

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

YORK ACQUISITIONS, 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:

Year	Abatement Percentage
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 James 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.

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 of 2021, with completion in late spring 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

Anthony J. Day
Superintendent
Sweet Home Central School District
1901 Sweet Home Road
Amherst, New York 14228

Hon. Scott M. Johnson
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