

THE AGENCY

B R O O M E C O U N T Y I D A / L D C

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

GOVERNANCE COMMITTEE MEETING

February 7, 2022 – 11:00 a.m.

The Agency Conference Room, 2nd Floor

FIVE South College Drive, Suite 201

Binghamton, NY 13901

AGENDA

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| 1. Call to Order | R. Bucci |
| 2. Accept the December 15, 2021 Governance Committee Meeting Transcript | R. Bucci |
| 3. Public Comment | R. Bucci |
| 4. Discussion Regarding Uniform Tax Exemption Policy | S. Duncan |
| 5. Adjournment | R. Bucci |

BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY

IDA Governance Committee Meeting Transcript

Held telephonically, December 15, 2021, commencing at
11:01 a.m. Adjourned at 11:33 a.m.

[See attendees at end of Transcript.]

REPORTED BY:

Ria Jara

Reporters Transcription Center

PO Box 903

Binghamton, NY 13903

Chairman Bucci: Good morning. We're going to call the Governance Committee meeting to order. Our first item on the agenda is to accept the November 15, 2021 meeting transcript. That was forwarded to all members. They had an opportunity to review and make any revisions, so we'll accept that for the record.

The next order of business is public comment. If there is anyone who wishes to address the meeting either in person or virtually, I ask that you state your name and your address. You'll have five minutes to address the committee. So at this time we'll open the meeting to any possible public comment.

Okay. Hearing none, we'll close that portion of the meeting and move on to our agenda items.

First item on the agenda is a reviewed discussion or recommendation to approve an extension of the December 1, 2020 sales and use tax exemption with One North Depot LLC from December 1, 2022 through and including December 1, 2022 the total of which will not exceed \$360,000. Stacey?

Ms. Duncan: Yes. As has sort of been the theme of a lot of our projects requiring sales tax exemptions this year, I think the continued labor shortage and supply chain shortage and issues related

to increase in costs, some of these projects have necessitated the need for extension of sales tax exemption. So this is a similar request from One North Depot. That's the development for loft apartments, market rate loft apartments. It's a project we approved a few years ago. It has taken longer.

There is a note from Josh, a letter from Josh Bishop in here as to outlining the reason for the delays in this project. The request is for specifically an exemption - excuse me - extension of the sales tax exemption for the project through the end of 2022. So there's no request for increase in the amount of funds or no sense that the project will not continue. Just continued time related to delays and cost increases.

Chairman Bucci: Any questions for Stacey or any comments? Okay. I want to entertain a motion.

Mr. Peduto: I motion.

Ms. Sacco: I'll second.

Chairman: Motion by Jim, second by Cheryl.

All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Any opposed? The motion is carried.

Next item on the agenda is a review/discussion/recommendation to accept an application from UB Family, LLC - a special purpose entity established by The Company - for a lease/leaseback transaction to facilitate the financing of the construction and development of 549-plus parking spaces within the five-level municipal parking garage located at 183 Water Street in the City of Binghamton to be owned by the Binghamton Local Development Corporation;

And the acquisition, construction, development, renovation and equipping of approximately 123 new apartments to be constructed on five floors above the aforementioned municipal parking garage;

To provide for state and local sales and use tax exemption benefit in the amount not to exceed \$905,680;

To provide for a mortgage tax exemption in an amount not to exceed \$187,000;

To provide for real property tax exemption in the amount not to exceed \$18,452,086 pursuant to the PILOT schedule attached hereto as Exhibit A; including a deviation from the Agency's uniform tax

exemption policy and authorizing the agency to set and conduct a public hearing with respect thereto.

So, Stacey, before I ask you to explain all this, let me put this question on the table first. My understanding is at this point we're accepting the application and we are not going to schedule a public hearing until we have a further opportunity to delve into this deeper. Is that correct?

Ms. Duncan: That's correct. So really essentially the first step in this. To accept the application, it really sets the deliberation period. It does not assign or assume any approval or, you know, withdraw any benefits that are sought. It simply opens up really the deliberation period. The reason I say that is because, you know, at this point in time once an application is accepted, it becomes part of the public record. So the application goes to the website and then, you know, becomes part of the public deliberation. So without that action of accepting, we, you know, really don't have a formal project for the board to deliberate on.

So the purposes of today are to accept the application and, yes, within our purview we could set

that public hearing date at which time the board feels ready to move further with it.

Chairman Bucci: Okay. Oh, go ahead. Somebody have a question?

Unknown: I did. Are we contemplating, as part of the analysis, use of new analytical tools?

Ms. Duncan: We do. Yes, we do have a cost benefit using ours. And then as well it will be reviewed through a third party with the national -- NDC will also provide review before the board does any further action on this. Yeah, so that's in process.

Chairman Bucci: My question, Stacey, then is so we're going to basically move forward and whether it be in the January meeting actually start? Or whenever all the data that you're getting assembled is ready, we will then start to deliberate this where we will look at the PILOT, look at the financing and all that. So my point is I don't want to make you go through an intense explanation on this right now because it's not really missed.

Ms. Duncan: Yeah. So what we'll do is -- this is the application. I have to say if all applications are complete and thorough at this one, our lives would be probably a lot easier. And you do

have a cost benefit tool using our new software with MRB Group. It does provide you a deeper dive. But we also will

Chairman Bucci: All right. Provide you that third party analysis from NDC. That will get sent to the board and then, from there, we can determine if and when a public hearing date would be scheduled. So that will be kind of the new process moving forward on this.

Okay. All right. So then what we'll do today and one of the other factors too when we review this is, well, probably have the developers. I like to also have someone from Boscov's board, too, because this obviously is impacting and will be impacting them as well. Because I know, for example, the second floor of the parking ramp goes over the men's department in Boscov's. So I would be interested in how all that's going to play into the store and so forth. So that's all things we can, you know, see how things play out because some of this will probably be starting even before we meet again.

So at this point, I guess unless there are a preliminary questions for Stacey and on what we're

doing out, I'll entertain a motion to accept the application.

Ms. Sacco: I motion.

Chairman Bucci: Is there a second?

Mr. Rose: I second. Brian.

Chairman Bucci: All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Okay. Motion is carried.

Next item on the agenda is a review/discussion/recommendation to accept an application from PM Property Matters, LLC, and authorizing a sales and use tax exemption in an amount not to exceed \$13,720 consistent with the policies of The Agency in connection with the acquisition, expansion, renovation and equipping of the property and building located at 21 Emma Street in the City of Binghamton. Stacey?

Ms. Duncan: Yes. Thank you. So you do have an application from PM Property Matters, LLC, located in Ithaca, New York. Is Andrew on the call? We do have Andrew Pragacz - I don't want to mispronounce your last name there, Andrew, my apologies if I did - to answer additional questions. But I can give you a

summary of this project seeking a small business incentive or a sales tax incentive exemption from us.

PM Press is transitioning its global distribution center event space and headquarters from Oakland California to Upstate New York, 21 Emma Street in the City of Binghamton will be the new shipping receiving center processing over \$1 million in book orders annually, and event in book fair space. PM Press is also acquiring Autumn Leaves on the Ithaca Commons as a retail outlet.

We anticipate the full cost of the transition to be approximately \$1 million including building acquisition, new construction and improvements, and equipment purchase. An associated cost total of \$853,500. Remainder on shipping costs, added employee costs, and accommodations.

With regard to the facility that they are purchasing at 21 Emma Street, upgrades and additions are needed on the property to create a safe and attractive environment for their core operations. Also doing some safety upgrades, minor repairs, and extensive cleaning as the facility was vacant for almost a decade. And as well they will need to

purchase equipment for warehouse operations and maintenance in addition to office equipment.

PM Press expects to have at least three full-time employees to operate the facility. Two will be at the facility full-time and another will be within PM to assist with core operations during busy peak times of the operations. And at least one other FTE will be located in Ithaca. As part of their transition, they will need to purchase equipment to operate the warehouse and office facilities and install new software such as phone systems and Wi-Fi networks.

So with regard to details of the project, after taking possession of the building, PM Press will work with the City of Binghamton, New York State, and private contractors to repair, improve, or remove the concrete wall and as well they will have expenditures related to removing this dangerous eyesore. They're committed to working with the government partners and arriving at a positive solution for the neighborhood and improving the neighborhood.

Further anticipated costs include shipping inventory from Oakland to Binghamton, new employee

costs, and paying employees to come to Binghamton for assistance during setup process.

With regard to total project costs, as was noted, it's just shy of about \$1,944,500 of which they are eligible for a sales tax exemption totaling \$171,500. Any questions from the board. From the Governance Committee, I'm sorry.

Unknown: The actual exemption is only \$13,720. Thank you, ma'am. Their expenditures are the ones that --

Ms. Duncan: Sorry. I read the wrong line. Thank you.

Unknown: That's okay.

[Cross-talking]

Ms. Duncan: No. I just read up a line. That was right above, yeah.

Chairman Bucci: Andy was popping champagne corks when he saw that one.

Ms. Duncan: I know. I said I don't know that it's getting that much. Thank you for that clarification.

Chairman Bucci: Okay. And, Andy, just a point of information. You're always welcome to open a

retail establishment in the City of Binghamton as well.

Mr. Pragacz: Actually, to that point, one of the things that we're trying to do with the new warehouse is to have at least annual book sales.

Chairman Bucci: I would agree.

Mr. Pragacz: You know, like remember Penguin Putnam do book sales?

Chairman Bucci: I do very well, yeah.

Mr. Pragacz: Yeah. So we're hoping to do something very similar to that and also attract. You know, to make it more attractive, invite vendors from around the country to participate in that. Book vendors but also, you know, food vendors and what have you to make it more of a festive atmosphere. And eventually, we're not sure we're going to get to it this year, but we're going to work to build a venue space for author talks. That can also function for other, you know, like small gatherings and things like that as part of the warehouse. So that's something that we're working on doing as well. And I've already been in conversation with the City of Binghamton about that. We did include all that in.

I include part of that in this, but not the full thing just because there's a lot of unknowns. As you can see, I'm actually in Oakland right now at our old warehouse, which is why I'm a little -- which is why I have my hat on. Because it's not as warm out here as I was anticipating coming from Binghamton, I have to write to someone about that.

Unknown: Comfortably warmer than Binghamton I know. Yeah.

Mr. Pragacz: Yeah. It might be actually right now. I have my thermals on.

Chairman Bucci: All right. Very good. That's good news. That's good to hear. Are there any questions for either Andy or Stacey regarding this resolution? Okay. Hearing none, I'll entertain a motion.

Ms. Sacco: I motion.

Chairman Bucci: Motion, Cheryl. Is there a second?

Mr. Rose: Second. Brian.

Chairman Bucci: Second, Brian. All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Any opposed? Motion is carried. Okay. Good luck, Andy.

Mr. Pragacz: I'll see you all at noon, yes?

Chairman Bucci: Yes.

Mr. Pragacz: Okay. Thank you. I'll see you at noon.

Unknown: Thank you.

Chairman Bucci: The next item on the agenda is review/discussion/recommendation to approve an extension of the December 20, 2019 sales and use tax exemption agreement with Canopy Growth USA, LLC and HIP New York Developments, LLC from December 31, 2021 through and including December 31, 2022. The total of which shall not exceed \$3,200,000. Stacey?

Ms. Duncan: Yes. Again I mean this sort of follows the theme of just delayed project timelines with regard to cost increases, supply chain delays, and labor shortages. However, this one is a little more unique in that it's also connected with regard to state regulations. On the processing of hemp, there was a lot of progress to move this forward in 2020. But COVID sort of made that a backburner priority.

We have had extensive conversations with Canopy Growth. They are still very committed to their facility in the Town of Kirkwood. They still have LeChase on board to do the fit out at the appropriate

time they're ready to go. They are just seeking a little extra time on this as well through the end of next year.

Chairman Bucci: Have they started the project?

Ms. Duncan: They did start. They did do some fit out. What they're waiting on, my understanding, is continued I guess clarification on New York State regulations with regard to what type of products can and cannot be processed within New York State. I mean I know they've always noted, I think, and disclosed from day one that they do have interest in getting into adult use. Now that it's been legalized in New York State, that's certainly something they're tracking. But since they are publicly traded, they really can't do anything with that if and when it becomes legal at the federal level.

So their focus is still on doing hemp-based product. They're just still in the process of going through regulations with the state to ensure their product line. It's taking them a good deal longer than they wanted.

Chairman Bucci: Okay. Any other questions for Stacey or comments?

Unknown: Well, I guess I'm just trying to understand. I mean I get everything you've explained. Is there any downside? Let's just say for the sake of argument that this goes on not for another year but for, you know, four years. Is there any downside to us?

Ms. Duncan: I think it's a great question. I think there does become that, but I do think that we're still seeing a lot of fallout related to COVID. So I think, you know, another full year is reasonable to accommodate. But after that, I would suggest that anything that comes in in 2022, similar requests, that we take maybe a much deeper look at. You know we're seeing this across the board with construction costs increases, delays on timing of materials, and labor. We're just seeing and it's a common theme. If it was sort of one or two, then maybe. So I do feel like we're still sort of in that fallout from COVID, but I think after next year we may want to revisit in a little more deeper detail some of these.

Unknown: I mean their motivation seems to be also about regulatory issues, you know.

Ms. Duncan: Yeah.

Unknown: I'm more skeptical if they resolve themselves in that year timeframe. All I'm trying to do is understand if there's any real downside. I mean your point is if we take a harder look at a year, we'd know the response.

Ms. Duncan: Yeah. I mean we're seeing this even just, you know, kind of wearing the other hat. As we talked to businesses within the chamber, we knew there was immediate impact in 2020 with businesses. From a financial perspective and a planned expansion or anything like that, we knew 2020 was hard hitting. But we really saw a lot more fallout of that financial impact in 2021 than we even did in 2020. So that's why I think after this, like if many of these come back to us, again I would probably be more skeptical. But I do think to set them up for success this year does make sense.

Unknown: Thank you.

Chairman Bucci: I agree. I also think, you know, they do come back again. We ought to look at the job projections also and make sure those are consistent with what they originally committed to when they first filed the application. But, yeah, it has

been a crazy year with all the things you've outlined. So at this point, for a lot of us it does make sense to give them the benefit of the doubt. I think so. Any other comments or questions? Okay, I'll entertain a motion.

Ms. Sacco: I motion.

Mr. Peduto: Cheryl, you got it.

Chairman Bucci: Is there a second?

Mr. Peduto: Jim.

Chairman Bucci: Jim on second. All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Any opposed? Okay. Motion is carried.

Okay. Next I think we have review/discussion/recommendation regarding the conflict of interest policy.

Ms. Duncan: Yeah. This just came out every year, staff attempts. New York State Economic Development Council hosts two per year. They call them IDA Academies. This is just general information and education sessions for IDA and the Local Development Corporation. There is always a session or two with the authority's budget office, which is our oversight if you will. Our oversight office has a public authority

within New York State. I just wanted to kind of revisit this and per John's request that we do this as well during session.

I sent this to you previously, on the authority's budget office, the recommended practice or conflict of interest policy for public authorities. They spent a lot of time encouraging public authorities to revisit and make sure the practices are in place. I don't know what the, you know, impetus for that was specifically. But we thought it was a good time to revisit, so I'm looking at this. I provided materials. I think one point of recommendation would be to strengthen our processes.

One of the things that was, to be quite frank, new to me was including your governance committee in the notification of conflicts. Typically, we will get a no from a board member if there is a potential conflict some time therein within the structure of a meeting. So one of the things that was new to us was that we recommend that governance -- so i.e. the chair of the Governance Committee and the director and council being notified of any conflicts of interest there. So council can review and advise if

there is any reason. You know, if it is a conflict or not.

So we wanted to just have a discussion on that. If there were questions or points of clarification on our process, what we're recommending internally as staff is that when we do send out agenda typically a week prior, if any board members could notify myself, Joe Mayer, and Rich Bucci as chair of the Governance Committee of that conflict, we can then make that determination - because sometimes there are questions - if it is in fact a conflict or not. And that is Joe's time to review if necessary. So really it's more just a modification of our process and making sure we're, you know, adhering to those recommended practices and putting more of I think a regular structure in place with regard to that.

Unknown: Just so I'm clear, what you're asking for is a motion to accept the document that's titled Conflicts of Interest?

Ms. Duncan: Yes, yes. This would be -- I'm sorry. This is a summary more or less of the ABO's document. So I included it in this sort of short form.

Unknown: But that would be our policy.

Ms. Duncan: Yes. That would be the practice in place, yeah.

Chairman Bucci: I just have one question. So, Stacey, if a member contacts us and says they believe that they have a conflict, is Joe going to make a determination then if the conflict is valid or not?

Ms. Duncan: Yes.

Chairman Bucci: Okay.

Unknown: Thank you.

Ms. Duncan: You're welcome.

Unknown: Assuming it is, I want to make sure I understand this.

Ms. Duncan: Yeah. Absolutely.

Unknown: So if I have a conflict, I notify Joe, on the governance, can you have a conflict? You tell me that it's legitimate conflict. The topic comes up. I need to step out while the topic is being discussed or I step back in after it happens?

Mr. Meagher: Well, it depends on the degree of [inaudible]. Okay? We brought them to this before. There's what is known as a prohibited conflict, which is one where you're getting a direct financial benefit from the agency.

Unknown: Okay.

Mr. Meagher: If that's the case, you have to resign.

Unknown: Okay.

Mr. Meagher: Because we had it. Years ago we didn't follow the practice that everyone - this my point of view - announce your conflict. You recuse yourself. Go back in after the vote. And ABO criticized us.

Unknown: Okay.

Mr. Meagher: Okay. So in any event --

Unknown: Other than a prohibited contract.

Mr. Meagher: -- it would be that process.

Unknown: That process.

Mr. Meagher: Yeah.

Unknown: I guess what they're getting is we usually get issues regarding a conflict right at the board, you know. And there is a time to really kind of absorb it, contemplate it, and give some direction.

Unknown: Okay.

Ms. Duncan: A big part of this is ABO's desire. This coming through the state association is standardizing a lot. You know, among IDAs, all the practices and procedures. Even on things like cost

benefits and, you know, all the processes which can be challenging to do. But I'm assuming this as part of that effort of a standardized process. So maybe they're not getting so much coming back at them and then they're -- yeah.

So there's been a lot of things, a lot of processes with IDAs and LDCs that they want basically a uniform statewide process. They don't want any IDAs to kind of vary on how they implement and, you know, do some of their processes. So that's I think where this is stemming from. Any questions?

Chairman Bucci: So at the meeting with the person and for the record, we have to state for the record that that particular person has a conflict of interest?

Ms. Duncan: We're saying is prior to. So yeah. So when the agenda is out, yeah, a notification prior too to myself and to you as governance chair and to Joe.

Chairman Bucci: Right. But then at the meeting, do we have to say anything at the meeting? Let's say at the Governance Committee meeting a member has a conflict and is leaving the room. Should we state that for the record?

Ms. Duncan: That has to be on the record.

Thank you.

Chairman Bucci: Yeah. Okay. I just want to make sure that we would state for the record person X is leaving because of a conflict. Okay. Any additional questions or comments?

Unknown: One comment. The conflict of interest is defined kind of right in the lots. It's really kind of more narrow. So I know people abstain even though it may not be truly a conflict, but there might be an appearance. Is the thought process that we want those sent as well even though it's not a conflict but there's an uncomfortableness on resending those as well?

Mr. Meagher: I think it's a self-determination. Once you review it, you may have either a direct conflict or you may have just an appearance and you would feel more comfortable abstaining and recusing. But we should know about it in advance.

Ms. Duncan: Yeah.

Unknown: Okay.

Chairman Bucci: Is the process then the same though?

Mr. Meagher: Yeah.

Chairman Bucci: I mean if I feel like I kind of have a conflict -- or at least it's an appearance in prior --

Mr. Meagher: It's an appearance.

Chairman Bucci: Right. So I still need to recuse and step out.

Mr. Meagher: Right.

Chairman Bucci: Okay.

Mr. Meagher: You shouldn't for example if you're going to declare -- I guess what we've had in the past is --

Chairman Bucci: It's simply --

Mr. Meagher: I'm not faulting anybody, but they'll stay. Discuss it. State their point of view. When it gets down to vote, guys, I got to leave the room. You know, forget about that contract.

Unknown: But they need to stay during the training. If you have that feeling, that maybe we should probably just be doing best practice, so then they have to deal with you at the time and then you know.

Unknown: Okay. That makes sense.

Chairman Bucci: Joe, one other quick question. So if someone said I believe I have the

appearance of a conflict and they state it, would you ever say, you know what, I think you should vote because that really doesn't rise to the level of a conflict?

Mr. Meagher: Oh, yeah. I would. I mean a lot of people have asked in different circumstances --

[Cross talking]

Mr. Meagher: You know at any number of different organizations that one could belong to we've said, no, it really isn't a conflict. But again, even though we may say it's not a conflict, people may say, well, it's an appearance and I would like to avoid that. So you follow the procedure.

Chairman Bucci: Okay. Any other questions? I'll entertain a motion.

Mr. Rose: I'll move it. Brian.

Chairman Bucci: Is there a second?

Mr. Peduto: Jim.

Chairman Bucci: Second, Jim. All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Any opposed? Motion carries. Are we moving into the executive session, Stacey?

Ms. Duncan: I don't believe so. We do have one plan, a project update for regular board meeting.

So I think there's -- really I don't see any need to go into executive at this point in time.

Chairman Bucci: Okay.

Unknown: Can I make one comment on the conflict of interest more tangential? Since we're going into a formalized process here, can we kind of make sure that we avoid especially in open meetings a law change or revising the agenda so late and closer to board meetings? Because it does have an issue for some of us that actually do run conflict searches. So, you know, really getting that agenda that week in advance and not revising it. That does cause issues.

Ms. Duncan: Okay. That's, yeah, well noted. Yeah, absolutely.

Unknown: Thank you.

Ms. Duncan: Thank you.

Chairman Bucci: Okay. I don't think there's any new business. At this time I'll entertain a motion to adjourn.

Ms. Sacco: I motion.

Chairman Bucci: Motion, Cheryl's. Second?

Mr. Rose: Second. Brian.

Chairman Bucci: Second, Brian. All in favor?

Unknown: [Aye -- in unison.]

Chairman Bucci: Okay. We're adjourned. So do we have to end? Stacey, we have to end this meeting and restart it for LDC?

Ms. Duncan: One second. Yes, we do.

[The meeting was adjourned on a motion by Ms. Bucci, seconded by Mr. Rose at 11:33 p.m.]

[Attendees: Rich Bucci, Jim Peduto, Brian Rose, Cheryl Sacco, Dan Crocker, Stacey Duncan, Tom Gray, Natalie Abbadessa, Carrie Hornbeck, Brendan O'Bryan, Theresa Ryan, Amy Williamson, Joe Meagher, Andy Pragacz]

C E R T I F I C A T I O N

I, Ria Jara, certify that the foregoing transcript of the Broome County Industrial Development Agency was prepared using digital transcription software and is a true and accurate record of the proceedings.



Signature: _____

Date: December 20, 2021

Broome County Industrial Development Agency Uniform Tax Exemption Policy

Section 1. Purpose

The Mission of the Broome County Industrial Development Agency (“BCIDA”) is to serve as a partner, catalyst, and investor that delivers clear benefits including job opportunities, development sites, and enhanced quality of life. The Agency promotes and leverages all available resources and Broome County’s strengths to foster economic growth and create prosperity in an ethically transparent manner.

The following Uniform Tax Exemption Policy (“UTEF”) will apply to all installment sales and lease agreements in which the BCIDA holds nominal title to real and personal property on behalf of its clients.

Section 2. Statutes Authorizing IDAs

Industrial Development Agencies are formed under and governed by Article 18-A of the New York State General Municipal Law (the “IDA Act”) as public benefit corporations. IDAs, as local authorities, promote, encourage, attract, and develop sites and support investments in real property for the purposes of job creation, business retention and attraction and other economic priorities as identified by their respective community.

The New York Industrial Development Agency Reform Act of 1993 (Chapters 356 and 357) created a new General Municipal Law Section 874 (4) that requires IDAs to establish the Uniform Tax Exemption Policy (UTEF). This written policy shall provide guidelines for the granting of real property, mortgage recording, and sales and use tax exemptions. The Act also requires IDAs to establish a procedure for deviation to the UTEF. IDAs may grant enhanced or reduced benefits on a case-by-case basis and this approval is at the sole discretion of the IDA.

Section 3. Program Objectives

The purpose of the BCIDA is to serve as an economic development tool, often in conjunction with other financing and economic development programs; to provide support to projects for industrial, commercial, housing, and qualified retail, tourism, and other types of projects deemed to have a significant positive economic impact in Broome County. The BCIDA seeks to stimulate desirable and sound economic development to create and retain jobs; strengthen the local tax base; improve the quality of life; provide quality housing; and to align with recognized state, regional, or local development strategies.

Section 4. Types of Financial Assistance

The BCIDA provides financial assistance (collectively, “Financial Assistance”) to qualified applicants to advance its mission and program objectives. The types of Financial Assistance are:

A. Real Property Tax Abatements

- B. Sales and Use Tax Exemption (as related to the construction of a project)
- C. Mortgage Recording Tax Exemptions
- D. Industrial Revenue Bonds (IRBs)

Section 5. Real Property Tax Exemptions

- a. The BCIDA maintains a policy for the provision of real property tax abatements for qualified projects. A project will be deemed qualified only after the receipt of; (1) a meeting with BCIDA staff to review project size and scope; (2) a completed Application for Benefits; (3) all required supporting financial documentation; and (4) a project review, including Cost-Benefit Analysis. Upon approval of the Board of Directors, qualified projects may enter a payment in lieu of tax (PILOT) agreement, mortgage recording and sales and use tax agreements. The BCIDA will not consider projects located on sites or facilities that are tax-delinquent or from project applicants that are in arrears on taxes on other sites or facilities.
- b. The base assessment for valuation purposes for all property for which a PILOT agreement is sought shall be no less than; (1) the assessed value at the time of the application or (2) the purchase price of the site or facility. For sites or facilities that were previously exempt from real property taxes; the valuation will be what would have been the assessed value at the time of the application or the purchase price of the facility. The base assessment shall be provided to the BCIDA from the lead assessing unit from the municipality in which the project is located. The BCIDA may, at the expense of the applicant, commission an independent appraisal of the subject property if, for any reason, the proposed project value is in question.
- c. Payment in lieu of tax (PILOT) schedules have been outlined in Appendix A and shall be described in a written PILOT Agreement between the BCIDA and the Project Owner/Sponsor. Project occupants shall pay to the BCIDA or its designee (i.e., affected taxing jurisdictions), the amount calculated pursuant to the applicable PILOT schedule approved by the BCIDA. Payments received under all PILOT agreements shall be proportionally allocated among the affected taxing jurisdiction according to the amount of real property taxes the taxing jurisdiction would otherwise have received but for the BCIDA's involvement. Variations in the proportions shall only be done with the consent of the affected taxing jurisdictions. The approved PILOT Agreement shall take effect during the tax year immediately following the taxable status date of each year and after the BCIDA has acquired an interest in the project.
- d. If the project owner shall fail to make any payment required under the PILOT agreement, its obligation to make the payment so in default shall continue as an obligation of the project owner until such payment in default shall be made in full. The project shall pay the same, together with interest thereon, to the extent

permitted by law, the greater of; (1) 18% annually, or (2) the annual rate which would be payable if such amounts were delinquent taxes, until so paid in full.

- e. Notwithstanding, the execution of any PILOT agreement, NO project shall be exempt from special assessments and special ad valorem levies lawfully levied and/or assessed against the subject property.
- f. In any lease transaction (new construction or existing facility), financial benefits received to the project owner shall be passed on to the tenant/occupant. Both the beneficial owner and the tenant/occupant must certify in writing that all tax advantages provided by the BCIDA are accruing to the benefit of the tenant/occupant.

Section 6. Real Property Exemption Deviations

- a. The BCIDA may deviate, on a case-by-case basis from the policies outlined above and any deviation shall require the written notification by the BCIDA to the Chief Executive Officer in advance of the meeting at which the proposed deviation shall be considered. All affected taxing jurisdictions shall receive a copy of the written notice.
- b. Any proposals to deviate from the proportional payments to the affected taxing jurisdiction will require consent by resolution of each of the affected taxing jurisdictions.
- c. A deviation shall be considered on a case-by-case basis and shall be considered an “exception” to the standard benefit. The BCIDA recognizes that in some circumstances, such as a project with significant community impact, a deviation to the UTEP may be required. The BCIDA can exercise flexibility in allowing for other incentives in the discounting of property taxes and can go beyond its standard term of years. The BCIDA may consider any or all of the following factors in making such determination and may provide enhanced benefit or diminished benefits from this UTEP, no single one of which is determinative. In doing so, the BCIDA will set forth in writing, the reasons for any deviation and notify the affected taxing jurisdiction.

Deviations for consideration based on the following types of development and conditions:

- a. Nature of Project
 - o Expanding Existing Business
 - o Relocation of Business to the Area
 - o New Development
 - o Complementary Development (supports a larger redevelopment plan or project)
 - o Regionally Significant Industry (i.e., semiconductor, advanced manufacturing)
 - o Expansion of Industry Supply Chain
- b. Type of Development
 - o Residential Rental
 - o Targeted Geographic Area:

- iDistrict
- Opportunity Zone
- Low to Moderate Income Area
- Commercial or Industrial Park
- Rural Community
- c. Large Scale Retail/Mixed Use Redevelopment
- d. Recreational/Tourism/Cultural Destination
- e. Adaptive Re-Use/In-Fill/Revitalization of Underutilized Sites
- f. Affordable and/or Supportive Housing
- g. Transit-Oriented-Development
- h. Positively impacts health and community, the environment, and the economy.
Provides access to transportation for employment and other services.
- i. Green Building and Energy-Related Investments
 - Projects that place less stress on municipal infrastructure
- j. Employment Impact
 - Number of Permanent Jobs
 - Percentage of Low-Moderate hires
 - Retention of Existing Jobs
 - Significant Local Partnerships and/or Matching Funds in the project
- k. Documentation by financing instrument of a specific term of PILOT benefit

Section 7. Sales and Use Tax Exemptions

- a. The BCIDA's policy is to grant exemption of state and local sales and use taxes for all qualified and approved projects to the full extent permitted by New York State. Such exemption would cover the purchase of construction materials and equipment and of project related equipment and furnishings until the project is completed, i.e., Certificate of Occupancy.
- b. Operating and Maintenance expenses are incurred by an Agent of the BCIDA for a Project of are not exempt from local and New York State sales and use tax.
- c. The BCIDA will file an "Appointment of Project Operator for Sales Tax Purposes," (Form ST-60), which shall be valid from a period of one-year from the project benefit approval date. Such appointment may be extended or renewed subject to a showing of good cause and any restrictions and/or requirements imposed by the BCIDA or New York State upon such extension or renewal.

Section 8: Mortgage Recording Tax Exemptions

The BCIDA's policy is to grant exemptions from the mortgage recording tax to all qualified and approved projects to the full extent of the law.

Section 9: Industrial Revenue Bonds

- a. The BCIDA, in its effort to stimulate desirable and sound economic development and to create and retain quality employment opportunities, may serve as a vehicle for medium and long-term low interest financial assistance through the issuance

of Industrial Revenue Bonds (IRBs) and other incentives. Eligible costs shall include:

- i. Acquisition
- ii. Construction
- iii. Expansion
- iv. Rehabilitation
- v. Purchase of Equipment

Section 10: Transfers to “Qualified Transferee”

- a. With respect to any project, provided the project owner follows the BCIDA, a transfer of benefit may be considered to a “Qualified Transferee.”
- b. The project owner must notify the BCIDA and its Counsel in writing (the “Transfer Notice and Request”) no later than two (2) months prior to the proposed date of sale, transfer, assignment or conveyance that the company intends to sell, convey, assign or otherwise transfer the Project, or any controlling interest therein, and/or that any person or entity that controls such company, intends to sell, convey, assign or otherwise transfer any of his, her or its interests in and to the company, and in connection with any such sale, transfer or conveyance, request that the PILOT Agreement be transferred or otherwise remain in full force and effect in accordance with its terms. “Controlling interests” means, with respect to the Project, the sale, conveyance, assignment, or tother transfer of more than 49% of the fee title and/or leasehold interest in and to the Project. “Controls” shall mean the ownership of a majority of the legal and beneficial interest in the company, together with the ability to direct the management, affairs, and operations thereof.
- c. The Transfer Notice and Request must contain a representation and warranty from; (1) the Purchaser (as hereinafter defined), and (2) the company, to the best of its knowledge based solely upon the information and documentation provided to it by the Purchaser (as herein defined), and the (3) company, to the best of its knowledge based solely upon the information and documentation provided to it by the Purchaser that each proposed purchaser, transferee, or assignee, is a qualified transferee or assignee by such information and documentation as the BCIDA, as acting by and through its warranty. “Controls” shall mean the ownership of a majority of the legal and beneficial interest in such purchaser, transferee, or assignee, together with the ability to direct the management, affairs, and operations thereof. The Purchaser shall constitute a “qualified transferee” if the BCIDA determines in its reasonable judgement that:
 - i. The Seller has successfully and continuously owned and operated projects of similar size, scope and use to that of the Project over the then proceeding ten (10) years.
 - ii. The Seller is current on the payment of all real estate taxes, levies, charges, fees, and assessments due and owing to the BCIDA.
 - iii. The Seller is current on the payment of all PILOT payments due and owing to the BCIDA.

- iv. The Purchaser has demonstrated that it has a net worth sufficient to fund the successful ongoing operation and maintenance of the Project.
- v. The Purchaser has not outstanding cases or proceedings, without a judicially mandated settlement agreement.
- vi. The Purchaser is current on the payment of all federal, state and County taxes and has made all filings of all required returns; and
- vii. The Purchaser has furnished to the BCIDA at least two (2) banking reference.

Section 11: General Financial Information Necessary to Apply

- a. A completed, signed, and notarized Application for Benefits
- b. Composition of the applicant' current real estate portfolio at the time of application including type of project and number of square feet or units owned/d and or managed.
- c. Applicants' recent history if obtaining financing commitments for real estate development projects, detailing type of project, financing source and amounts committed.
- d. Bank references for the applicant and financial equity partner (if applicable).
- e. Financial statements for the past three (3) years prior to the time of application from the applicant and each participating principal, partner, or co-venturer that includes the value of assets that each participating principal would contribute to the applicant and verifications that such assets are available. The financial statement may also include any additional information that will be useful in evaluating the applicant's financial reliability and past ability to finance projects (If audited financial statements are not available, please provide certified financial statements. All statements, audited or certified, should be in accordance with generally accepted accounting principles consistently applied.
- f. For applicant dna its development team, a statement regarding any debarments, suspensions, bankruptcy, or loan defaults on real estate development projects and/or government contracts.
- g. A statement describing the expected equity requirements and sources, thea anticipate sources of working capital, and the anticipates sources for the financing of the project, including its construction.
- h. Bank commitment letters and real estate appraisals upon request of the BCIDA

Section 12: Cost Benefit Analysis

In the event of a deviation to the terms of the PILOT agreement, the BCIDA will conduct, at the applicant's expense, an independent, third-party cost-benefit analysis to determine the need for any such deviation and total PILOT value, which shall include:

- a. A comparison of the standard v. the proposed abatement.
- b. An explanation of the financial assumptions used in the analysis.
- c. Operational budget v capital cost budget
- d. Additional documentation relating to the "but for" such assistance, the Project could not move forward; and
- e. Public infrastructure costs and impacts

The value of the incentive offered must exceed the break-even point between the costs and benefits during the duration of a specific term of years unless the BCIDA makes an express determination that the proposed Project is of material significance and requires an even greater or lesser amount of Financial Assistance in the form of greater deviations from the Standard PILOT policy.

Section 13: Recapture of Benefits

It is the policy of the BCIDA to annually review project performance and reserves the right to recapture the value of PILOT Payments, State and County Sales and Use Tax, and mortgage Recording Tax exemptions in accordance with the provisions set forth in the following schedule:

<u>Period</u>	<u>Recapture Amount</u>
Within 3 years	100%
Within 5 years	85%
Withing 10 years	75%
Within 15 years	50%
Within 20 years	25%

Section 14: Recapture Trigger Events

- b. Sale (except as expressly permitted pursuant to this UTEP), or closure of a facility within the time the Project receives BCIDA benefits.
- c. Departure of the project from the municipality in which the benefits were originally approved.
- d. Material employment reductions or material failure to meet stated employment creation or retention goals in any tax year to the extent, if any, that such goals are set forth in the PILOT Agreement or any other BCIDA transaction documents.
- e. Significant change in the use of a facility or in business activates by Project applicant or operator.
- f. Ceasing to be an eligible "project" under and as identified in the IDA Act
- g. Material non-compliance with or breach of terms and conditions of BCIDA transaction documents or breach of any zoning, land use or federal, state, or local environmental laws or regulations, material obligations by the project occupant to the United States, State of New York, or any of its political subdivisions, the affected taxing jurisdictions in which obligations were imposed in connection with the Project.
- h. Decrease in projected revenues and/or projected economic benefits from the Project in any given year to the extent, if any, then any such projected revenues and/or economic benefits are set forth in the PILOT Agreement and other BCIDA transaction documents; or
- i. Failure to comply with annual reporting documents or provide the BCIDA with requested information

Section 15: Application Process

- a. Environmental Compliance – Applicant must comply with New York State Environmental Quality Review Act (SEQRA) before applying for benefits.
- b. Preliminary Meeting – Project owner must meet with BCIDA to discuss project.
- c. Application Submittal –
 - i. Project owner submits completed application to the BCIDA (see “General Information Required to Apply”)
 - ii. BCIDA Staff Review
 - iii. Independent, third-party cost-benefit (if required)
 - iv. Presentation to BCIDA Governance Committee
- d. BCIDA Inducement Resolution – Project is induced by initial resolution allowing IDA Executive Director to discussions and/or negotiations on any proposed financial assistance
- e. Public Hearing Notification – Public hearing notice summarizing the details of the project and the financial assistance is published in the official newspaper with ten (10) days’ notice prior to hearing date
- f. Public Hearing – Applicant of the project must make a presentation at the Public Hearing scheduled in connection to the Project
- g. BCIDA Final Authorizing Resolution – BCIDA will consider final authorizing resolution for consideration by the Board of Directors
- h. Sales Tax Agreement – BCIDA will issue Sales Tax Agreement to Project owner within in thirty (30) days of Project approval
 - i. Forms of Security – Project owner will provide necessary form of security as outlined in the Application for Benefits
 - j. Closing – Contracts and other documents necessary to consummate transaction with are executed by the Company, BCIDA, and any other interest, including payment of any required BCIDA fee.

Section 16: Amendment or Modification

The BCIDA, by resolution and upon notice to taxing jurisdictions, may amend or modify the foregoing policy, as it may, from time to time determine, and in accordance with the Laws of the State of New York.

January 10, 2022

**Broome County Industrial Development Agency
 Scheduel of Uniform Real Property Tax Exemption Policy**

HOUSING

LESS THAN 25 UNITS

PILOT Year	Operating Year	COMMERCIAL PROJECTS		INDUSTRIAL PROJECTS		NEW AND REHABILITATION	<u>REHABILITATION</u>
		<u>New Construction</u>	<u>Improvement on Exisitng</u>	<u>New</u>	<u>Improved Existing</u>	Construction(frozen)	Construction(frozen)
1	Construction(frozen)	Construction(frozen)		Construction(frozen)		Construction(frozen)	Construction(frozen)
2	Construction(frozen)	Construction(frozen)		Construction(frozen)		Construction(frozen)	Construction(frozen)
3	1	75%	75%	75%	100%	90%	90%
4	2	75%	75%	75%	75%	90%	80%
5	3	75%	50%	75%	75%	90%	70%
6	4	50%	50%	75%	75%	85%	60%
7	5	50%	50%	75%	75%	80%	50%
8	6	50%	50%	50%	50%	75%	40%
9	7	50%	25%	50%	50%	70%	30%
10	8	25%	25%	50%	50%	65%	20%
11	9	25%	25%	50%	50%	60%	15%
12	10	25%	25%	50%	25%	55%	10%
13	11	0%	0%	25%	25%	50%	5%
14	12	0%	0%	25%	25%	45%	0%
15	13	0%	0%	25%	25%	40%	0%
16	14	0%	0%	25%	25%	35%	0%
17	15	0%	0%	25%	5%	30%	0%
18	16	0%	0%	0%	0%	25%	0%
19	17	0%	0%	0%	0%	20%	0%
20	18	0%	0%	0%	0%	15%	0%
21	19	0%	0%	0%	0%	10%	0%
22	20	0%	0%	0%	0%	5%	0%

* Each Schedule Assumes a 2% escalator annually

Recapture Schedule

Period	Recapture Amount
Within 3 years	100%
Within 5 years	85%
Withing 10 years	75%
Within 15 years	50%
Within 20 years	25%