain how sale of Bonds works. Mr. Tyler said that NADC is a conduit issuer only.

Mr. Connell explained that this will be done through a public sale much like other health care systems across the country. The primary investors will be through mutual funds, and insurance companies. The underwriter for this will be Bank of America. Mr. Tyler added that neither the County, NCIDA, nor NADC are responsible for payment of the issued Bonds. There is no liability on the issuer. Mr. Wolfgang asked if the funds issued will be used outside of Lockport on other projects. Mr. Tyler requires to exhibit "A" for a list of the projects and related investment. The exact number will be given when the Bonds go out to the market.

Mr. Scott questioned if there are going to be any new jobs created from this project. Mr. Macholz responded that this project will not create more jobs, rather, it will focus on retaining clinical jobs within Catholic Health System. Mr. Tyler added that this project will be bringing in construction jobs, which increases the economic impact of the project.

Mr. Cliff asked if there are any other sources of funds with this project. Mr. Macholz responded that there will be hospital equity, grant money from New York State, and donations for the projects.

Mr. Ross added that 75% of this money will be spent in Niagara County.

Mr. Brydges asked if this project will trigger new prevailing wage jobs for construction. Mr. Tyler responded that it will not, because that statute does not go into effect until January 1, 2022. Mr. Brydges also asked if construction on the project began yet. Mr. Macholz said that construction site work did not yet begin. Before construction begins, they are conducting an archeological examination of the site.

#### **5.1.1 Tax Exempt Bond (NADC)**

RESOLUTION AUTHORIZING THE ISSUANCE, EXECUTION, SALE AND DELIVERY BY THE NIAGARA AREA DEVELOPMENT CORPORATION OF ITS TAX-EXEMPT AND/OR TAXABLE MULTI-MODAL REVENUE BONDS (CATHOLIC HEALTH SYSTEM, INC. PROJECT), SERIES 2021, IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$90,000,000, INCLUDING MAKING A DETERMINATION UNDER SEQRA (AS HEREINAFTER DEFINED) AND THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS.

***Mr. Wolfgang made a motion to approve the resolution; Mr. Ross seconded the motion.***

The question of the approval of the Resolution as duly put to a vote on roll call, which resulted as follows.

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jerald I Wolfgang	X			
Kevin McCabe	X			
William L. Ross	X			
Mary Lynn Candella				X
Robert B. Cliffe	X			
Scott Brydges	X			
Clifford Scott	X			
Jason Krempa	X			
Mark A. Onesi	X			

The Resolution was thereupon duly adopted.

**6.0 Next Regular NCIDA/NCDC/NADC Meeting:**

**DATE: October 13, 2021**  
**TIME: \*\* 9:00 a.m. \*\***  
**PLACE: Niagara County Center for Economic Development**

**7.0 Adjournment**

***Mr. Onesi made a motion to adjourn; Mr. Cliffe seconded the motion. The meeting adjourned at 9:33 a.m.***

Respectfully submitted:                      Reviewed by:                      Approved by:

\_\_\_\_\_  
Julie Lamoreaux  
Recording Secretary

\_\_\_\_\_  
Susan C. Langdon  
Executive Director

\_\_\_\_\_  
William L. Ross  
Secretary

# **6.1**

# **AGENCY**

# **PAYABLES**

**Niagara County Industrial Devel. Agency**  
**Check Register**  
**For the Period From Sep 1, 2021 to Sep 30, 2021**

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
29345	9/7/21	Caroline M. Caruso	10001.100	98.13
29346	9/7/21	County of Niagara	10001.100	663.84
29347	9/7/21	Gabriele & Berrigan, P.C.	10001.100	5,000.00
29348	9/7/21	THE HARTFORD	10001.100	238.87
29349	9/7/21	M&T Bank	10001.100	1,183.65
29350	9/7/21	National Grid	10001.100	681.56
2007	9/7/21	Niagara Club, LLC	10660.100	64,403.00
9/9/21	9/9/21	PAYCHEX, INC.	10001.100	78.12
9/10/21	9/10/21	NYS DEFERRED COMPENSATION PLAN	10001.100	1,087.83
29351	9/15/21	360 PSG.com	10001.100	87.50
29352	9/15/21	County of Niagara	10001.100	36.34
29353	9/15/21	First Choice Coffee Services	10001.100	108.98
29354	9/15/21	Magavern Magavern Grimm LLP	10001.100	50.00
29355	9/15/21	SAM'S CLUB/SYNCHRONY BANK	10001.100	177.24
29356	9/15/21	STAPLES CONTRACT & COMMERCIAL	10001.100	87.04
29357	9/21/21	Guardian	10001.100	227.46
29358	9/21/21	Independent Health	10001.100	1,998.27
29359	9/21/21	Professional Janitorial Services, Inc.	10001.100	705.00
29360	9/21/21	Summit MSP, LLC	10001.100	170.10
29361	9/21/21	Walsh Duffield Companies, Inc.	10001.100	500.00
9/23/21	9/23/21	PAYCHEX, INC.	10001.100	64.40
9/24/21	9/24/21	NYS DEFERRED COMPENSATION PLAN	10001.100	1,009.83
9/27/21	9/27/21	NEW YORK STATE AND LOCAL	10001.100	348.28
29362	9/28/21	Gabriele & Berrigan, P.C.	10001.100	17,965.20
29363	9/28/21	Niag Cnty Dept of Economic Development	10001.100	71.23
29364	9/28/21	Time Warner Cable	10001.100	119.99
29365	9/30/21	Cintas Corporation LOC. 067P	10001.100	83.22
29366	9/30/21	Gabriele & Berrigan, P.C.	10001.100	5,000.00
29367	9/30/21	The Hartford	10001.100	736.01
<b>Total</b>				<b>102,981.09</b>

**NCIDA VIP-MTF Operating**  
**Check Register**  
For the Period From Sep 1, 2021 to Sep 30, 2021

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
4535	9/7/21	H.W.BRYK & SONS, INC.	10001.600	1,737.60
4536	9/7/21	Frontier	10001.600	184.68
4537	9/7/21	M&T Bank	10001.600	1,688.50
4538	9/7/21	National Grid	10001.600	575.90
4539	9/7/21	County of Niagara	10001.600	485.94
4540	9/15/21	AG Services of Niagara, LLC	10001.600	1,000.00
4541	9/15/21	H.W.BRYK & SONS, INC.	10001.600	437.55
4542	9/15/21	FIRE SAFETY SYSTEMS, INC.	10001.600	240.00
4543	9/15/21	Modern Disposal Services, Inc.	10001.600	164.10
4544	9/15/21	County of Niagara	10001.600	39.95
4545	9/21/21	Professional Janitorial Services, Inc.	10001.600	195.00
4546	9/28/21	Modern Electrical Construction Inc.	10001.600	245.00
<b>Total</b>				<b>6,994.22</b>



**NCIDA - MTF - Operating Fund**  
Check Register  
For the Period From Sep 1, 2021 to Sep 30, 2021

Filter Criteria includes: Report order is by Date.

Check #	Date	Payee	Cash Account	Amount
3012	9/7/21	Blue OX Roofing	10001.600	207.00
3013	9/7/21	National Grid	10001.600	21.02
3014	9/15/21	H.W. Bryk & Sons, Inc.	10001.600	280.00
3015	9/15/21	VERIZON	10001.600	122.33
<b>Total</b>				<b>630.35</b>

**NCDC - CDBG/HUD - RLF**  
**Check Register**  
For the Period From Sep 1, 2021 to Sep 30, 2021

Filter Criteria includes: Report order is by Date.

<b>Check #</b>	<b>Date</b>	<b>Payee</b>	<b>Cash Account</b>	<b>Amount</b>
192	9/15/21	Niagara Gazette Lockport Union Sun	10200-300	234.80
<b>Total</b>				<b>234.80</b>

**Niag. Cnty Dev. Corp. - Micro RLF**  
**Check Register**  
For the Period From Sep 1, 2021 to Sep 30, 2021

Filter Criteria includes: Report order is by Date.

<b>Check #</b>	<b>Date</b>	<b>Payee</b>	<b>Cash Account</b>	<b>Amount</b>
2046	9/15/21	Niagara Gazette Lockport Union Sun	10004.400	<u>220.40</u>
<b>Total</b>				<u><u>220.40</u></u>

**Niagara Industrial Incubator Associates**  
**Check Register**  
For the Period From Sep 1, 2021 to Sep 30, 2021

Filter Criteria includes: Report order is by Date.

<b>Check #</b>	<b>Date</b>	<b>Payee</b>	<b>Cash Account</b>	<b>Amount</b>
1229	9/7/21	National Grid	10000.100	516.66
1230	9/15/21	H.W. Bryk & Sons, Inc.	10000.100	155.00
1231	9/15/21	JGM Installation Service Inc.	10000.100	150.00
1232	9/15/21	Town of Wheatfield	10000.100	28.14
1233	9/21/21	Blue Ox Roofing	10000.100	1,167.00
1234	9/28/21	Gabriele & Berrigan, P.C.	10000.100	4,470.00
1235	9/28/21	National Fuel	10000.100	20.42
<b>Total</b>				<u><u>6,507.22</u></u>

# **6.2**

# **BUDGET**

# **VARIANCE**

# **REPORTS**

**NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**BUDGET VARIANCE REPORT AS OF September 30, 2021**  
**UN-AUDITED STATEMENT FOR INTERNAL MANAGEMENT USE ONLY**

	Current Month Actual	Current Month Budget	Year To Date Actual	Year To Date Budget	Year To Date Variance	Total Budget
<b>Operating Revenues</b>						
Project Administrative Fees	\$ 0.00	\$ 77,027.00	\$ 562,686.13	\$ 353,704.00	208,982.13	\$ 543,976.00
Project Application Fees	1,000.00	1,000.00	15,250.00	9,000.00	6,250.00	12,000.00
NEDF Origination Fees	0.00	0.00	3,000.00	0.00	3,000.00	0.00
NEDF RLF Administrative Fee	4,166.67	4,166.67	37,500.03	37,500.03	0.00	50,000.00
EDA RLF-Grant 2020 Admin Fees	0.00	0.00	31,039.03	0.00	31,039.03	0.00
Administratve Fees - Other	1,288.06	0.00	8,688.06	7,400.00	1,288.06	42,668.00
Interest Earnings	26.10	148.92	550.26	1,340.28	(790.02)	1,787.00
Training Room Income	0.00	11.67	0.00	105.03	(105.03)	140.00
Miscellaneous Income	0.00	0.00	55.70	0.00	55.70	0.00
Distrib From Niag. Ind. Suites	0.00	0.00	0.00	0.00	0.00	100,000.00
Distributions From Affiliates	0.00	0.00	0.00	0.00	0.00	80,000.00
Distribution from VIP MTF	0.00	0.00	0.00	0.00	0.00	150,000.00
<b>Total Operating Revenues</b>	<b>6,480.83</b>	<b>82,354.26</b>	<b>658,769.21</b>	<b>409,049.34</b>	<b>249,719.87</b>	<b>980,571.00</b>
<b>Operating Expenses</b>						
Salaries	25,847.86	25,453.92	245,915.69	254,539.20	(8,623.51)	330,901.00
Benefits	3,843.75	3,329.25	28,745.39	29,963.25	(1,217.86)	39,951.00
Retirement Benefits	5,331.42	5,331.42	47,982.78	47,982.78	0.00	63,977.00
Payroll Taxes	2,029.43	1,950.52	19,198.20	19,462.49	(264.29)	25,314.00
Unemployment Taxes	0.00	0.00	1,238.99	443.00	795.99	443.00
Consultants	2,500.00	2,500.00	22,500.00	22,500.00	0.00	30,000.00
Assisitant Director	5,412.00	5,412.00	48,708.00	48,708.00	0.00	64,944.00
Legal Services	5,000.00	5,000.00	65,125.20	45,000.00	20,125.20	60,000.00
Accounting Services	0.00	0.00	18,500.00	18,800.00	(300.00)	18,800.00
Accounting Services - NADC	0.00	0.00	2,100.00	2,100.00	0.00	2,100.00
Marketing	257.60	1,833.33	2,659.28	16,499.97	(13,840.69)	22,000.00
Printing	0.00	125.00	88.79	1,125.00	(1,036.21)	1,500.00
Office Supplies	71.53	208.33	999.53	1,874.97	(875.44)	2,500.00
Postage	0.00	139.00	2,041.84	2,789.00	(747.16)	3,344.00
Telephone & Fax	91.56	91.67	733.45	825.03	(91.58)	1,100.00
Internet Service	182.59	231.67	1,838.41	2,085.03	(246.62)	2,780.00
Common Area Charges	680.00	623.08	6,120.00	5,607.72	512.28	7,477.00
Energy	999.85	1,052.00	11,654.81	11,535.00	119.81	15,140.00
Conference & Travel	40.10	250.00	821.18	2,250.00	(1,428.82)	3,000.00
Employee Training	500.00	83.33	900.00	749.97	150.03	1,000.00
Depreciation Expense	0.00	0.00	0.24	0.00	0.24	0.00
Insurance Expense	1,480.00	1,580.25	13,320.00	14,222.25	(902.25)	18,963.00
Library & Membership	60.00	87.27	2,271.54	2,283.16	(11.62)	2,545.00
General Office	1,808.40	824.33	5,762.46	7,418.97	(1,656.51)	9,892.00
Repairs & Maintenance	931.09	1,188.67	8,198.88	10,698.03	(2,499.15)	14,264.00
Computer Support	0.00	666.67	0.00	6,000.03	(6,000.03)	8,000.00
Public Hearings	0.00	16.67	0.00	150.03	(150.03)	200.00
Furniture & Equipment Purchase	0.00	166.67	0.00	1,500.03	(1,500.03)	2,000.00
Other Expense	0.00	83.33	20.06	749.97	(729.91)	1,000.00
<b>Total Operating Expenses</b>	<b>57,067.18</b>	<b>58,228.38</b>	<b>557,444.72</b>	<b>577,862.88</b>	<b>(20,418.16)</b>	<b>753,135.00</b>
<b>Net Operating Income/&lt;Loss&gt;</b>	<b>(50,586.35)</b>	<b>24,125.88</b>	<b>101,324.49</b>	<b>(168,813.54)</b>	<b>270,138.03</b>	<b>227,436.00</b>
<b>Non-Operating Revenue &amp; Expense</b>						
Grants Rev.	0.00	0.00	9,200.00	0.00	9,200.00	0.00
Grant Rev- City NF Initiative	64,403.00	0.00	434,403.00	370,000.00	64,403.00	1,796,250.00
Grant to Subrecipient	0.00	0.00	9,200.00	0.00	9,200.00	0.00
Grant Sub-City NF Initiative	64,403.00	0.00	434,403.00	370,000.00	64,403.00	1,796,250.00
<b>Net Non-Operating Income/&lt;Loss&gt;</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Total Net Income/&lt;Loss&gt;</b>	<b>(\$ 50,586.35)</b>	<b>\$ 24,125.88</b>	<b>\$ 101,324.49</b>	<b>(\$ 168,813.54)</b>	<b>270,138.03</b>	<b>\$ 227,436.00</b>

**NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

Balance Sheet  
September 30, 2021

**ASSETS**

Current Assets	
Cash - Checking	\$ 374,454.46
Petty Cash	300.00
Mmkt Acct. - M&T Bank	1,587,941.92
Cash - First Response	65,803.07
Cash - City of N.F.	827.17
Mmkt Acct. - Cataract Tourism	3,938,348.78
Accts Rec - Public Hearings	1,634.74
Accounts rec. - Fees/Var.	129,395.00
Accounts Rec. EDA - RLF	7,499.97
A/R EDA - RLF 2020 Grant	31,039.03
Due To/From Micro RLF	7,499.97
Accounts Rec - NEDF	37,500.03
Due To/From VIP - MTF	417,028.80
Due From NCDC CDBG/HUD	(42,873.13)
Due To/Due From NADC	406.56
Prepaid Insurance	<u>5,382.00</u>
 Total Current Assets	 6,562,188.37
Other Assets	
Deferred Outflows	207,452.00
Investment in NIIA	<u>342,500.00</u>
 Total Other Assets	 549,952.00
Fixed Assets	
Furniture & Equipment	199,360.75
Furn & Fixtures - Fed purchase	5,861.08
Accum Dep. - Furn & Equip	(199,360.75)
Accum Dep. - F&F Fed Purch	<u>(5,861.08)</u>
 Total Fixed Assets	 <u>0.00</u>
 Total Assets	 <u>\$ 7,112,140.37</u>

**LIABILITIES AND NET ASSETS**

Current Liabilities	
Accrued Retirement	\$ 47,982.78
Deferred Rev. - First Repsonse	65,803.07
Def. Rev. - City of N.F.	3,939,175.95
Accounts Payable	9,193.60
Acct. Payable - Niag. County	<u>18,650.26</u>
 Total Current Liabilities	 4,080,805.66
Long-Term Liabilities	
Pension Liability	204,072.00
Deferred Inflows of Resources	<u>24,839.00</u>
 Total Long-Term Liabilities	 <u>228,911.00</u>
 Total Liabilities	 4,309,716.66
Net Assets	
Fund Balance - Operating Fund	2,701,099.22
Net Income	<u>101,324.49</u>
 Total Net Assets	 <u>2,802,423.71</u>
 Total Liabilities & Net Assets	 <u>\$ 7,112,140.37</u>

**Niagara County Industrial  
Development Agency  
Aged Payables  
As of September 30, 2021**

<b>Vendor ID Vendor</b>	<b>Invoice #</b>	<b>Amount Due</b>
County County of Niagara	Aug 21 Elec	625.05
FCCoffee First Choice Coffee Services	224081	100.35
LAMOR Julie Lamoreaux	9/1/21 - 9/28/21	40.10
M&TBUS M&T Bank	Sep 2021	1,223.55
NATGRID National Grid	39004 8/21	659.85
STAPLES STAPLES CONTRACT & COMMERCIAL	8063686125	71.53
Report Total		<u>2,720.43</u>

**Adjusting Journal Entries**

Estimated Sepy 2021 Legal Fees	5,000.00
Estimated Sep 2021 Copier usage	250.00
Estimated Jul-Sep 2021 Telephone	90.00
Estimated Sep 2021 Niagara County Electric	300.00
Estimated Sep 2021 Niagara County Gas	40.00
Estimated Sep 2021 Cleaning service	793.17
	<u>9,193.60</u>



**NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

10/5/2021

**Project Income - 2021  
Lease/Lease Back and Bonds**

<b>Closed 2021</b>	<b>Project Type</b>	<b>Total Project Amount</b>	<b>IDA Project Amount</b>	<b>Fees</b>	<b>Application Fee</b>	<b>Amount Received to Date</b>	<b>Date Received</b>	<b>Balance Due</b>	<b>Date Closed</b>
Vincent Properties, Inc.	L/L Back	6,650,000	6,100,000	61,000	1,000	62,000	1/12/21	-	1/4/2021
DLC Diversified Holdings, LLC(Dominick Cili	L/L Back	2,500,000	2,230,000	21,550	1,000	22,550	1/19/21	-	1/14/21
Hotel Niagara Development, LLC	No assistance provided.				1,000	1,000	6/4/18	-	
Stavatti Aerospace Ltd.	L/L Back	25,875,000	10,600,000	258,750	1,000	130,355	3/3/21	129,395	2/18/21
Iskalo 1 East Avenue LLC	L/L Back	6,057,760	4,100,000	41,000	1,000	42,000	4/19/21	-	4/5/21
AMP Real Estate Holdings of Erie County, LLC	L/L Back	522,913	509,913	5,099	1,000	6,099	6/1/21	-	5/20/21
8297 Packard Road, LLC	L/L Back	1,000,000	975,000	9,750	1,000	10,750	6/1/21	-	5/20/21
9745 Rochester Road LLC (Brent Industries)	L/L Back	12,625,000	11,050,000	82,000	1,000	83,000	6/28/21	-	6/18/21
7920 JMD LLC	L/L Back	795,500	725,000	7,250	1,000	8,250	7/6/21	-	6/25/21
Enterprise Lumber & Silo, LLC	L/L Back	3,082,826	2,069,156	20,700	1,000	21,700	7/21/21	-	7/9/21
DLV Properties, LLC	L/L Back	2,907,700	1,966,700	19,667	1,000	20,667	8/2/21	-	7/28/21
Diversified Manufacturing Acquisition, Inc.	Assumption of Costello Investors, LLC PILOT				1,000	1,000	7/9/21	-	7/29/21
The Niagara Club	L/L Back	3,036,700	2,172,000	21,720	1,000	22,720	8/30/21	-	8/27/21
Bogart-Sinatra Development, LLC	L/L Back	1,530,000	1,420,000	14,200	1,000	15,200	5/12/21	-	8/30/21

<b>TOTAL</b>				<u>562,686</u>	<u>14,000</u>	<u>447,291</u>		<u>-</u>	
				Fees received in prior year	-	-			
				<b>Total fees received to date in 2021</b>	<u>562,686</u>				
				<b>Total 2021 Budgeted Fees</b>	<u>543,976</u>				
				<b>Balance of Budgeted Fees</b>	<u>(18,710)</u>				

<b>Projected 2021</b>	<b>Project Type</b>	<b>Total Project Amount</b>	<b>IDA Project Amount</b>	<b>Anticipated Fees</b>	<b>Application Fee</b>	<b>Amount Received to Date</b>	<b>Date Received</b>	<b>Anticipated Balance Due</b>	<b>Inducement Expiration</b>
Merani Hotel Group	Sales Tax Only	22,500,000	20,286,000	75,000	1,000	1,000	3/13/19	75,000	11/30/21
Cerrone Estate Properties, LLC	L/L Back	1,780,000	1,750,000	17,500	1,000	1,000	2/3/21	17,500	3/31/22
Olcott Yacht Club Inc.	Sales Tax & Mig Tax Only	456,000	450,000	0	250	250	2/16/21	-	2/28/22
Trek Inc.	Sales Tax Only	8,235,000	6,500,000	30,000	1,000	1,000	2/16/21	30,000	3/31/22
Rubberform Recycled Products, LLC	L/L Back	2,955,000	2,860,000	28,600	1,000	1,000	4/5/21	28,600	5/31/22
Niacet Corporation	L/L Back	13,250,000	8,525,000	70,000	1,000			71,000	6/30/22
TM Montante Development LLC - 512 3rd St.	L/L Back	2,687,001	2,059,941	20,599	1,000	1,000	6/7/21	20,599	7/31/22
TM Montante Development LLC - 500 3rd St.	L/L Back	693,001	550,000	5,500	1,000	1,000	6/9/21	5,500	7/31/22
EW and KS Holdings LLC	L/L Back	955,000	905,000	9,050	1,000	1,000	8/11/21	9,050	9/30/22
MassMutual Asset Finance LLC	Assumption of Riester Wheatfield USA, LLC PILOT				1,000	1,000	9/1/21	-	9/30/22

<b>TOTAL</b>				<u>256,249</u>	<u>9,250</u>	<u>8,250</u>		<u>257,249</u>	<u>0</u>
<b>TOTAL - Projected Income 2021</b>				<u>818,936</u>	<u>23,250</u>	<u>455,541</u>		<u>257,249</u>	<u>129,395</u>

<b>Projected 2022</b>	<b>Project Type</b>	<b>Total Project Amount</b>	<b>IDA Project Amount</b>	<b>Anticipated Fees</b>	<b>Application Fee</b>	<b>Amount Received to Date</b>	<b>Date Received</b>	<b>Anticipated Balance Due</b>	<b>Inducement Expiration</b>
<b>TOTAL</b>				<u>0</u>	<u>0</u>	<u>0</u>		<u>0</u>	<u>0</u>

\* Pending Board Approval

**Cataract Tourism Fund  
Grant Program**

Grantee Name	Grant Awards	Outst'd'g Awards	Approval Date	Disbursement Date	Disbursement Amount	Offer Expiration	Project Description
Niagara County Dept. of Economic Development	37,667	0	10/11/2017	1/23/2018	37,667	11/30/2021	Feasibility study for Niagara Falls area multi-use facility
Niagara Aquarium Foundation	88,147	0	2/14/2018	7/15/2019	88,147	2/28/2022	Jellyfish exhibit and equipment
The Tourism Research Entrepreneurship Center (TReC)	176,600	0	8/8/2018	6/2/2020	176,600	6/1/2023	Buildout, audio/visual equipment and network connectivity hardware
Niagara Aquarium Foundation	16,717	0	2/12/2020	10/21/2020	16,717	11/30/2021	Renovations to second floor event room
Niagara Aquarium Foundation	370,000	0	8/14/2019	2/9/2021	370,000	11/30/2021	Interactive touch pools adjacent to main entrance of the Aquarium
Red Star Builders, LLC (The Niagara Club)	523,250	0	7/10/2019	9/7/2021	64,403	11/30/2021	Rooftop bar and lounge, banquet space, virtual entertainment lounge & Spot Coffee
Niagara Falls Center for Tourism LLC	1,000,000	1,000,000	6/12/2019	To Be Disbursed	0	11/30/2021	Construction of an indoor family entertainment center and outdoor improvements
The Center for Kashmir, Inc.	273,000	273,000	8/12/2020	To Be Disbursed	0	2/28/2022	Renovations to vacant church for a museum of art and culture for Kashmir
Savarino Companies, LLC	155,000	155,000	4/14/2021	To Be Disbursed	0	6/1/2023	Rehabilitation of 4,000 square feet of commercial/retail storefront space.
Buffalo Niagara Hospitality Inc.	3,750	3,750	4/14/2021	To Be Disbursed	0	11/30/2021	Business expansion to include purchase of electric scooters and bikes and tandem bi
<b>To Date Sub-Total</b>	<b>2,644,131</b>	<b>1,431,750</b>			<b>753,534</b>		

**Grant Fund Cash Balance as of 9/30/2021** 3,939,175.95  
**Less: Outstanding Awards** (1,431,750.00)  
**Available for awarding grants** 2,507,425.95

**Grant Fund Balance**

Grant Funding from NYS 11/22/2016 1,600,000.00  
Grant Funding from NYS 10/16/2017 1,440,000.00  
Grant Funding from NYS 10/12/2018 1,600,000.00

Bank Interest 52,753.21  
Bank Fees (43.26)

**Grant Disbursements** (753,534.00)  
**Grant Fund Balance** 3,939,175.95

**7.1**

**Metropolis  
Properties**

**Management, LLC**

**PROJECT SUMMARY**  
**Metropolis Properties Management LLC**



<b>Applicant:</b>	Metropolis Properties Management LLC	
<b>Project Location:</b>	515 6 <sup>th</sup> St., 620 Ferry Ave., 624 Ferry Ave. and 626 Ferry Ave. City of Niagara Falls	
<b>Assistance:</b>	10 year PILOT on improvements Sales Tax Abatements Mortgage Recording Tax Abatement	
<b>Description:</b>	<p>The project entails the acquisition of a 114,000 square foot vacant building located at 515 6<sup>th</sup> Street in Niagara Falls and its conversion into a four-star hotel, which will cater to an international clientele. There will be approximately 200 guest rooms and accessory uses including restaurant, fitness room, rooftop bar &amp; conference room. Construction will be limited to interior renovations and preservation of the historic exterior.</p> <p>The project is located in a distressed census tract of the City, with an unemployment rate of 27.2%. The location of the property is noted in the City's Comprehensive Plan as in need of private investment and infill development due to the high rate of vacant underutilized and dilapidated residential properties. The project will further the City's efforts to spur reinvestment and create pedestrian traffic between the Third Street corridor and the Casino District.</p>	
<b>Project Costs:</b>	Acquisition Construction/Renovation Furniture, Fixtures & Equipment Soft costs & other <p style="text-align: right;">TOTAL</p>	\$ 900,000 \$13,631,640 \$ 7,900,316 <u>\$ 3,182,044</u> \$25,614,000
<b>Employment:</b>	New Jobs to be created: 52 FTEs Total Annual Payroll End Year 3: \$2,267,200 Skills: Management, supervisors, food and beverage service, housekeeping, maintenance	

**REGIONAL ECONOMIC IMPACT ANALYSIS**  
**Metropolis Properties Management LLC**

Estimated State & Regional Benefits / Estimated Project Incentives Analysis

<b>Total State and Regional Benefits</b>	<b>\$3,688,697</b>
<b>Total Project Incentives</b>	<b>\$3,338,059</b>
<b>Benefit to Cost Ratio</b>	<b>1.1:1</b>

<b>Projected Employment</b>	<b>State</b>	<b>Region</b>
Total Employment	<b>214</b>	<b>214</b>
Direct**	52	52
Indirect***	12	12
Induced****	14	14
Temporary Construction (Direct and Indirect)	136	136

Estimated State & Regional Benefits (Discounted Present Value\*)

<b>Total State and Regional Benefits</b>	<b>\$ 3,688,697</b>
Income Tax Revenue	\$ 1,312,998
Property Tax/PILOT Revenue	\$ 1,511,895
Sales Tax Revenue	\$ 863,804

Estimated Project Incentives (Discounted Present Value\*)

<b>Total Project Incentives</b>	<b>\$3,338,059</b>
Mortgage Tax	\$ 115,263
Property Tax	\$ 2,045,505
Sales Tax	\$ 1,177,291

\* Figures over 15 years and discounted by 3.49%

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

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

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

Utilizing informANALYTICS modeling software, an economic impact analysis was conducted to measure new investment and employment for the project. This software is a widely accepted and an industry standard for economic impact modeling measuring employment and salary impacts and facility output on the community for a given project.

**8.1**

**Duncan's  
Heating &  
Cooling Corp.**

**PROJECT SUMMARY**  
**Duncan's Heating and Cooling Corp.**



<b>Applicant:</b>	Duncan's Heating and Cooling Corp.	
<b>Project Location:</b>	3507 Hyde Park Blvd. Niagara Falls, NY 14305	
<b>Assistance:</b>	Sales Tax Abatement Property Tax Abatement Mortgage Recording Tax	
<b>Description:</b>	<p>Duncan's Heating and Cooling Corp. will construct a 4,500 sq. ft. addition for manufacturing and fabrication space. As a result of this expansion, Duncan's Heating and Cooling will be able to hire at least nine additional individuals. All employees undergo a lengthy training process that provides certifications in welding and associated skills.</p> <p>Duncan's Heating and Cooling works closely with Niagara Worksource One in the hiring and training of persons in Niagara County. They've partnered with Worksource One on several successful on-the-job training programs and certifies that each new hire will receive 160 hours of training.</p>	
<b>Project Costs:</b>	Construction/Improvements Furniture, Fixtures & Equipment Soft costs & other  <p align="right"><b>TOTAL</b></p>	\$ 250,000 \$ 320,000 <u>\$ 10,000</u> <b>\$ 580,000</b>
<b>Employment:</b>	Current jobs in Niagara County 34 FTE New Jobs in Niagara County within 3 years: 9 FTE Estimated Annual Payroll End Year 3: \$2,762,000 Skills: welding, fabrication	
<b>Evaluative Criteria:</b>	15 year Industrial - Regional Wealth Creation, Research and Development Activities, Retention, Workforce Access	

**REGIONAL ECONOMIC IMPACT ANALYSIS**  
**Duncan's Heating and Cooling Corp.**

Estimated Project Benefits / Estimated Project Incentives Analysis

<b>Total Project Benefits</b>	<b>\$ 1,149,136</b>
<b>Total Project Incentives</b>	<b>\$ 114,258</b>
<b>Community Benefit to Cost Ratio</b>	<b>10:1</b>
<b>Total Employment</b>	<b>32</b>
Direct**	9
Indirect***	20
Temporary Construction	3

Estimated Project Benefits

<b>Total Project Benefits</b>	<b>\$ 1,149,136</b>
Income Tax Revenue	\$ 810,000
Property Tax Revenue	\$ 99,136
Sales Tax Revenue	\$ 240,000

Estimated Project Incentives

<b>Total Project Incentives</b>	<b>\$ 114,258</b>
Property Tax	\$ 75,433
Sales Tax	\$ 35,600
Mortgage Tax	\$ 3,225

\* Figures over 15 years and discounted by 3.49%

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

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

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

Utilizing informANALYTICS modeling software, an economic impact analysis was conducted to measure new investment and employment for the project. This software is a widely accepted and an industry standard for economic impact modeling measuring employment and salary impacts and facility output on the community for a given project.



# NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

Duncan's Heating & Cooling Corp.

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**(Applicant Name)**

6311 Inducon Corporate Drive, Suite One  
Sanborn, New York 14132  
Phone: 716-278-8760 Fax: 716-278-8769  
<http://niagaracountybusiness.com>

Updated 2021

- I. Subject to the applicable statute, information provided by applicant will be treated as confidential until such time as the Agency takes action on the request. However, in accordance with Article 6 of the Public Officers Law, all records in possession of the Agency are open to public inspection and copy.
- II. The Niagara County Industrial Development Agency has a one thousand dollar (\$1000.00) non-refundable application fee that must accompany the application submission.
- III. At the time of the project closing, project applicant is required to pay certain costs associated with the project. The applicant shall be responsible for the payment of an Agency fee in the amount of one percent (1.00%) of the total value of the project, together with Agency counsel fees as set forth in the Agency fee policy schedule, together with various related costs, including but not limited to public hearing expenses. Upon request, a fee summary will be provided to each applicant.
- IV. One (1) original signed copy of the Application and Environmental Assessment form should be submitted with the Application for Assistance.

*The Niagara County Industrial Development Agency does not discriminate on the basis of race, color, religion, sex, sexual orientation, marital status, age, national origin, disability or status as a disabled or Vietnam Veteran or any other characteristic protected by law.*

6311 Inducon Corporate Drive, Suite 1 ■ Sanborn, NY 14132-9099 ■ 716-278-8760  
Fax 716-278-8769 ■ [www.niagaracountybusiness.com](http://www.niagaracountybusiness.com)

# NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

### I. APPLICANT INFORMATION

Company Name: Duncan's Heating & Cooling Corp.

Mailing Address: PO Box 60

City/Town/Village & Zip code: Ransomville, NY 14131

Phone: (716) 791-3390

Website: niagaraindustrialmechanical.com

Fed Id. No.: 16-1362183

Contact Person, and Title: Duane Duncan, President

Email: duane@niagaraindustrialmechanical.com

**Principal Owners/Officers/Directors** (list owners with 15% or more in equity holdings with percentage ownership):

Duane Duncan Sr. 100%

**Corporate Structure** (attach schematic if applicant is a subsidiary or otherwise affiliated with another entity)

#### Form of Entity



#### Corporation

Date of Incorporation: Sept 27, 1989

State of Incorporation: NY



#### Partnership

General \_\_\_\_\_ or Limited \_\_\_\_\_

Number of general partners \_\_\_\_\_

If applicable, number of limited partners \_\_\_\_\_

Date of formation \_\_\_\_\_

Jurisdiction of Formation \_\_\_\_\_



#### Limited Liability Company/Partnership (number of members \_\_\_\_\_)

Date of organization: \_\_\_\_\_

State of Organization: \_\_\_\_\_



#### Sole Proprietorship

If a foreign organization, is the applicant authorized to do business in the State of New York?

\_\_\_\_\_

**Applicant's Counsel**

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

Contact Person, and Title: Joe L. Leone Jr.

Mailing Address: 791 3rd. St.

City/Town/Village & Zip code: Niagara Falls, NY 14301

Email: leonelawoffice.nf@gmail.com

Phone: (716) 285-9511

Fax No.: \_\_\_\_\_

**II. PROJECT INFORMATION**

**A)** Project Address: 3507 Hyde Park Blvd. Niagara Falls, NY 14305

Tax Map Number (SBL) 130.19-2-7  
(Section/Block/Lot)

SWIS Number \_\_\_\_\_

Located in City of \_\_\_\_\_

Located in Town of Niagara

Located in Village of \_\_\_\_\_

School District of Niagara Wheatfield

**B)** Current Assessment of Property:

Land 13,800

Total 54,100

**C)** Present legal owner of the site Duncan's Heating & Cooling Co.

If other than from applicant, by what means will the site be acquired for this project?

\_\_\_\_\_

**D)** Describe the project:

Build approximately 4500 sq. ft. of additional manufacturing/fabrication space

\_\_\_\_\_

\_\_\_\_\_

1. Project site (land)

**(a)** Indicate approximate size (In acres or square feet) of project site.

4500 sq ft

**(b)** Indicate the present use of the project site.

outdoor storage

2. Indicate number, size (in square feet) and approximate age of existing buildings on site  
4800 sq ft, 20 years old  
\_\_\_\_\_
3. Does the project consist of the construction of a new building or buildings?  
If yes, indicate number and size (in square feet) of new buildings.  
yes, 4500 sq ft  
\_\_\_\_\_
4. Does the project consist of additions and/or renovations to existing buildings? If yes, indicate nature of expansion and/or renovation.  
additions to existing building  
\_\_\_\_\_
5. If any space in the project is to be leased to third parties, indicate total square footage of the project amount to be leased to each tenant and proposed use by each tenant.  
n/a  
\_\_\_\_\_
6. List principal items/categories of equipment to be acquired as part of the project.  
water jet machine, paint booth, welding machines  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Has construction work on this project begun?  
no  
\_\_\_\_\_

**E) Inter-Municipal Move Determination**

Will the project result in the removal of a plant or facility of the applicant from one area of the State of New York to another?

Yes or  No

Will the project result in the removal of a plant or facility of another proposed occupant of the project from one area of the State of New York to another area of the State of New York?

Yes or  No

Will the project result in the abandonment of one or more plants or facilities located in the State of New York?

Yes or  No

If Yes to any of the questions above, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

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- F) Furnish a copy of any environmental application presently in process of completion concerning this project, providing name and address of the agency, and copy all pending or completed documentation and determinations.

III. **SOURCES & USES OF FUNDS**

A) Estimated Project Costs:

Property Acquisition	\$	
Construction (Improvements)	\$	250,000
Equipment Purchases/Fixtures/Furnishings		320,000
Soft costs (i.e. engineering, architectural)	\$	10,000
Other (describe)	\$	
TOTAL USES OF FUNDS	\$	580,000

B) Sources of Funds for Project Costs *(Must match above Total Uses of Funds)*:

Bank Financing	\$	430,000
Equity	\$	
Grants/Tax Credits	\$	
Taxable or Tax Exempt Bond	\$	
Other	\$	150,000
TOTAL SOURCES OF FUNDS	\$	580,000

C) Identify each state and federal grant/credit:

	\$	
	\$	
	\$	
	\$	
TOTAL PUBLIC FUNDS	\$	

**IV. FINANCIAL ASSISTANCE REQUESTED**

**A.) Benefits Requested:**

- Sales Tax Exemption
  Mortgage Recording Tax Exemption  
 Real Property Tax Abatement (PILOT)

**B.) Value of Incentives:**

Property Tax Exemption (To be estimated by NCIDA Staff. See Page 13)

Estimated duration of Property Tax exemption: 15 years

Sales and Use Tax

Estimated value of Sales Tax exemption for facility construction: \$ 10,000

Estimated value of Sales Tax exemption for fixtures and equipment: \$ 25,600

Estimated duration of Sales Tax exemption: 1 year

Mortgage Recording Tax Exemption Benefit

Estimated value of Mortgage Recording Tax exemption: \$ 3,225

**C.) Financial Assistance Determination:**

If financial incentives are not provided by NCIDA, is the project financially viable?

Yes or  No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

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**V. EMPLOYMENT PLAN**

	# of Retained Jobs	Retained Jobs Average Annual Salary	# of Created Jobs <i>(3 yrs after project completion)</i>	Created Jobs Average Annual Salary
Full Time (FTE)	34	\$ 68,000	9	\$ 50,000
Part time (PTE)	0	\$ 0	0	\$ 0
<b>TOTAL</b>	<b>34</b>	<b>\$ 68,000</b>	<b>9</b>	<b>\$ 50,000</b>

Annual Salary Range of Jobs to be Created: \$ 50,000 to \$ 60,000

**Category of Jobs to be Retained and Created:**

Job Categories (ie. Management, Administrative, Production, etc.) Fabrication jobs

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## VI. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the proposed project.
- C. A liability and contract liability policy for a minimum of three million dollars will be furnished by the Applicant insuring the Agency.
- D. Annual Sales Tax Filings: In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the Applicant.
- E. Annual Employment Reports: The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- F. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.



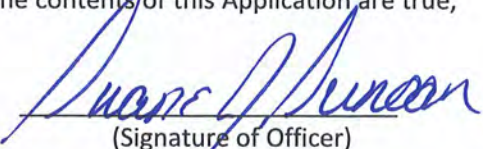
- G. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I. Recapture: Should the Applicant not expend or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- J. Absence of Conflicts of Interest: The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described.

The Applicant and the individual executing this Application on behalf of applicant acknowledge that the Agency and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

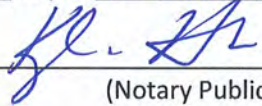
STATE OF NEW YORK )  
COUNTY OF NIAGARA ) ss.:

Duane Duncan, being first duly sworn, deposes and says:

1. That I am the President (Corporate Office) of Duncan's Heating & Cooling Corp. (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 21 day of SEPTEMBER, 2021.

  
\_\_\_\_\_  
(Notary Public)

KYLE M. HEATH  
Notary Public, State of New York  
Qualified in Niagara County  
Reg. No. 01HE6249706  
My Commission Expires Oct. 11, 2023

This Application should be submitted to the Niagara County Industrial Development Agency,  
6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132.

Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

**HOLD HARMLESS AGREEMENT**

Applicant hereby releases the NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof (the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in processing of the Application, including attorneys' fees, if any.

*Diane Duncan*  
(Applicant Signature)

Name: *Diane Duncan*  
Title: *President*

*[Signature]*  
(Notary Public)

Sworn to before me this 21 day  
of SEPTEMBER, 2021

KYLE M. HEATH  
Notary Public, State of New York  
Qualified in Niagara County  
Reg. No. 01HE6249706  
My Commission Expires Oct. 11, 2023

**Real Property Tax Benefits (Detailed):**

\*\* This section of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
\$250,000	\$145,000	13.537398	40.154102	4.761063

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	20%	\$ 393	\$ 1,164	\$ 138	\$ 1,695	\$ 8,476	\$ 6,780
2	20%	\$ 393	\$ 1,164	\$ 138	\$ 1,695	\$ 8,476	\$ 6,780
3	30%	\$ 589	\$ 1,747	\$ 207	\$ 2,543	\$ 8,476	\$ 5,933
4	30%	\$ 589	\$ 1,747	\$ 207	\$ 2,543	\$ 8,476	\$ 5,933
5	40%	\$ 785	\$ 2,329	\$ 276	\$ 3,390	\$ 8,476	\$ 5,085
6	40%	\$ 785	\$ 2,329	\$ 276	\$ 3,390	\$ 8,476	\$ 5,085
7	40%	\$ 785	\$ 2,329	\$ 276	\$ 3,390	\$ 8,476	\$ 5,085
8	40%	\$ 785	\$ 2,329	\$ 276	\$ 3,390	\$ 8,476	\$ 5,085
9	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
10	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
11	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
12	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
13	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
14	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
15	50%	\$ 981	\$ 2,911	\$ 345	\$ 4,238	\$ 8,476	\$ 4,238
<b>TOTAL</b>		<b>\$ 11,974</b>	<b>\$ 35,516</b>	<b>\$ 4,211</b>	<b>\$ 51,701</b>	<b>\$ 127,134</b>	<b>\$ 75,433</b>

\*Estimates provided are based on current property tax rates and assessment value

**Cost Benefit Analysis:**

**To be completed/calculated by AGENCY**

	<u>Costs =</u> <u>Financial Assistance</u>	<u>Benefits =</u> <u>Economic Development</u>
*Estimated Sales Tax Exemption	\$ <u>35,600</u>	New Jobs Created Permanent <u>9</u> Temporary _____
		Existing Jobs Retained Permanent <u>34</u> Temporary _____
Estimated Mortgage Tax Exemption	\$ <u>3,225</u>	Expected Yearly Payroll \$ <u>2,762,000</u>
Estimated Property Tax Abatement	\$ <u>75,433</u>	Additional Revenues to School Districts \$ <u>35,516</u>
		Additional Revenues to Municipalities County: \$ <u>11,974</u> City: \$ <u>4,211</u>
		Other Benefits _____
Estimated Interest Savings IRB Issue	\$ _____	Private Funds invested \$ <u>580,000</u>
		Likelihood of accomplishing proposed project within three (3) years <input checked="" type="checkbox"/> Likely or <input type="checkbox"/> Unlikely

\* Estimated Value of Goods and Services to be exempt from sales and use tax as a result of the Agency's involvement in the Project. PLEASE NOTE: These amounts will be verified and there is a potential for a recapture of sales tax exemptions (see "Recapture" on page 12).

\$ 445,000 (to be used on the NYS ST-60)

**UPDATED 2021**

**617.20**  
**Appendix B**  
**Short Environmental Assessment Form**

**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>			
Duane Duncan Sr.			
Name of Action or Project: 4500 sq ft building addition			
Project Location (describe, and attach a location map): 3507 Hyde Park Blvd. Niagara Falls, NY 14305			
Brief Description of Proposed Action: Add a 4500 sq ft addition to current building for more space to fabricate			
Name of Applicant or Sponsor: Duane Duncan Sr.		Telephone: (716) 870-6026	
		E-Mail: duane@niagaraindustrialmechanical.com	
Address: PO Box 60			
City/PO: Ransomville		State: NY	Zip Code: 14131
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? 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.		<b>NO</b>	<b>YES</b>
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		<b>NO</b>	<b>YES</b>
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ less than 1 acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ less than 1 acres			
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			



18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: <u>Duane Duncan Sr.</u>		Date: <u>9/16/2021</u>
Signature: <u><i>Duane J. Duncan</i></u>		

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** 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:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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"/>



	No, or small impact may occur	Moderate to large impact may occur
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"/>

**Part 3 - Determination of significance.** The Lead Agency is responsible for the completion of Part 3. 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.

<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.
_____	_____
Name of Lead Agency	Date
_____	_____
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**

**8.2**

**PEMM LLC**

**PROJECT SUMMARY**  
**PEMM LLC**



<b>Applicant:</b>	PEMM LLC	
<b>Project Location:</b>	Porter Rd. Niagara Falls, NY 14304	
<b>Assistance:</b>	Sales Tax Abatement Property Tax Abatement Mortgage Recording Tax	
<b>Description:</b>	<p>PEMM LLC proposes the build out of a full service travel center on three vacant parcels of land in the Town of Niagara. The 8-acre area will have food accommodations for travelers and offer a service area for trucks to provide minor maintenance and repairs. There will be a weight station for trucks to meet interstate transfer requirements and amenities available for those industry employees who require additional accommodations.</p> <p>PEMM LLC will service the tourist busses and host tourism materials that will promote local attractions. There will also be refueling canopies to serve both the traditional traveler and the diesel consumer.</p> <p>PEMM LLC primary consumer group is the tourism and distribution networks, as such the typical build out will center around meeting those demands.</p>	
<b>Project Costs:</b>	Acquisition Construction/Improvements Furniture, Fixtures & Equipment Soft costs & other <p style="text-align: right;"><b>TOTAL</b></p>	\$ 2,150,000 \$ 3,750,000 \$ 2,350,000 <u>\$ 250,000</u> <b>\$ 8,500,000</b>
<b>Employment:</b>	Current jobs in Niagara County New Jobs in Niagara County within 3 years: Estimated Annual Payroll End Year 3: Skills: management, operational staff	0 FTE 20 FTE \$750,000
<b>Evaluative Criteria:</b>	10 year Tourism- regional wealth creation, support of regional tourism, In region purchases, general of regional revenues	

**REGIONAL ECONOMIC IMPACT ANALYSIS  
PEMM LLC Tourism Center**

Estimated Project Benefits / Estimated Project Incentives Analysis

<b>Total Project Benefits</b>	<b>\$ 1,158,781</b>
<b>Total Project Incentives</b>	<b>\$ 725,102</b>
<b>Community Benefit to Cost Ratio</b>	<b>1.6:1</b>
<b>Total Employment</b>	<b>60</b>
Direct**	20
Indirect***	13
Temporary Construction	27

Estimated Project Benefits

<b>Total Project Benefits</b>	<b>\$ 1,158,781</b>
Income Tax Revenue	\$ 548,000
Property Tax Revenue	\$ 423,781
Sales Tax Revenue	\$ 187,000

Estimated Project Incentives

<b>Total Project Incentives</b>	<b>\$ 725,102</b>
Property Tax	\$ 336,102
Sales Tax	\$ 338,000
Mortgage Tax	\$ 51,000

\* Figures over 15 years and discounted by 3.49%

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

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

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

Utilizing informANALYTICS modeling software, an economic impact analysis was conducted to measure new investment and employment for the project. This software is a widely accepted and an industry standard for economic impact modeling measuring employment and salary impacts and facility output on the community for a given project.

# NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

PEMM LLC

---

(Applicant Name)

6311 Inducon Corporate Drive, Suite One  
Sanborn, New York 14132  
Phone: 716-278-8760 Fax: 716-278-8769  
<http://niagaracountybusiness.com>

Updated 2021

- I. Subject to the applicable statute, information provided by applicant will be treated as confidential until such time as the Agency takes action on the request. However, in accordance with Article 6 of the Public Officers Law, all records in possession of the Agency are open to public inspection and copy.
- II. The Niagara County Industrial Development Agency has a one thousand dollar (\$1000.00) non-refundable application fee that must accompany the application submission.
- III. At the time of the project closing, project applicant is required to pay certain costs associated with the project. The applicant shall be responsible for the payment of an Agency fee in the amount of one percent (1.00%) of the total value of the project, together with Agency counsel fees as set forth in the Agency fee policy schedule, together with various related costs, including but not limited to public hearing expenses. Upon request, a fee summary will be provided to each applicant.
- IV. One (1) original signed copy of the Application and Environmental Assessment form should be submitted with the Application for Assistance.

*The Niagara County Industrial Development Agency does not discriminate on the basis of race, color, religion, sex, sexual orientation, marital status, age, national origin, disability or status as a disabled or Vietnam Veteran or any other characteristic protected by law.*

6311 Inducon Corporate Drive, Suite 1 ■ Sanborn, NY 14132-9099 ■ 716-278-8760  
Fax 716-278-8769 ■ [www.niagaracountybusiness.com](http://www.niagaracountybusiness.com)

# NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR FINANCIAL ASSISTANCE

### I. APPLICANT INFORMATION

Company Name: PEMM LLC

Mailing Address: 2781 Lakeville Rd. Ste 1

City/Town/Village & Zip code: Avon, NY 14414

Phone: (586) 226-3661

Website: quicklees.com

Fed Id. No.: 16-1482409

Contact Person, and Title: Lou Terragnoli, Director of Real Estate Development

Email: l.terragnoli@quicklees.com

**Principal Owners/Officers/Directors** (list owners with 15% or more in equity holdings with percentage ownership):

Peter Bruckel (20%), Jennifer Perelli (20%), Joshua Bruckel (20%), Jacqueline Bruckel (20%), Juston Bruckel (20%)

**Corporate Structure** (*attach schematic if applicant is a subsidiary or otherwise affiliated with another entity*)

#### Form of Entity

#### Corporation

Date of Incorporation: \_\_\_\_\_

State of Incorporation: \_\_\_\_\_

#### Partnership

General \_\_\_\_\_ or Limited \_\_\_\_\_

Number of general partners \_\_\_\_\_

If applicable, number of limited partners \_\_\_\_\_

Date of formation \_\_\_\_\_

Jurisdiction of Formation \_\_\_\_\_

#### Limited Liability Company/Partnership (number of members <sup>5</sup> \_\_\_\_\_)

Date of organization: to be formed

State of Organization: \_\_\_\_\_

#### Sole Proprietorship

If a foreign organization, is the applicant authorized to do business in the State of New York?

\_\_\_\_\_

**Applicant's Counsel**

Company Name: Trevett Cristo Attorneys

Contact Person, and Title: Colin Bruckel

Mailing Address: 2 State Street Ste. 1000

City/Town/Village & Zip code: Rochester, NY 14614

Email: cbruckel@trevettcristo.com

Phone: (585) 454-2181

Fax No.: (585) 454-4026

**II. PROJECT INFORMATION**

**A)** Project Address: Porter Rd.,

Tax Map Number (SBL) 145.14-3-2.11, 145.15-2-3.21, 145.14-3-2.2  
(Section/Block/Lot)

SWIS Number \_\_\_\_\_

Located in City of \_\_\_\_\_

Located in Town of Niagara

Located in Village of \_\_\_\_\_

School District of Niagara Wheatfield

**B)** Current Assessment of Property:

Land 150k, 100k, 46.3k

Total 200k, 100k, 46.3k

**C)** Present legal owner of the site 9395 CH, LLC

If other than from applicant, by what means will the site be acquired for this project?

\_\_\_\_\_

**D)** Describe the project:

The development of a 12,000 sq. ft. travel center with passenger and

professional amenities and accommodations. In addition, there will be

restaurant options, including a drive thru. Both regular fuel and diesel fuel will

be offered.

1. Project site (land)

**(a)** Indicate approximate size (In acres or square feet) of project site.

8 acres

**(b)** Indicate the present use of the project site.

vacant land



2. Indicate number, size (in square feet) and approximate age of existing buildings on site  
no building on site  
\_\_\_\_\_
3. Does the project consist of the construction of a new building or buildings?  
If yes, indicate number and size (in square feet) of new buildings.  
yes, 12,000 sq. ft.  
\_\_\_\_\_
4. Does the project consist of additions and/or renovations to existing buildings? If yes,  
indicate nature of expansion and/or renovation.  
n/a  
\_\_\_\_\_
5. If any space in the project is to be leased to third parties, indicate total square footage  
of the project amount to be leased to each tenant and proposed use by each tenant.  
1,200 sq ft. - quick service and restaurant  
\_\_\_\_\_
6. List principal items/categories of equipment to be acquired as part of the project.  
diesel fuel dispensers, tanks, canopy, regular and premium fuel dispensers, service  
equipment.  
\_\_\_\_\_  
\_\_\_\_\_
7. Has construction work on this project begun?  
No  
\_\_\_\_\_

**E) Inter-Municipal Move Determination**

Will the project result in the removal of a plant or facility of the applicant from one area of the State of New York to another?

Yes or  No

Will the project result in the removal of a plant or facility of another proposed occupant of the project from one area of the State of New York to another area of the State of New York?

Yes or  No

Will the project result in the abandonment of one or more plants or facilities located in the State of New York?

Yes or  No

If Yes to any of the questions above, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

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- F) Furnish a copy of any environmental application presently in process of completion concerning this project, providing name and address of the agency, and copy all pending or completed documentation and determinations.

III. **SOURCES & USES OF FUNDS**

A) Estimated Project Costs:

Property Acquisition	\$	2,150,000
Construction (Improvements)	\$	3,750,000
Equipment Purchases/Fixtures/Furnishings		2,050,000
Soft costs (i.e. engineering, architectural)	\$	250,000
Other (describe)	\$	300,000
TOTAL USES OF FUNDS	\$	8,500,000

B) Sources of Funds for Project Costs *(Must match above Total Uses of Funds):*

Bank Financing	\$	6,800,000
Equity	\$	1,700,000
Grants/Tax Credits	\$	0
Taxable or Tax Exempt Bond	\$	0
Other	\$	
TOTAL SOURCES OF FUNDS	\$	8,500,000

C) Identify each state and federal grant/credit:

	\$	
	\$	
	\$	
	\$	
TOTAL PUBLIC FUNDS	\$	



## VI. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
- C. A liability and contract liability policy for a minimum of three million dollars will be furnished by the Applicant insuring the Agency.
- D. Annual Sales Tax Filings: In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the Applicant.
- E. Annual Employment Reports: The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- F. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

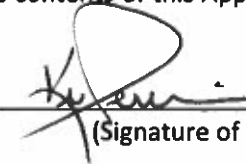
- G. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I. Recapture: Should the Applicant not expend or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- J. Absence of Conflicts of Interest: The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described.

The Applicant and the individual executing this Application on behalf of applicant acknowledge that the Agency and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

STATE OF NEW YORK )  
COUNTY OF LIVINGSTON ) ss.:

Kenneth Perelli being first duly sworn, deposes and says:

1. That I am the vice President (Corporate Office) of PEMM, LLC (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this 29<sup>th</sup> day of Sept, 2021.

Erin Devries  
(Notary Public)

This Application should be submitted to the Niagara County Industrial Development Agency,  
6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132.

Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

ERIN DEVRIES  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01DE6410601  
Qualified in Monroe County  
Commission Expires October 26, 2024

**HOLD HARMLESS AGREEMENT**

Applicant hereby releases the NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof (the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in processing of the Application, including attorneys' fees, if any.

  
\_\_\_\_\_  
(Applicant Signature)

Name: Kenneth Perelli

Title: Vice President

  
\_\_\_\_\_  
(Notary Public)

Sworn to before me this 29<sup>th</sup> day

[stamp]

of September, 2021

ERIN DEVRIES  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01DE6410601  
Qualified In Monroe County  
Commission Expires October 26, 2024

**Real Property Tax Benefits (Detailed):**

\*\* This section of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000
\$3,750,000	\$1,000,000	13.537398	4.761063	40.154102

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1	20%	\$ 2,707	\$ 952	\$ 8,031	\$ 11,691	\$ 58,453	\$ 46,762
2	25%	\$ 3,384	\$ 1,190	\$ 10,039	\$ 14,613	\$ 58,453	\$ 43,839
3	30%	\$ 4,061	\$ 1,428	\$ 12,046	\$ 17,536	\$ 58,453	\$ 40,917
4	35%	\$ 4,738	\$ 1,666	\$ 14,054	\$ 20,458	\$ 58,453	\$ 37,994
5	40%	\$ 5,415	\$ 1,904	\$ 16,062	\$ 23,381	\$ 58,453	\$ 35,072
6	45%	\$ 6,092	\$ 2,142	\$ 18,069	\$ 26,304	\$ 58,453	\$ 32,149
7	50%	\$ 6,769	\$ 2,381	\$ 20,077	\$ 29,226	\$ 58,453	\$ 29,226
8	55%	\$ 7,446	\$ 2,619	\$ 22,085	\$ 32,149	\$ 58,453	\$ 26,304
9	60%	\$ 8,122	\$ 2,857	\$ 24,092	\$ 35,072	\$ 58,453	\$ 23,381
10	65%	\$ 8,799	\$ 3,095	\$ 26,100	\$ 37,994	\$ 58,453	\$ 20,458
<b>TOTAL</b>		<b>\$ 57,534</b>	<b>\$ 20,235</b>	<b>\$ 170,655</b>	<b>\$ 248,423</b>	<b>\$ 584,526</b>	<b>\$ 336,102</b>

\*Estimates provided are based on current property tax rates and assessment value



**Cost Benefit Analysis:**

**To be completed/calculated by AGENCY**

	<u>Costs =</u> <u>Financial Assistance</u>	<u>Benefits =</u> <u>Economic Development</u>
*Estimated Sales Tax Exemption	\$ <u>338,000</u>	New Jobs Created Permanent <u>20</u> Temporary _____
		Existing Jobs Retained Permanent <u>0</u> Temporary _____
Estimated Mortgage Tax Exemption	\$ <u>51,000</u>	Expected Yearly Payroll \$ <u>750,000</u>
Estimated Property Tax Abatement	\$ <u>336,102</u>	Additional Revenues to School Districts \$ <u>170,655</u>
		Additional Revenues to Municipalities County: \$ <u>57,534</u> City: \$ <u>20,235</u>
		Other Benefits _____
Estimated Interest Savings IRB Issue	\$ _____	Private Funds invested \$ <u>8,200,000</u>
		Likelihood of accomplishing proposed project within three (3) years <input checked="" type="checkbox"/> Likely or <input type="checkbox"/> Unlikely

\* Estimated Value of Goods and Services to be exempt from sales and use tax as a result of the Agency's involvement in the Project. PLEASE NOTE: These amounts will be verified and there is a potential for a recapture of sales tax exemptions (see "Recapture" on page 12).

\$ 4,225,000 (to be used on the NYS ST-60)

**UPDATED 2021**

**617.20**  
**Appendix B**  
**Short Environmental Assessment Form**

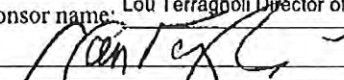
**Instructions for Completing**

**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>			
Quicklee's Convenience Store			
Name of Action or Project: Town Of Niagara Travel Center			
Project Location (describe, and attach a location map): 6005 Porter Road, Town of Niagara, NY			
Brief Description of Proposed Action: The development of a 12,000 square foot travel center with passenger and professional amenities and accommodations. In addition, there will be restaurant offerings, including a drive thru. Both regular and diesel fuel will be offered.			
Name of Applicant or Sponsor: PEMM LLC/Quicklee's or an entity to be formed.		Telephone: 716-2288860	
		E-Mail: l.terragnoli@quicklees.com	
Address: 2697 Lakeville Road Suite 1			
City/PO: Avon		State: New York	Zip Code: 14414
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? 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.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		_____ 8 acres	
b. Total acreage to be physically disturbed?		_____ acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		_____ 8 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" 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? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply?  If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities?  If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: Lou Terragnoli Director of Real Estate & Development		Date: 9/29/2021
Signature: 		

**Part 2 - Impact Assessment.** The Lead Agency is responsible for the completion of Part 2. 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:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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"/>

	No, or small impact may occur	Moderate to large impact may occur
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"/>

**Part 3 - Determination of significance.** The Lead Agency is responsible for the completion of Part 3. 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.

<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.
_____	_____
Name of Lead Agency	Date
_____	_____
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**

**8.3**

**Covanta Holding  
Corporation**

September 22, 2021

[BY EMAIL]

Ms. Susan C. Langdon, Executive Director ([susan.langdon@niagaracounty.com](mailto:susan.langdon@niagaracounty.com))  
Niagara County Industrial Development Agency  
6311 Inducon Corporate Drive, Suite 1  
Sanborn, New York 14132

re Covanta Agenda for October Board Meeting

Dear Ms. Langdon:

I am delivering this letter in order to provide some context to Covanta Holding Corporation's ("Covanta" or the "Company") recent request to be added to the October board agenda. I am hoping this letter will provide the backdrop to the request as well as answer some of the questions likely to be raised at or ahead of the October meeting.

**BACKDROP**

As you may be aware, Covanta and affiliates of EQT AB ("EQT") entered into an Agreement and Plan of Merger, dated as of July 14, 2021 under which EQT will acquire Covanta. EQT is a leading investment firm with more than EUR 67 billion in assets under management across 26 active funds and with portfolio companies in Europe, Asia-Pacific and the Americas with total sales of approximately EUR 29 billion and more than 175,000 employees,

The acquisition is subject to various regulatory approvals and, although timing is subject to change, is anticipated to close in November or December. Covanta estimates that the total amount required to complete the merger and the related transactions and to pay related fees and expenses will be approximately \$5.2 billion, which will be funded through a combination of new and assumed debt and equity financing provided by EQT.

Both Moody's and S&P have affirmed Covanta's existing ratings in conjunction with the acquisition and proposed financing. In fact, S&P upgraded Covanta's outlook from "Stable" to "Positive" based on their favorable view of EQT's ownership, of Covanta's strong recent operating trends and of their forecasted material deleveraging over the next few years.

**CONSENT SOLICITATION**

Covanta's existing taxable and tax-exempt corporate debt each contain "change of control" protection that grants the holder the right, if the borrower is acquired, to sell its bonds back to the company at a price of 101 plus accrued interest through the date of acquisition. EQT and Covanta would prefer if the existing tax-exempt bonds remained outstanding post-acquisition rather than having to be repurchased at 101. In order to keep the bonds outstanding post-close of the EQT acquisition, Covanta and EQT must seek and obtain the consent of over 50% of existing holders to be able to amend certain provisions within the bond documents.

As part of the broader debt financing process, Covanta and EQT have already sought and received the requisite consent from the holders of Covanta's 6.000% Senior Notes due 2027 and 5.000% Senior Notes due 2030.

Covanta now intends to pursue a similar consent solicitation process with the tax-exempt bonds that is intended to be commenced in early October and targeted to end in mid-October. Covanta intends to offer compensation to all holders that provide their consent within the prescribed timeframe.

The proposed amendments with respect to the tax-exempt bonds relate to three key items:

- First and foremost, the elimination of the requirement to make a "Change of Control Offer" with respect to the series of bonds in the applicable indenture and/or loan agreement in connection with the Merger. In other words, Covanta is requesting that bond holders agree to keep the bonds outstanding after the EQT merger.

- Second, granting upstream subsidiary guarantees to all series of tax-exempt bonds. In conjunction with the acquisition, EQT intends to simplify Covanta's capital structure by issuing its new secured credit facilities at the Covanta Holding Corporation level (currently at the Covanta Energy, LLC entity level) as well as by extending upstream guarantees to all series of bonds such that, on a go-forward basis, the only key credit distinction between the credit facilities and the various series of bonds will be collateral/security, i.e. the bank credit facilities will remain secured by substantially all assets whereas the tax-exempt bonds will remain unsecured.
- Third, although holder consent is not explicitly required under the respective loan and continuing disclosure agreements, we note that after the EQT acquisition, Covanta will no longer be a public company and may no longer be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. Although it may not file publicly with the SEC, Covanta nonetheless intends to meet its continuing disclosure requirements to its tax-exempt investors by furnishing its annual financial information to the respective Trustees and posting on the EMMA website within the existing timeframe.

Covanta intends to commence solicitation in coming weeks for each of the following series of tax-exempt bonds: (i) Niagara Area Development Corporation's Niagara Area Development Corporation (New York) Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018A (CUSIP No. 653542 AC4), (ii) Niagara Area Development Corporation (New York) Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018B (CUSIP No. 653542 AD2), (iii) National Finance Authority's National Finance Authority Resource Recovery Refunding Revenue Bonds (Covanta Project), Series 2020A (CUSIP No. 63607Y AH3), (iv) National Finance Authority Resource Recovery Refunding Revenue Bonds (Covanta Project), Series 2020B (CUSIP No. 63607Y AJ9), (v) National Finance Authority's National Finance Authority Resource Recovery Refunding Revenue Bonds (Covanta Project), Series 2018A (CUSIP No. 63607Y AA8), (vi) National Finance Authority Resource Recovery Refunding Revenue Bonds (Covanta Project), Series 2018B (CUSIP No. 63607Y AB6), (vii) National Finance Authority Resource Recovery Refunding Revenue Bonds (Covanta Project), Series 2018C (CUSIP No. 63607Y AC4), (viii) Pennsylvania Economic Development Financing Authority's Pennsylvania Economic Development Financing Authority Solid Waste Disposal Revenue Bonds, Series 2019A (Covanta Project) (Green Bonds) (CUSIP No. 708692 BQ0) and (ix) Virginia Small Business Financing Authority's The Virginia Small Business Financing Authority Solid Waste Disposal Revenue Bonds (Covanta Project), Series 2018A-1 (CUSIP No. 928106 AQ6).

Please do not hesitate to reach out to me with any further questions or concerns. We appreciate your attention to this matter and your continued support.

Kind regards,



Jim Reilly  
Vice President & Treasurer  
(862) 345-5452

cc Mark Gabriele  
Lawrence Tonomura



**RESOLUTION AMENDING INDENTURE**  
*(Covanta Holding Corporation Project)*

SUMMARY OF RESOLUTION: BY THIS RESOLUTION, THE NIAGARA AREA DEVELOPMENT CORPORATION (THE "ISSUER") AUTHORIZES THE EXECUTION AND DELIVERY OF THE FIRST SUPPLEMENT TO THE INDENTURE OF TRUST RELATED TO THE NIAGARA AREA DEVELOPMENT CORPORATION'S SOLID WASTE DISPOSAL FACILITY REFUNDING REVENUE BONDS (COVANTA PROJECT), SERIES 2018A AND SERIES 2018B; AND AUTHORIZING THE TAKING OF ALL NECESSARY OR APPROPRIATE ACTION IN CONNECTION THEREWITH AND THE EXECUTION AND DELIVERY OF ALL DOCUMENTS AND INSTRUMENTS IN CONNECTION THEREWITH; ADDRESSING OTHER MATTERS AND RESCINDING ALL INCONSISTENT RESOLUTIONS.

A regular meeting of the Niagara Area Development Corporation (the "Issuer") was convened in public session at 6311 Inducon Corporate Drive, Suite 1, Sanborn, New York 14132 on the 13th day of October, at 9:00 a.m..

PRESENT:

ABSENT:

ALSO PRESENT:

After the meeting had been duly called to order, it was announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the execution and delivery of a Supplement to the Indenture of Trust relating to the Issuer's Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018, issued in the original aggregate principal amount of \$165,010,000.

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Mark A. Onesi	[ ]	[ ]	[ ]	[ ]
Kevin McCabe	[ ]	[ ]	[ ]	[ ]
Jerald I. Wolfgang	[ ]	[ ]	[ ]	[ ]
William L. Ross	[ ]	[ ]	[ ]	[ ]
Clifford Scott	[ ]	[ ]	[ ]	[ ]
Robert B. Cliffe	[ ]	[ ]	[ ]	[ ]
Mary Lynn Candella	[ ]	[ ]	[ ]	[ ]
Scott Brydges	[ ]	[ ]	[ ]	[ ]
Jason Krempa	[ ]	[ ]	[ ]	[ ]

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THE FIRST SUPPLEMENT TO THE INDENTURE OF TRUST RELATED TO THE NIAGARA AREA DEVELOPMENT CORPORATION'S SOLID WASTE DISPOSAL FACILITY REFUNDING REVENUE BONDS (COVANTA PROJECT), SERIES 2018A AND SERIES 2018B; AND AUTHORIZING THE TAKING OF ALL NECESSARY OR APPROPRIATE ACTION IN CONNECTION THEREWITH AND THE EXECUTION AND DELIVERY OF ALL DOCUMENTS AND INSTRUMENTS IN CONNECTION THEREWITH; ADDRESSING OTHER MATTERS AND RESCINDING ALL INCONSISTENT RESOLUTIONS.

WHEREAS, pursuant to the purposes and powers contained within Section 1411 of the Not-for-Profit Corporation Law of the State of New York (the "State"), as amended, Resolution No. IL-028-11 adopted by the Niagara County Legislature on May 3, 2011, and pursuant to its duly filed Certificate of Incorporation, the Niagara Area Development Corporation (the "Issuer") was established as a not-for-profit local development corporation of the State to relieve and reduce unemployment, to promote and provide for additional and maximum employment, to better and maintain job opportunities, to instruct or train individuals to improve or develop their capabilities for jobs, to carry on scientific research for the purpose of aiding the community of Niagara County by attracting industry to the community and by encouraging the development of, or retention of, industry in the community, and to lessen the burdens of government and act in the public interest; and

WHEREAS, the Issuer has previously issued its Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018A (the "Series 2018A Bonds") in the original aggregate principal amount of \$130,000,000 and its Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018B in the original aggregate principal amount of \$35,010,000 (the "Series 2018B Bonds" and, together with the Series 2018A Bonds, the "Bonds") pursuant to the Indenture of Trust, dated as of September 1, 2018 (the "Original Indenture"), by and between the Issuer and Wells Fargo Bank, National Association, a national banking association, as trustee (the "Trustee"), the proceeds of which were loaned to Covanta Holding Corporation (the "Company") pursuant to the Loan Agreement, dated as of September 1, 2018 (the "Loan Agreement"), by and between the Issuer and the Company. Capitalized terms used herein and not defined shall have the meaning as set forth in the Original Indenture; and

WHEREAS, the Company has requested the Issuer to amend certain provisions of the Original Indenture as described in a Consent Solicitation Statement, dated October 5, 2021 (the "Consent

Statement”), which was distributed to the Holders of the Bonds in connection with the solicitation of such Holders’ consents to certain proposed amendments to the Original Indenture as further described in the Consent Statement and as set forth in the form of First Supplement to Indenture of Trust by and between the Issuer and the Trustee (the “First Supplement”) presented to this meeting (collectively, the “Proposed Amendments”); and

WHEREAS, Section 9.1 of the Original Indenture provides, subject to certain exceptions therein, that the Original Indenture may be modified or amended from time to time and at any time by an indenture or indentures supplemental thereto, which the Issuer and the Trustee may enter into with the written consent of the Holders of a majority in aggregate principal amount of all Bonds then Outstanding (the “Requisite Consents”); and

WHEREAS, Company is currently pursuing the consents of the Holders of the Bonds currently outstanding to the Proposed Amendments; and

WHEREAS, in order to further secure payments by the Company under the Loan Agreement, the Company may provide subsidiary guarantees (the “Guarantees”) which will secure such payments.

NOW, THEREFORE, BE IT RESOLVED BY THE NIAGARA AREA DEVELOPMENT CORPORATION AS FOLLOWS:

Section 1. APPROVAL OF FIRST SUPPLEMENT. The form of the First Supplement presented to this meeting (copies of which shall be filed with the records of the Issuer) is hereby approved (with such changes as are approved by counsel to the Issuer) and the Chairman and Executive Director of the Issuer (each, an “Authorized Officer”) are, and each of them is, hereby authorized and directed to execute (by manual or facsimile signature) upon obtaining the Requisite Consents and accept and deliver, and (where appropriate) the Secretary or an Assistant Secretary is hereby authorized and directed to affix (manually or by facsimile) the corporate seal, if any, of the Issuer to, and attest (by manual or facsimile signature), such documents in substantially such forms and upon the terms and conditions therein with such changes, insertions and variations therein as counsel to or staff of the Issuer may advise and as such officers of the Issuer shall approve, such approval to be conclusively evidenced by their execution and delivery thereof.

Section 2. ACCEPTANCE OF GUARANTEES. The acceptance of any Guarantees is hereby approved.

Section 3. INCIDENTAL ACTION. The Authorized Officers, for and on behalf of the Issuer, be, and they are hereby, authorized and directed (upon advice of counsel to the Issuer) to do any and all things necessary to effectuate the Proposed Amendments including, but not limited to, the execution and delivery of the First Supplement and to accept any Guarantees. The Authorized Officers are hereby, further authorized and directed (upon advice of counsel to the Issuer), for and on behalf of the Issuer, to execute all papers, documents, certificates, including any tax certificates, an IRS Form 8038, if needed, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

Section 4. SEPARABLE PROVISIONS. The provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 5. OTHER MATTERS. Neither the members of the Board nor any person, including, but not limited to, Authorizing Officer, executing the First Supplement on behalf of the Issuer,

shall be liable subject to any personal liability or accountability by reason of the execution of the First Supplement.

Section 6. REPEAL. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. EFFECT. This Resolution shall be in force and effect immediately upon and after its passage.

STATE OF NEW YORK)

SS:

COUNTY OF NIAGARA)

I, William L. Ross, the undersigned Secretary of the Niagara Area Development Corporation DO  
HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Niagara Area Development Corporation (the "Issuer"), including the resolution contained therein, held on October 13, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Issuer and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all directors of said Issuer had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the directors of the Issuer present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Issuer this 13<sup>th</sup> day of October, 2021.

By:

\_\_\_\_\_  
William L. Ross, Secretary

FIRST SUPPLEMENT  
TO  
INDENTURE OF TRUST

This First Supplement to Indenture of Trust (this “First Supplement”), dated as of October 1, 2021, amends the Indenture of Trust, dated as of September 1, 2018 (the “Original Indenture” and together with this First Supplement, the “Indenture”), by and between the Niagara Area Development Corporation, a not-for-profit local development corporation duly organized and existing under the laws of the State of New York (with its successors, the “Issuer”), and Wells Fargo Bank, National Association, a national banking association (the “Trustee”).

W I T N E S S E T H

WHEREAS, at the request of Covanta Holding Corporation (the “Company”), the Issuer previously issued its Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018A (the “Series 2018A Bonds”) in the original aggregate principal amount of \$130,000,000, and its Solid Waste Disposal Facility Refunding Revenue Bonds (Covanta Project), Series 2018B in the original aggregate principal amount of \$35,010,000 (the “Series 2018B Bonds” and, together with the Series 2018A Bonds, the “Bonds”), pursuant to the Original Indenture and the proceeds of the Bonds were loaned to the Company pursuant to a Loan Agreement, dated as of September 1, 2018, by and between the Issuer and the Company; and

WHEREAS, Section 9.1 of the Original Indenture provides, subject to certain exceptions therein, that the Original Indenture may be modified or amended from time to time and at any time by an indenture or indentures supplemental thereto, which the Issuer and the Trustee may enter into with the written consent of the Holders of a majority in aggregate principal amount of all Bonds then Outstanding (the “Requisite Consents”); and

WHEREAS, a Consent Solicitation Statement, dated October 5, 2021 (the “Consent Statement”), was distributed to the Holders of the Bonds in connection with the solicitation of such Holders’ consents to certain proposed amendments to the Original Indenture as further described in the Consent Statement and as set forth in Paragraph 3 hereof (collectively, the “Proposed Amendments”); and

WHEREAS, the Company (or its designee) has advised the Issuer and the Trustee that Holders of a majority in aggregate principal amount of the Bonds currently outstanding have consented to the Proposed Amendments.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

- (1) Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Original Indenture.

- (2) Recitals. The foregoing recitals are hereby incorporated into the body of this First Supplement as if fully rewritten and restated herein. Except as the Original Indenture is amended by this First Supplement, the Original Indenture is hereby ratified and confirmed in all respects. The amendments made by this First Supplement are intended to be given broad and liberal construction to amend and supersede any portions of the Original Indenture in conflict with the express terms hereof.
- (3) Amendments to Section 1.1 of the Original Indenture. Section 1.1 of the Original Indenture is hereby amended as follows:
- (a) The following sentence is added to the end of the definition of “Change of Control”:
- Notwithstanding the foregoing, a “Change of Control” will not occur or be deemed to occur or have occurred (i) in connection with the EQT Transactions or (ii) at any time so long as (1) the Permitted Holders directly or indirectly beneficially own a majority of the voting power of the Company’s Voting Stock or (2) no other Person, other than the Permitted Holders, beneficially owns a majority of the voting power of the Company’s Voting Stock.
- (b) The following definitions in the proper alphabetical order are added to the list of defined terms:
- “EQT Transactions” means the transactions contemplated by the Agreement and Plan of Merger, dated as of July 14, 2021, by and among Covanta Holding Corporation, a Delaware corporation, Covert Intermediate, Inc., a Delaware corporation, and Covert Mergeco, Inc., a Delaware corporation, pursuant to which, among other things, Covert Mergeco, Inc. will be merged with and into Covanta Holding Corporation, with Covanta Holding Corporation surviving the merger as a wholly owned subsidiary of Covert Intermediate, Inc.
- “Permitted Holders” means, at any time, (i) one or more investment funds, co-investment vehicles and/or similar vehicles or accounts affiliated with, controlled by or managed by EQT Partners, Inc. and any of their respective affiliates other than any portfolio companies (collectively, the “EQT Sponsors”) and (ii) any Person that forms a group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act) with the EQT Sponsors; provided that, collectively, the EQT Sponsors control a majority of the voting power of the voting stock beneficially owned by such group.
- (4) Governing Law. This First Supplement shall be construed in accordance with and governed by the Constitution and laws of the State of New York applicable to contracts made and performed in the State of New York.

- (5) Counterparts. The parties may sign any number of copies of this First Supplement. Each signed copy shall be an original, but all of them together represent the same agreement. This First Supplement may be executed in multiple counterparts, which, when taken together, shall constitute one instrument. The exchange of copies of this First Supplement and of signature pages by facsimile or electronic (by '.pdf' or other format) transmissions shall constitute effective execution and delivery of this First Supplement as to the parties hereto and may be used in lieu of the original First Supplement for all purposes. Signatures of the parties hereto transmitted by facsimile or electronically (by '.pdf' or other format) shall be deemed to be their original signatures for all purposes.
- (6) Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

[Signature Page Follows]



IN WITNESS WHEREOF, the parties hereto have caused this First Supplement to be duly executed, all as of the date first above written.

NIAGARA AREA DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_  
Name: Susan Langdon  
Title: Executive Director

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Trustee.

By: \_\_\_\_\_  
Name:  
Title:

The undersigned, by its execution and delivery of this signature page, is providing the written consent to the First Supplement as required pursuant to Section 9.1(D) of the Indenture.

COVANTA HOLDING CORPORATION.

By:  
Name:  
Title:

**8.4**

**CDBG Cares**

**Grant**



## Homes and Community Renewal

KATHY HOCHUL  
Governor

RUTHANNE VISNAUSKAS  
Commissioner/CEO

September 9, 2021

Honorable Rebecca Wydysch  
Chairperson  
Niagara County  
59 Park Street  
Lockport, New York 14094

Re: CDBG CARES Program Award  
COVID Relief for Small Business and Broadband Access in Niagara County  
NYS CDBG Project # 806CVSB17-21

On behalf of the Housing Trust Fund Corporation (HTFC) and the Office of Community Renewal (OCR), it is my pleasure to inform you that the application submitted for New York State Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security Act (CARES) funds has been selected for a \$1,766,925 award.

OCR has made CDBG CARES funding available on a rolling basis for a variety of activities that prepare for, prevent and respond to the COVID-19 pandemic. The projects selected for award will assist in the recovery of New York State communities by improving the resiliency of businesses and safety of homes and public facilities serving its residents.

A grant agreement will be transmitted separately for this award. Please be advised that no work can be performed, nor any cost committed or incurred prior to the execution of a grant agreement with HTFC and approval of all required environmental review record materials. HTFC reserves the right to rescind an award and deobligate funds for projects unable to satisfy all requirements.

OCR program staff will contact you to outline the procedures necessary to advance this project. Should you have any questions in the interim, please contact the Office of Community Renewal at 518-474-2057 or [OCRinfo@nyshcr.org](mailto:OCRinfo@nyshcr.org).

Sincerely,

RuthAnne Visnauskas  
Commissioner/CEO  
NYS Homes and Community Renewal

**8.5**

**Center for  
Kashmir Inc.**

---

**From:** Ali Muzammil <ali.muzammil@centerforkashmir.org>

**Sent:** Tuesday, August 31, 2021 2:52 PM

**To:** Andrea L Klyczek <Andrea.Klyczek@niagaracounty.com>

**Cc:** Khurshid Guru <khurshid.guru@centerforkashmir.org>

**Subject:** Extension Request: Cataract Tourism Grant Fund

Good Afternoon Andrea,

I am contacting you regarding the Cataract Tourism Fund grant (up to \$273,000) that was awarded to The Center for Kashmir (CFK) on Aug 12, 2020. A key stipulation of the grant is for CFK to spend \$1.36mil by February 2022.

We are requesting NCIDA for an extension on the February 2022 deadline, based on the unavailability of skilled labor and raw materials. Essentially, COVID continues to wreak havoc on our cost and scheduling parameters. Most of our cost, to satisfy the grant criteria of \$1.36 mil, would be in (MEP + FFE) HVAC, steel, dry wall, electrical, etc. As it stands right now, no supplier is committing to when they may have materials available. Even if everything was available right now, at extremely high prices, we have nowhere to store all this material while construction is going on inside the church. Regardless, we are moving at full steam ahead with envelope construction/rehabilitation and already have contractor bids as of Friday Aug 20th.

Thank you for your consideration in the matter. We are glad to schedule a call with you to discuss more details or answer any questions you may have.

Regards,  
Ali Muzammil  
Interim COO

---

This email message may contain legally privileged and/or confidential information. If you are not the intended recipient(s), or the employee or agent responsible for the delivery of this message to the intended recipient(s), you are hereby notified that any disclosure, copying, distribution, or use of this email message is prohibited. If you have received this message in error, please notify the sender immediately by e-mail and delete this email message from your computer.

**8.6**

**Craft Coffee, LLC**

## GRANT AGREEMENT

Made this 0<sup>th</sup> day of JULY 2020 by and between the Niagara County Development Corporation, a New York not-for-profit corporation having offices at 6311 Inducon Corporate Drive, Sanborn, New York 14132 (hereinafter called the "Grantor"), and Craft Coffee House, LLC, a New York limited liability company, having its principal offices at 6612 Campbell Boulevard, Lockport, New York 14094 (hereinafter called the "Grantee").

### WITNESSETH:

WHEREAS, Niagara County, New York (hereinafter the "County") has received Community Development Block Grant funding for the purpose of providing financing to small business entities in Niagara County, New York to pay a portion of the cost associated with starting or expanding businesses, and

WHEREAS, Pursuant to an agreement between County and Grantor dated December 19, 2019, County will provide such Community Development Block Grant funding to Grantor for the purpose of making such grants, including this grant to Grantee,

NOW, THEREFORE, the parties do hereby agree as follows:

### SECTION 1. DEFINITIONS

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

1.01 "Application" means the application submitted to the Office of Community Renewal by Niagara County, New York dated July 26, 2019 for funding under the Fiscal Year 2020 Community Development Block Grant program and any additional submittals to support the Application; such Application and submittals being incorporated herein by reference and made a part hereof.

1.02 the "CDBG" means Community Development Block Grant, a program of the United States Department of Housing and Urban Development.

1.03 "CDBG Funds" means Community Development Block Grant funds, including funds in the form of grants under 24 CFR Part 570, Subpart I and Program Income as defined at 24 CFR 570.489(e).

1.04 "Labor Market Area" shall have the meaning defined at 24 CFR 570.482(h)(2)(ii).

1.05 "County" means the County of Niagara, a municipal subdivision of the State of New York.

1.06 "County Agreement" means the Grant Agreement dated December 19, 2019 between County and Grantor, pursuant to which County will make a grant to Grantor for the purpose of funding the Grant (as such term is hereinafter defined), such Grant Agreement being incorporated herein by reference and made a part hereof.

1.07 "HUD" means the United States Department of Housing and Urban Development.

1.08 the "OCR" means the Office of Community Renewal, an office of New York Homes and Community Renewal.

1.09 the "OCR Grant" means the award of CDBG funds to County by HTFC as evidenced by the agreement between the New York State Housing Trust Fund Corporation ("HTFC") and the County dated December 30, 2019 pursuant to Grant Number 806ME142-19.

## SECTION 2. THE GRANT

2.01 The Commitment. Subject to the terms and conditions of this Agreement, Grantor agrees to make a grant to Grantee in an aggregate principal amount up to, but not exceeding the sum of Twenty-five thousand dollars (\$25,000.00) (hereinafter the "Grant"). The Grant shall be in consideration of Grantee completing the Project in a manner consistent with the Grantee Application reviewed on April 27, 2020 ("Grantee Application"), complying with the employment and reporting requirements of the Grant Agreement, and complying with all other terms and conditions of this Agreement.

2.02 Use of Proceeds. Grant proceeds may be used by Grantee as set forth in detail in Exhibit A attached hereto.

2.03 Disbursement of Proceeds. The Grant proceeds shall be disbursed in the following manner:

(a) Grantor shall not be obligated to disburse any Grant proceeds until each of the following has occurred:

(i) Grantee shall have executed this Agreement and any other documents evidencing the Grant; and

(ii) Grantee shall have presented evidence satisfactory to Grantor that the Project as described in the Grantee Application either (A) has been completed, or (B) is being implemented and will be completed within a reasonable period of time as determined by Grantor;

(iii) Evidence satisfactory to Grantor that the requested Grant proceeds represent paid or accrued expenses of Grantee which are eligible costs pursuant to Section 2.02 hereof and which were incurred on or after the date of the Grantee Application.

(b) Grantor shall have the right, at its sole option, to disburse all or any portion of the Grant proceeds by making payment directly to a contractor, subcontractor, or vendor to pay accrued expenses of Grantee which represent eligible costs, where such costs have not been paid by Grantee.

(c) Notwithstanding any other provision of this Agreement, Grantor shall not be obligated to disburse Grant proceeds to Grantee after December 31, 2021.



### SECTION 3. REPRESENTATIONS AND WARRANTIES

In order to induce Grantor to enter into this Grant Agreement and to make the Grant herein provided for, Grantee hereby represents and warrants to Grantor that:

3.01 Legal Existence. Grantee is duly organized, validly existing and in good standing under the laws of the State of New York and has the legal power to own its assets and to transact the business in which it is presently engaged.

3.02 Power and Authorization. Grantee has the power, authority and legal right to make, deliver and perform this Agreement and to accept the Grant hereunder and has taken all necessary action of its members to authorize receipt of the Grant on the terms and conditions of this Agreement. No consent of any other party and no consent, license, approval or authorization of, or registration or declaration with, any governmental authority, bureau or agency is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

3.03 No Legal Bar to Grants. The execution, delivery and performance of this Agreement will not, to Grantee's knowledge, violate any provision of any existing law or regulation or of any order or decree of any court or governmental instrumentality, or any mortgage, indenture, contract or other agreement to which Grantee is a party or by which Grantee and any of its property or assets may be bound, and will not result in the creation or imposition of any lien, charge or encumbrance on, or security interest in, any of its properties pursuant to the provisions of any such mortgage, indenture, contract or other agreement.

3.04 No Material Litigation. No litigation or administrative proceedings of or before any court, tribunal or governmental body is presently pending, or, to the knowledge of Grantee, threatened against Grantee or any subsidiary or any of its or their properties or with respect to this Agreement which, if adversely determined, would, in the opinion of Grantee, have material adverse effect on the business, assets or financial condition of Grantee or such subsidiary.

3.05 Financial Condition. There have been no material adverse changes in the financial condition or operations of Grantee since the closing date of the latest financial statement furnished by Grantee to Grantor.

3.06 No Default. Grantee is not in default in the payment of any municipal, state or federal tax.

3.07 Ownership of Properties; Liens. Grantee has good and marketable title to all of its properties and assets, real and personal, and none of such properties and assets are subject to any mortgage, lien, pledge, charge, encumbrance, security interest or title retention or other security agreement or arrangement of any nature whatsoever except as disclosed in the Application or in financial statements filed by Grantee with Grantor.

3.08 Filing of Statements and Reports. Grantee has filed copies of all statements and reports which, to the knowledge of Grantee, are required to be filed with any governmental authority, agency, commission, board, or bureau.

3.09 Job Relocation Statement. The Project will not result in the relocation of any industrial or commercial plant, facility, or operation from one Labor Market Area to another.

#### SECTION 4. CONDITIONS OF GRANTING

The obligation of Grantor to make advances of the Grant is subject to the following precedent to each advance unless waived by Grantor;

4.01 Compliance with this Agreement. At the time of the making of the Grant, Grantee shall have complied, and then be in compliance, with all the terms, conditions, covenants, representations and warranties herein set forth, as set forth in the Application and as set forth in all documents evidencing the Grant.

4.02 Corporate Action. Grantor shall, at the time of the making of the Grant, have received copies of all papers evidencing all corporate action taken by Grantee in connection with the Grant, and all legal matters incident to the Grant shall be satisfactory to the counsel for Grantor.

4.03 Certifications. Grantor shall, at the time of the making of the Grant, have received a certification by a duly authorized officer of Grantee that no material adverse change in the financial condition or operations, if any, of Grantee has occurred since the closing date of the latest financial statement, if any, furnished by Grantee to Grantor; and that no suits or proceedings have been instituted against Grantee which in the opinion of Grantee will adversely affect the financial condition or operations of Grantee.

4.04 Grant Documents. All documents required by this Agreement and required by Grantor's counsel which evidence and secure the Grant shall have been executed and delivered to Grantor.

4.05 Title Insurance. Not applicable.

4.06 Municipal Compliance. Not applicable.

4.07 Flood Hazard. Not applicable.

4.08 Other. Such other information and documentation as Grantor may reasonably require.

4.09 Legal Fees. Grantee shall pay Grantor's attorney's fees associated with the closing of the Grant transaction.

#### SECTION 5. AFFIRMATIVE COVENANTS

Grantee hereby covenants that so long as this Agreement is in effect, Grantee will, unless otherwise consented to in writing by Grantor:

5.01 Financial Statements. Not applicable.

5.02 Payment of Obligations. Not applicable.

5.03 Maintenance of Properties; Insurance. Keep all properties useful and necessary in the business of Grantee in good working order and condition; maintain, with financially sound and reputable insurance companies, insurance on all of its properties (both real and personal) in an amount not less than full replacement value, against such risks as are usually insured against in the same general area and by companies engaged in the same or a similar business.

5.04 Taxes. Pay and discharge all taxes, assessments and governmental charges or levies imposed upon it or on its income or profits or on any of its property prior to the date on which any penalties attach thereto, provided that Grantee shall not be required by this to pay any such tax, assessment, charge or levy, the payment of which is being contested in good faith and by proper proceedings.

5.05 Existence. Maintain its corporate or legal existence (as the case may be) and its authority to do business in New York State.

5.06 Records Retention. Retain all records and books of account that are directly pertinent to this Agreement for three (3) years after the Grant and all other pending matters have closed.

5.07 Inspection of Property, Books and Records. Permit Grantor, OCR, HUD, or any agents or representatives thereof, at any reasonable time and as often as may be reasonably desired, to examine and to make copies and abstracts of Grantee's records and books of accounts pertaining only to the covenants and conditions of this Grant Agreement and solely for the purpose of determining or verifying information pertinent to the covenants and conditions of this Grant Agreement.

5.08 Compliance With Federal Statutes. In its implementation of the Project, comply with all of the following requirements as applicable:

(a) Title VI of the Civil Rights Act of 1964 {42 U.S.C. 2000d *et seq.*}, which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Section 109 of the Housing and Community Development Act of 1974 (the "Act"), as amended, and the implementing regulations at 24 CFR 570.602, which require that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. Section 109 of the Act, and the implementing regulations at 24 CFR Part 146 and 24 CFR Part 8 further provide for the prohibition of discrimination on the basis of age under the Age Discrimination Act of 1975 {42 U.S.C. 6101 *et seq.*}, or with respect to an otherwise qualified handicapped person as provided in section 504 of the Rehabilitation Act of 1973 {29 U.S.C. 794}.

(c) The Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.

(d) If Grant proceeds are used for construction in excess of \$2,000.00, Section 110 of the Housing and Community Development Act of 1974 (the "Act"), as amended, which requires that all laborers and mechanics employed by contractors or subcontractors on

construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a to a-5), and which further requires compliance with the Contract Work House and Safety Standards Act (40 U.S.C. 327 et seq.).

(e) If Grant proceeds are used for construction, the Copeland "Anti-Kickback" Act (17 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

(f) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4021a).

(g) Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provided that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. The Grantee's compliance shall include causing all contractors and subcontractors providing labor services to be paid from Grant proceeds to comply with the provisions of Executive Order 11246, as amended by Executive Order 12086.

(h) The requirements of the Americans with Disabilities Act of 1990, as amended.

(i) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.), and the implementing regulations contained in 24 CFR 570.608, respecting prohibition against the use of lead-based paint, notification of hazards of lead-based paint poisoning, and elimination of lead-based paint hazards.

## SECTION 6. EMPLOYMENT

6.01 Definitions. Unless specifically provided otherwise or the context otherwise requires, when used in this Section:

(a) "Covered Jobs" means any and all employment positions created on or after the date of the Grantee Application and as a direct result of the Project, notwithstanding any estimates of covered jobs provided by Grantee as part of the Grantee Application. Job(s) to be created are set forth at Exhibit B attached.

6.02 Compliance with Federal Requirements. Grantee acknowledges that the Grant evidenced by this Agreement is subject to the requirements of Federal statute and regulation relative to the use of Community Development Block Grant funds, and that Grantee's agreement to accept the Grant funds pursuant to this Agreement requires Grantee's compliance with regulations set forth in 24 CFR Part 570, and policies and procedures implemented thereunder by HUD, the United States Department of Labor, OCR, and such other Federal and State agencies as are or may in the future be charged with the responsibility of monitoring both Grantee's and Grantor's compliance with low- and moderate-income benefit requirements.

6.03 Right of Inspection. Grantee shall maintain in its files adequate documentation to support the data specified at Section 6.05 of this Agreement. Grantor and any duly authorized representative of OCR and HUD shall, at all reasonable times and upon prior written notice, have access to and the right to inspect and copy all such documentation.

Section 7. REIMBURSEMENT OF GRANT FUNDS

7.01 In the event that (i) OCR shall make a finding regarding the implementation or administration of the Project that requires Grantor or County to pay to OCR, or requires Grantor or County to reimburse to County's CDBG account from non-CDBG Funds, any amount of the OCR Grant funds, and (ii) It is expressly stated by OCR that such OCR finding resulted in whole or in part from Grantee's failure to meet its obligations pursuant to this Agreement in a manner acceptable to OCR; then Grantor shall have the right to receive from Grantee, and Grantee shall have the obligation to pay to Grantor, the lesser of (i) a sum equal to the amount Grantor is required by the OCR finding to pay to OCR or to reimburse to Grantor's CDBG account, or (ii) the amount of CDBG Funds disbursed to Grantee by Grantor pursuant to this Agreement. Grantor shall exercise such right of receipt by written notification to Grantee which includes an assertion of such right, the amount of Grantee's obligation, and written evidence of the applicable OCR finding. Grantee shall effect such payment to Grantor within twenty-one (21) calendar days of its receipt of such notification.

7.02 The obligations of Grantee with respect to Section 7.01 of this Agreement shall terminate at such time as OCR issues a written closeout of the OCR Grant to Grantor. To the extent that such closeout is dependent upon actions to be taken by Grantor, Grantor shall make its best efforts to take such actions in a timely manner. Grantee acknowledges and agrees that OCR's issuance of a written closeout of the OCR Grant will require Grantee's compliance with the terms and conditions of this Agreement.

SECTION 8. MISCELLANEOUS

8.01 Notices. All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made three days after having been deposited in the mail, postage prepaid, return receipt requested, or one day after having been delivered to an overnight delivery service, addressed as set forth below or to such other address as may be hereafter designated in writing by the respective parties hereto:

Grantee: Craft Coffee House, LLC  
6612 Campbell Boulevard  
Lockport, New York 14094

Grantor: Niagara County Development Corporation  
6311 Inducon Corporate Drive  
Sanborn, New York 14132

8.02 Captions. The captions of the various sections and subsections of this Agreement have been inserted only for the purpose of convenience, and shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions of this Agreement.

8.03 Exhibits. Exhibits, if any, shall constitute an integral part of this Agreement.

8.04 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Grantee and Grantor and their respective successors and assigns, except that Grantee may not transfer or assign any of its rights or interests hereunder without the prior written consent of Grantor.

8.05 Construction. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and construed and interpreted in accordance with the laws of the State of New York. If any of the provisions of this Agreement shall be or become illegal or unenforceable under any law, the other provisions shall remain in full force and effect.

8.06 Prior Agreements Superseded. This Agreement shall completely supersede all other prior understandings or agreements, both written and oral, between Grantor and Grantee relating to the Grant.

8.07 Amendments. This Agreement may be amended only with the written consent of Grantor and Grantee or their duly authorized agents in writing.

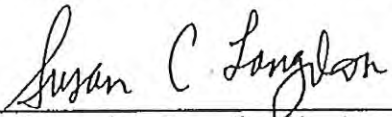
8.08 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of New York. The Grantee agrees that any action or proceeding to enforce the provisions of this Agreement may be commenced by the Grantor in New York State Supreme Court in any county, or in the District Court of the United States in any district, in which the Grantor has an office, and the Grantee waives personal service of process and agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served by registered mail to the Grantee at the Grantee's address or to such other individual and/or address as provided in written notice from the Grantor to the Grantee, or as otherwise provided by the Laws of the State of New York or the United States. The Grantee agrees to waive any and all rights to change the venue of any action or proceeding brought to enforce the Agreement and waives any right to assert any counterclaim or set-off or any defense based upon statute of limitations or claims of laches in any such action or proceeding.

8.09 Assignment By Grantor. Grantor, in consideration of the CDBG Funds awarded to it by HTFC, assigns all of its rights and remedies under this Agreement to HTFC. In the event (i) the CDBG Agreement entered into between Grantor and HTFC is terminated for any reason, or (ii) HTFC, in its sole and absolute discretion, finds deficient performance or inadequate management capacity on the part of Grantor, HTFC shall have the right to notify Grantee that HTFC has asserted its rights to enforce any and all obligations of Grantee under this Agreement or any other Grant instrument executed in connection herewith. Until such time as HTFC elects to exercise such rights by mailing to Grantor and Grantee written notice thereof, Grantor is authorized to enforce all rights under this Agreement.

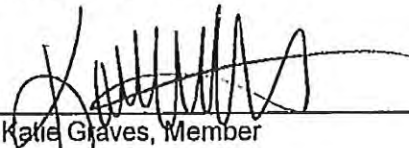
8.10 Waiver Of Jury Trial. Grantor and Grantee hereby waive their respective rights to a trial by jury in connection with any action or proceeding brought to determine any claim or controversy involving this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

NIAGARA COUNTY DEVELOPMENT CORPORATION

By:   
Susan C Langdon, Executive Director

CRAFT COFFEE HOUSE, LLC

By:   
Katie Graves, Member

**8.7**

**D.R.C.**

**Development LLC**