

December 3, 2021

Hon. Mark C. Poloncarz  
Erie County Executive  
95 Franklin Street  
Buffalo, New York 14202

Hon. Brian Kulpa, Supervisor  
Town of Amherst  
5583 Main Street  
Amherst, New York 14221

Michael V. Ginestre  
Superintendent  
Sweet Home Central School District  
1901 Sweet Home Road  
Amherst, New York 14228

Hon. Marianne Jasen  
School Board President  
Sweet Home Central School District  
1901 Sweet Home Road  
Amherst, New York 14228

**RE: NOTICE OF PUBLIC HEARING  
NOTICE OF PILOT DEVIATION**

Please be advised that the Town of Amherst Industrial Development Agency (“AIDA”) will hold a public hearing for the project listed below on Friday, December 17, 2021 beginning at 8:30 a.m. As set forth in the attached Public Hearing Notice, the hearing will be conducted remotely as part of the AIDA Board of Directors meeting that is scheduled for that morning. The hearing will be live streamed at [www.AmherstIDA.com](http://www.AmherstIDA.com). Attached is a description of the project, the Notice of Deviation for the custom PILOT and details on public participation for the hearing.

**Amherst NY Properties KP6, LLC; Aspen Heights- Muir Woods Project**

This Project was previously induced by the AIDA Board based on an application submitted by York Acquisitions, LLC. AIDA was recently informed that the project owner/occupant will be Amherst NY Properties KP6, LLC, a company that is not directly affiliated or controlled by York Acquisitions, LLC, and that York Acquisitions, LLC would have no continuing interest in the Project. Accordingly, the AIDA requested that the new applicant submit an updated application, for which AIDA is holding this public hearing. The AIDA Board will consider the Project at its December 17, 2021 Board meeting.

Please do not hesitate to contact our Executive Director, David S. Mingoia [dmingoia@amherstida.com](mailto:dmingoia@amherstida.com) with any questions you may have.

Sincerely,

Laure A. Manuszewski  
Director  
Administrative Services

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

The Town of Amherst Industrial Development Agency will hold a public hearing on Friday, December 17, 2021 commencing at 8:30 a.m. to consider proposed financial assistance requested of the Agency with respect to the following project:

Amherst NY Properties KP6, LLC, on behalf of itself or an affiliate or subsidiary to be formed on its behalf (the “Applicant”) has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (a) the acquisition of a leasehold interest in a parcel of vacant land located at 1081 North French Road (the “Land”); (b) the construction thereon of a student housing development to include up to 830 beds in cottage/townhome style units, a clubhouse area and related amenities and improvements (the “Improvements”); and (c) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”). The total cost of the Project is an amount up to \$83,273,930.00. The Project is located in the Sweet Home School District.

The Agency contemplates that it will provide financial assistance to the Company for qualifying portions of the Project in the form of a sales tax exemption in an amount up to \$2,263,000, a mortgage tax exemption in an amount up to \$406,000 and a ten (10) year partial tax abatement of real property taxes. The proposed financial assistance deviates from the Agency’s Uniform Tax Exemption Policy (the “UTEP”) in the following respect: Payments under the contemplated Payment In Lieu Of Tax Agreement (the “PILOT Agreement”) deviate from the UTEP with respect to the annual abatement percentages applicable to the PILOT Agreement.

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

**PLEASE NOTE SPECIAL PUBLIC HEARING CONDUCT  
INSTRUCTIONS AND INFORMATION:**

In accordance with Section 859-a of the Industrial Development Agency Act, a representative of the Agency will be at the above-stated time and place to present a copy of the Company’s Application and request for Financial Assistance. However, given the ongoing COVID-19 public health crisis, the Agency will not be able to accommodate any in-person public attendance at this hearing. This hearing will take place as part of the Agency’s Board of Directors meeting, which will be held remotely in accordance with Chapter 417 of the Laws of 2021 as signed into law on September 2, 2021. In furtherance of the provisions of Section 859-a of the Act that require interested parties be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the Project, the Agency will broadcast the Public Hearing live online at [www.AmherstIDA.com](http://www.AmherstIDA.com). In addition, the Agency will provide public access to provide oral comments in real time via Zoom. Please notify David S. Mingoia at [dmingoia@amherstida.com](mailto:dmingoia@amherstida.com) if you wish to speak at the Public Hearing by no later than 5:00 p.m., December 15, 2021, including your name, address, e-mail and phone number that you will use to access the public hearing. An e-mail providing information on

accessing the public hearing via Zoom to provide oral testimony will be forwarded to interested parties in advance of the public hearing if properly registered. Finally, the Agency also encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to Amherst IDA; 4287 Main St; Amherst, NY 14226 and/or via email to David S. Mingoia at [dmingoia@amherstida.com](mailto:dmingoia@amherstida.com). Written comments must be received no later than December 16, 2021.

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”)**

**NOTICE OF DEVIATION  
FROM THE COUNTYWIDE INDUSTRIAL DEVELOPMENT AGENCY  
UNIFORM TAX EXEMPTION POLICY (“UTEP”)**

This Notice of Deviation is being issued to the affected taxing jurisdictions and industrial development agencies listed on the attached distribution list in accordance with Section 874 of the General Municipal Law of the State of New York and the applicable provisions of the UTEP, which require the Agency to provide written notice to affected taxing jurisdictions and all other IDAs located in Erie County prior to the Agency taking final action with respect to a proposed payment in lieu of real estate tax agreement, if said agreement deviates from the provisions of the UTEP.

**Description of the Project**

AMHERST NY PROPERTIES KP6, LLC, on behalf of itself or an affiliate, subsidiary or other entity formed or to be formed (the “Applicant”) has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (a) the acquisition of a leasehold interest in a parcel of vacant land located at 1081 North French Road in the Town of Amherst, New York (the “Land”); (b) the construction thereon of a student housing development to include up to 830 beds in cottage/townhome style units, a clubhouse area and related amenities and improvements (the “Improvements”); and (c) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”). The total cost of the Project is an amount up to \$83,273,930.00. The Project is located in the Sweet Home Central School District.

**Proposed Financial Assistance**

The Agency contemplates that it will provide financial assistance to the Applicant for qualifying portions of the Project in the form of: (i) a sales and use tax exemption in an amount up to \$2,263,000.00; (ii) a mortgage recording tax exemption in an amount up to \$406,000.00 and (iii) a ten (10) year partial abatement of real property taxes pursuant to a customized, non-standard payment in lieu of real estate tax agreement as described below.

**Deviation From the UTEP**

The proposed financial assistance for the Project constitutes a deviation from the UTEP because the proposed payment in lieu of real estate tax arrangement will utilize abatement percentages that differ from the standard abatement percentages under the UTEP. The Agency and the Applicant propose to enter into an Agreement for Payment in Lieu of Real Estate Taxes (“PILOT Agreement”) with annual abatement percentages in accordance with the following schedule:

| <b>Year</b> | <b>Abatement Percentage</b> |
|-------------|-----------------------------|
| 1           | 70%                         |
| 2           | 70%                         |
| 3           | 70%                         |

|    |     |
|----|-----|
| 4  | 60% |
| 5  | 60% |
| 6  | 60% |
| 7  | 50% |
| 8  | 50% |
| 9  | 50% |
| 10 | 50% |

The PILOT Agreement will have a term of ten (10) years. Payments in lieu of taxes will be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the Project not been tax exempt due to the status of the Agency.

In support of the proposed deviation, the Agency will consider the following factors prior to approving the proposed deviation from the UTEP:

1. The extent to which the Project will create or retain permanent private sector jobs.

*The Project is expected to create nine full-time positions and two part-time positions, with an estimated annual total payroll of \$539,660.00.*

2. The estimated value of tax exemptions to be provided.

*The estimated value of the sales and use tax benefit for the Project is an amount up to \$2,263,000.00. The estimated value of the mortgage recording tax benefit is an amount up to \$406,000.00. The estimated value of the real property tax benefit is \$6,507,039.00.*

3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided.

*The Applicant will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.*

4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.

*The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst. The Applicant has committed to making significant off-site infrastructure improvements that will benefit the Project site and facilitate additional development adjacent to the Project. The Applicant has identified in its application the following improvements and associated costs (the aggregate estimated cost of which is \$4,946,871.00):*

- (i) W/S Line Extension to Main at Dodge Road: \$2,051,943.00;

- (ii) *John Jay Audubon Extension w/onsite roundabout: \$876,169.00*
- (iii) *National Grid Line Extension to Dodge Road - \$1,198,026.00;*
- (iv) *Roundabout at John James Audubon Parkway and I-990 as required by the NYS Department of Transportation - \$350,000.00;*
- (v) *Lane widening for exit ramps of the I-990 as required by the NYS Department of Transportation - \$275,000.00;*
- (vi) *Paved secondary emergency access/recreational trail connecting to Dodge Road - \$145,733,00*
- (vii) *DOT - Design and Engineering: \$50,000.00*

5. The amount of private sector investment generated or likely to be generated by the proposed Project.

*The total private sector investment in the Project is expected to exceed \$83,273,930.00.*

6. The demonstrated public support for the Project.

*The Town of Amherst has expressed its support for the Project. The Town Board approved Applicant's request for a special use permit for dormitory use on November 12, 2019. On April 15, 2021, the Town of Amherst Planning Board granted Site Plan Approval for the Project.*

7. The likelihood of accomplishing the proposed Project in a timely fashion.

*The Project is expected to be completed in a timely manner. Construction is expected to begin in the fall/winter of 2021, with completion in the summer of 2023.*

8. The effect of the proposed Project upon the environment.

*The Town of Amherst has served as lead agency for the coordinated environmental review pursuant to the State Environmental Quality Review Act (SEQRA) for the Muir Woods Project, which encompasses 326+/- acres that are located generally north of the I-990, south of North French Road, east of Sweet Home Road and west of Campbell Boulevard. The Project that is the subject of the Applicant's request for financial assistance will be located on Site B, which consists of approximately 46 acres of the Muir Woods Project site. As lead agency, the Town Board evaluated the environmental impacts of the Applicant's request to amend the SEQRA Findings Statement to permit Site B to be developed as a student housing community to include a maximum of 515 units. On August 5, 2019, the Town approved an amendment to the Findings Statement to permit student housing at the Site based on its determination that the potential modifications to the Muir Woods Project would not result in any potentially significant adverse environmental impacts that were not thoroughly evaluated in connection with the previous comprehensive environmental review of the Project that concluded with the issuance of a Findings Statement on December 7, 2007 and the issuance of an Amended Findings Statement on December 7, 2015.*

9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures.

*The Applicant is exploring environmentally responsible construction such as green infrastructure and renewable energy systems.*

10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services.

*The Project is not expected to require the provision of additional services.*

11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts.

*The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.*

***[Distribution List Follows]***

## **DISTRIBUTION LIST**

### **Affected Taxing Jurisdictions:**

Hon. Mark C. Poloncarz  
Erie County Executive  
95 Franklin Street  
Buffalo, New York 14202

Hon. Brian Kulpa, Supervisor  
Town of Amherst  
5583 Main Street  
Amherst, New York 14221

Michael Ginestre  
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Sweet Home Central School District  
1901 Sweet Home Road  
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Hon. Marianne Jasen  
School Board President  
Sweet Home Central School District  
1901 Sweet Home Road  
Amherst, New York 14228

### **Industrial Development Agencies:**

Erie County Industrial Development Agency  
95 Perry Street, Suite 402  
Buffalo, New York 14203  
Attn: John Cappellino, President & CEO

Town of Concord Industrial Development Agency  
Concord Town Hall  
86 Franklin Street  
Springville, New York 14141  
Attn: Gary Eppolito, Chair

Town of Lancaster Industrial Development Agency  
Town Hall, 21 Central Avenue  
Lancaster, New York 14086  
Attn: Ronald Ruffino, Sr., Chair

Town of Clarence, Erie County, Industrial Development Agency  
One Town Place  
Clarence, New York 14031  
Attn: Christopher Kempton, Chair

Town of Hamburg Industrial Development Agency  
6122 South Park Avenue  
Hamburg, New York 14075  
Attn: Sean Doyle, Executive Director