


# Tompkins County Industrial Development Agency

---

Administration provided by  **TCAD**

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
BOARD OF DIRECTORS MEETING  
• Wednesday, June 12, 2019 • 2:30 PM  
Legislative Chambers  
121 E. Court Street, Ithaca NY**

## AGENDA

**1. CALL TO ORDER**

**2. PRIVILEGE OF THE FLOOR**

**3. PRESENTATION**

City of Ithaca Parking Presentation & Discussion  
*Dan Cogan, Chief of Staff, City of Ithaca*

**4. BUSINESS**

**Page**

Emmy's Organics – Application

Benefit Memo

2

Application

3

Taitem Engineering – IDA Energy Incentive Policy Revision

Scope and Funding Request

20

**5. EXECUTIVE SESSION**

**6. CHAIR'S REPORT**

**7. STAFF REPORT**

**8. APPROVAL OF MEETING MINUTES – May 8, 2019**

23

**9. ADJOURNMENT**

**Next Meeting: July 10, 2019 @ 2:30 PM**

# Tompkins County Industrial Development Agency

---

ADMINISTRATION PROVIDED BY 

## **Emmy's Organics – Community Benefits Overview** *6/12/19*

### **Project Overview**

Emmy's Organics, founded in 2009 in Ithaca, manufactures and distributes certified organic, gluten, free, vegan snack food including coconut based cookies. Products can be found at major retailers throughout the United States and Canada including Starbucks, Whole Foods Markets, CVS, Rite Aid, Wegmans, and Sprouts. The company plans to relocate from a rented building in the City of Ithaca that no longer suits their growing business to an existing building at 15 Royal Road in the Town of Dryden. A previously planned new building on Cherry Street in the City of Ithaca did not move forward due to site/soil constraints. The project will enable Emmy's to remain in Tompkins County and bring back in house production that has been shifted to a co-packer out of state.

The project includes purchasing the approximately 20,000 square foot existing building, interior renovations including adding a processing room, additional office space and bathrooms along with the purchase of equipment.

The interior renovations will not significantly increase the value of the building and as a result, I am recommending a schedule that will provide an established tax payment for 7 years that is based on the taxes associated with the current value of the building followed by a three year phase in of the full tax payment.

### **Cost-Benefit Analysis**

- Extent to which project would create and/or retain private sector jobs – The project will retain 27 jobs and create 5 new jobs over three years.
- Estimated value of tax exemption

Property Tax Incentive:	\$104,746	Projected taxes to be paid:	\$387,502
Sales Tax Incentive:	\$42,800		
Mortgage Recording Tax:	\$5,169		
TOTAL:	\$152,715		
- Estimate of private sector investment to be generated by the project – \$2,360,000
- Likelihood of completing project in a timely manner – Bank financing has been secured and gap financing is in process (with an application submitted to TCAD's revolving loan fund program). The sale is projected to close in mid July and renovation to begin shortly thereafter. A building permit is the only outstanding permit from the Town. It is reasonable that the project will commence in July as planned.
- Extent to which project would generate additional sources of revenue for local taxing jurisdictions – This project will reinvest in an existing building in the Town of Dryden and increase property taxes in the future.

***Tompkins County Industrial Development Agency /  
Tompkins County Development Corporation***  
Application for Incentives

Date: 05-14-2019

**I. APPLICANT INFORMATION (company receiving benefit)**

Name of Company/Applicant: Emmy's Organics LLC

Owner: Samantha Abrams and Ian Gaffney

Address: 629 West Buffalo St

City: Ithaca State: NY Zip: 14850

Primary Contact (First, Last): Ian Gaffney

Phone: (607) 280-7922 Email: ian@emmysorganics.com Fax: (866) 824-3702

**If a separate company will hold title to/own the property, please provide the name and contact information for that entity:**

Name of (Holding) Company: TBD

Owner: Ian Gaffney, Samantha Abrams, William Kelly

Address: 627 W Buffalo St. Apt #2

City: Ithaca State: NY Zip: 14850

Primary Contact (First, Last): Ian Gaffney

Phone: (607) 280-7922 Email: ian@emmysorganics.com Fax: (866) 824-3702

Describe the terms and conditions of the lease between the applicant and the owner of the property: Same principles between the two entities. With new LLC being setup to take title to the property. There will be a lease between the two entities.

**Select the type of incentives being requested (select all that apply):**

- Tax-Exempt Bonds  Taxable Bonds
- Real Property Tax Exemption
- Standard Tax Exemption (7-year)
- Other (attach justification)
- CIITAP:  7-year
- CIITAP:  10-year (requires determination of financial need – see CIITAP for details)
- Sales Tax Exemption  Mortgage Recording Tax Exemption

**Applicant Attorney:** Guttman and Reiter

Address: 411 North Tioga St

City: Ithaca State: NY Zip: 14850

Primary Contact (if different from above:): Charles Guttman

Phone: (607)272-2102 Email: deb@guttmanandreiter.com Fax: ( ) -

**Applicant Accountant:** Anchin

Address: 1375 Broadway

City: New York State: NY Zip: 10018

Primary Contact (if different from above:): Stephen Plattman

Phone: (212)840-3456 Email: Stephen.plattman@anchin.com Fax: (212)840-7066

**Applicant Engineer/Architect (if known):** John Snyder Architects

Address: 700 Cascadilla St. #203

City: Ithaca State: NY Zip: 14850

Primary Contact (if different from above:): John Snyder

Phone: (607)273-3565 Email: john@js-architects.com Fax: ( ) -

**Applicant Contractor (if known):** D Squared Inc

Address: 1304 Ridge Rd

City: Lansing State: NY Zip: 14882

Primary Contact (if different from above:): Doug Boles

Phone: (607)227-5177 Email: Boles.d2@gmail.com Fax: ( ) -

**II. BUSINESS HISTORY**

Year company was founded: 2009 NAICS Code: 311811

Type of ownership (i.e. C-Corp, LLC): LLC

Describe in detail company background, products, customers, goods and services: Emmy's Organics was founded in 2009 by Ian Gaffney and Samantha Abrams in a home kitchen in Ithaca, NY. The company manufactures and distributes packaged organic snack food including coconut based cookies. Emmy's began selling it's items at the Ithaca Farmers Market and a handful of local stores and has grown it's distribution to include the following customers: Starbucks, Walmart, Whole Foods Market, CVS, Rite Aid, Wegmans, Sprouts, and more. All of emmy's products are certified organic, gluten-free and vegan.

Emmy's has outgrown their current facility on West Buffalo St. in Ithaca, NY – which they have operated out of for the past 6 years. The company grew over 150% in 2017, 30% in 2018 and is on track for 40% growth in 2019. In 2018 Emmy's produced approx. 30 million cookies, majority of those cookies were made at their own facility and a portion were made at an out-of-state co-manufacturer's facility. Due to space restrictions and the inability to obtain a specific food safety certification at their existing facility, Emmy's has relied on using out-of-state co-manufacturers for a sizeable portion of its cookie production and new product innovation. Emmy's wants to bring this production and innovation back in-house and back to NYS. Some of Emmy's most important customers include: Walmart (3,800 locations), CVS, Rite-Aid, Whole Foods Market, Wegmans, Sprouts, Giant Eagle, and many more.

Major Customers: Walmart, Starbucks, Whole Foods Market, CVS, Rite Aid, Sprouts, Wegmans.

Major Suppliers: Multiple Organics, BCI, Temkin International, Tradin Organics

Has your business every received incentives tied to job creation?  Yes  No

If yes, please describe: \_\_\_\_\_

Were the goals met?  Yes  No

If no, why were the goals not met? We never applied

Annual sales to customers in Tompkins County: \$60,000

Percent of annual sales subject to local sales tax: 0%

Value of annual supplies, raw materials and vendor services are that purchased from firms in Tompkins County: \$100k

### III. PROJECT DESCRIPTION AND DETAILS

Project Location (all addresses and tax parcels): 15 Royal Rd Ithaca, NY 14850

Property Size (acres): existing: 3.6 proposed: \_\_\_\_\_

Building Size (square feet): existing: 20,225 proposed: \_\_\_\_\_

Proposed Dates: start: 07-01-2019 end: 10-01-2019

Please provide a narrative of the Project and the purpose of the Project (new build, renovations, and/or equipment purchases, etc.). Identify specific uses occurring within the Project. Describe any and all tenants and end users:

To purchase an existing distribution facility located off rte 13 in Ithaca, NY. The existing facility already has a smaller office space, private conference rooms, break room, bathrooms and 6 loading docks. It has been owned by the same family since it was built 14 years ago. The existing facility is 20k sf with ample open space which will allow Emmy's to build a 4k sf processing room, 2k sf additional office space, and add additional bathrooms inside of the existing structure.

This proposal is consistent with the Comprehensive Plan's goals to grow the local economy. As a certified B Corp, Emmy's Organics is committed to the environment and to the community, creating a nationally-distributed certified organic product with the help of fair-wage laborers.

This production facility will enable Emmy's continued growth and provide more fair-wage jobs within Tompkins County. The sole tenant will be Emmy's Organics LLC – a cookie/snack manufacturing company. Equipment purchases will be ovens, warehouse equipment, baking sheet pans and racks, dishwashing equipment, packaging machines and more.

Is there a likelihood that the Project would not be undertaken but for the financial assistance provided by the Agency?  Yes     No

If yes, describe the reasons why the Agency's financial assistance is necessary and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc.:

If no, provide a narrative indicating why the Project should be undertaken by the Agency: This project is a financial leap for Emmy's to own its own facility. We want to stay in the area and this project will cost more than buying a facility in outlying areas. The assistance of the IDA will help us to make the project financially feasible and phase in the increased property taxes over time, preserving cash for company growth.

If the Applicant is unable to obtain financial assistance for the Project what will be the impact on the County/City/Town/Village? Reduced taxes, job loss.

Describe what green building practices you plan to use: We are working with our architect, engineer and contractor to help us develop the best green practices for our new facility. Practices that can balance the costs with benefits. The facility's roof has southern exposure, we would like to add solar panels in the near future.

Will this project result in a regular increase in overnight visitors to your facility (e.g. for training programs)?  Yes  No

If yes, number of visitors per year: 12

Average duration of stays (days): 4

**Occupancy**

Select Project type for all end users at Project site (select all that apply):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Industrial                       | <input type="checkbox"/> Service*, **                    |
| <input checked="" type="checkbox"/> Acquisition of existing facility | <input checked="" type="checkbox"/> Back office          |
| <input type="checkbox"/> Housing                                     | <input type="checkbox"/> Mixed use                       |
| <input type="checkbox"/> Multi-tenant                                | <input type="checkbox"/> Facility for aging              |
| <input checked="" type="checkbox"/> Commercial                       | <input type="checkbox"/> Civic facility (not for profit) |
| <input type="checkbox"/> Retail*, **                                 | <input type="checkbox"/> Other                           |

\* For Purposes of this question, the term “retail sales” means (1) sales by a registered vendor under Article 28 of the Tax Law of New York (the “Tax Law”) primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law, or (2) sales of a service to customers who personally visit the project location.

\*\* If Applicant checked “retail” or “service,” complete the Retail Questionnaire contained in Section X.

List the name(s), nature of business of proposed tenant(s), and percentage of total square footage to be used for each tenant (additional sheets may be attached, if necessary):

<b>Business</b>	<b>Nature of Business</b>	<b>% of total square footage</b>
1. <u>Emmy’s Organics LLC</u>	<u>Food Manufacturing</u>	<u>100</u>
2. _____	_____	_____
3. _____	_____	_____

**IV. PROJECT COSTS AND FINANCING**

**Project Costs**

	Amount (\$)
Land and/or Building Acquisition: <u>3.6</u> acres <u>20,225</u> square feet	<u>\$1,462,500</u>
New Building Construction: _____ square feet	<u>\$</u>
Building Addition(s): _____ square feet	<u>\$</u>
Infrastructure Work:	<u>\$</u>
Reconstruction/Renovation: <u>8000</u> square feet	<u>\$670,000</u>
Manufacturing Equipment:	<u>\$200,000</u>
Non-Manufacturing Equipment (furniture, fixtures, etc.):	<u>\$7,500</u>
Soft Costs (professional services, etc.):	<u>\$20,000</u>
Other (Specify): _____	<u>\$</u>
<b>TOTAL:</b>	<b><u>\$2,360,000</u></b>

Have any of the above costs been paid or incurred as of the date of this application?     Yes     No

If yes, describe particulars: Architect fees

**Sources of Funds for Project Costs**

Bank Financing	\$2,067,500
Equity	\$292,500
Tax Exempt Bond Issuance (if applicable)	\$
Taxable Bond Issuance (if applicable)	\$
Public Sources (Include sum total of all state and federal grants and tax credits)	6.5%

Identify each State and federal grant/credit:

_____	\$
_____	\$
_____	\$

Total sources of funds for Project costs: \$2,360,000

Project refinancing of existing debt only (estimated): \$2,067,500

Amount of anticipated financing from a lending institution: \$ \_\_\_\_\_

*Note: The applicant must inform the TCIDA/TCDC at the time of issuance of commitment letter if the financing will exceed the amount stated here.*

**V. VALUE OF INCENTIVES**

**Property Tax Exemption:** *(Agency staff will fill out property tax exemption information based on information submitted by the applicant).*

**Assumptions:** \$ \_\_\_\_\_ Value of increase in assessment

    % Annual increase in assessment and tax rate

		<b>New taxes paid:</b>	\$ _____				<b>Taxes Abated:</b>	\$ _____		
Year	County	School	City/Town	Village	Total	County	School	City/Town	Village	Total
1										
2										
3										
4										
5										
6										
7										
Totals										



If the applicant is requesting incentives that are greater than the Agency's Standard Tax Exemption (7 years), please provide a description of the incentive and a justification: Relocating to a larger facility will be a stretch financially. Reducing the increased taxes will greatly help with cash flow.

**Sales and Use Tax Benefit:**

Gross amount of costs for goods and services that are subject to State and local sales and use tax – said amount to benefit from the Agency's sales and use tax exemption benefit: \$535,000

Estimated State and local sales and use tax benefit (product of sales and use tax amount as indicated above multiplied by 8%) \$42,800

*Note: The estimate provided above will be provided to the New York State Department of Taxation and Finance and represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to the application.*

**Mortgage Recording Tax Benefit:**

Mortgage Amount (include construction/permanent/bridge financing/refinancing): \$2,067,500

Estimated mortgage recording tax exemption benefit (product of mortgage amount as indicated above multiplied by .0025%): \$5,169

**Complete for bond applicants only: (Projected 25 year borrowing term)**

	<b>Without Bonds</b>	<b>With Bonds</b>
First Year Debt Service	\$ _____	\$ _____
Total Debt Service	\$ _____	\$ _____

**Percentage of Project costs financed from public sector:**

A. Total Project Cost	\$2,360,000
B. Estimated Value of PILOT	\$104,746
C. Estimated Value of Sales Tax Incentive	\$42,800
D. Estimated Value of Mortgage Tax Incentive	\$5,169
E. Total Other Public Incentives (tax credits, grants, ESD incentives, etc.)	\$ _____

Calculation of percentage of Project costs financed from public sector: TBD%  
(Total B + C + D + E above / Total Project Cost)

## VI. EMPLOYMENT INFORMATION

*Note: Annual employment reporting will be required during the course of the abatement.*

Describe the benefits you offer to your employees: PTO (Vacation, Holiday and sick days), monthly staff lunches, Wellness gift 2x year each staff member is given \$600 total per year, gift cards for annual employment anniversaries, quarterly profit share, 401K & annual bonuses

Describe the internal training and advancement opportunities you offer to your employees: We strive to promote from within & have training available to the staff to take to learn. Management staff take classes in communication, the role of a supervisor & FMLA laws.

**Employment Plan**

Occupation in Company	Current (Retained) Permanent Full Time Jobs		Projected New Permanent Full-Time Jobs			
	Average Annual Salary Ranges/ Hourly Wage	Number of Employees	Year 1	Year 2	Year 3	Total New Jobs
Professional	41.95	4	0	0	0	0
Clerical	20.77	4	1	0	0	1
Manufacturing	13.89	15	2	2	0	4
Warehouse	16.00	4	0	0	0	0
<b>Total</b>		27	3	2		5

What percentage of your current positions are occupied by women? 38 %

What percentage of your current positions are occupied by minorities? 52 %

Estimated percentage of new hires who would be unemployed at time of hire: 75%

Estimate the number of residents of the labor market area in which the Project is located that will fill the projected new jobs to be created. *(The Agency defines the labor market area as Tompkins County and the contiguous counties; Cayuga, Seneca, Schuyler, Chemung, Tioga, and Cortland Counties)* 100%

Are you willing to pay a livable wage, as defined by the Alternatives Federal Credit union (AFCU) of Ithaca, NY to all employees for the duration of the abatements? Yes  No

If no, estimate the percentage of the current workforce whose wages meet or exceed the livable wage, as defined by AFCU. 50%

Please describe your strategy for ensuring diversity in hiring:  
 Emmy's hires without prejudice to race, sex, age or creed. We believe in a diverse workforce & have always hired with that in mind.

**VII. CONSTRUCTION LABOR**

*Note: Applicants will be required to comply with the Agency's Local Labor Utilization Policy.*

**Will you use contractors who:**

Have a certified apprenticeship program  Yes \_\_\_\_\_ %  No

Pay a prevailing wage

Yes \_\_\_\_\_ %

No

Use local labor

Yes 100 %

No

**Estimate the number of construction jobs**

20-30

**VIII. ENVIRONMENTAL REVIEW AND PERMITTING**

Environmental Assessment Form –  Short Form  Long Form

Submitted to: N/A

Agency Name: \_\_\_\_\_

Agency Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of submission: \_\_\_\_\_ Status of submission: \_\_\_\_\_

*The Applicant must comply with the State Environmental Quality Review Act (SEQRA) before the Agency can vote on proposed financial incentives. It is the applicant's responsibility to provide a copy of the-SEQRA determination by another entity.*

**Permits:** Describe other permits required and status of approval process.

<b>Permit</b>	<b>Status</b>
1. Building Permit _____	Submitting June 2019 _____
2. _____ _____	_____ _____
3. _____ _____	_____ _____

## IX. OTHER

Do you have anything else you would like to tell the TCIDA regarding this project?

As a local company experiencing tremendous growth, we appreciate any help that can be provided to complete the building of our new facility, which will allow us to sustain our growth and bring 100% of our products production in-house & add more local manufacturing jobs to the area.

## X. RETAIL QUESTIONNAIRE (Fill out if end users are "retail" or "service" as identified in Section III)

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the project site to undertake either a retail sale transaction or to purchase services.

- A. Will any portion of the Project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?  Yes  No

If yes, please continue. If no, do not complete the remainder of the retail questionnaire and proceed to the next section of the application.

*For Purposes of this question, the term "retail sales" means (1) sales by a registered vendor under Article 28 of the Tax Law of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law, or (2) sales of a service to customers who personally visit the project location.*

- B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the Project? \_\_\_\_\_ %

If the answer is less than 33.33% do not complete the remainder of the retail determination and proceed to the next section of the application.

If the answer to Question A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the Project:

1. Will the Project be operated by a not-for-profit corporation?  Yes  No

2. Is the Project location or facility likely to attract a significant number of visitors from outside Tompkins County?  Yes  No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Will the Project make available goods or services which are not currently reasonably accessible to the residents of the municipality within which the proposed Project would be located?  Yes  No

If yes, please provide a third party market analysis or other documentation supporting your response.

4. Will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?  Yes  No

If yes, explain: \_\_\_\_\_

## XI. INTER-MUNICIPAL MOVE DETERMINATION

The Agency is required by State law to make a determination that, if completion of a Project benefiting from the Agency financial assistance results 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, Agency financial assistance is required to prevent the Project occupant from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry.

Will the Project 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?  Yes  No

Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the State?  Yes  No

If yes to either question 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:

Does the Project involve relocation or consolidation of a Project occupant from another municipality:

Within New York State:  Yes  No

Within County/City/Town/Village:  Yes  No

If yes to either question above, please explain: \_\_\_\_\_

## REPRESENTATIONS, CERTIFICATIONS AND INDEMNIFICATION

Bill Kelly (name of CEO or other authorized representative of Applicant) confirms and says that he/she is the CEO (title) of Emmy's Organics (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and 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) ("JTPA") in which the proposed 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. 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, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization, local construction labor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Project Agreement between the Agency and Applicant.
- D. Labor Utilization Reporting. The Applicant understands and agrees that, if the proposed Project receives any Financial Assistance from the Agency, the Applicant agrees to comply with the Labor Utilization Policy, which requires providing documentation that construction bids were solicited from local firms and monthly construction labor reporting as outlined in the Policy.
- E. Diversity and Inclusion. The Applicant understands and agrees that, if the proposed Project receives Financial Assistance from the Agency, the Applicant agrees to comply with the Diversity and Inclusion Policy, which requires joining the Tompkins County Diversity Consortium and providing annual reports on the make up of the workforce and efforts to increase diversity and inclusion as outlined in the Policy.
- F. Hold Harmless Provision. The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and 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: (i) 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,

(ii) the Agency's acquisition, construction and/or installation of the Project described therein and (iii) 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.

- G. Sales Tax. 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. Copies of all filings shall be provided to the Agency.

Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents to be entered into by and between the Agency and the Applicant.

- H. Fees. By executing and submitting this Application, the applicant covenants and agrees to pay the following fees:
- (i) An application fee of \$1,000 due at time of application submission. A reduced application fee may be negotiated for projects with a total cost under \$5 million.
  - (ii) An Administrative Fee in accordance with the Administrative Fee Policy effective as of the date of this application, to be paid at transaction closing (unless otherwise outlined in the Project Agreement or authorizing resolution). This fee will be equal to 1% of the project costs;
  - (iii) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, and (2) other consultants retained by the Agency in connection with the proposed Project; with all such charges to be paid by the Applicant at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore please note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's bond/transaction counsel; Agency transaction counsel fees shall be an amount equal to one-third (1/3) of the Agency's Administrative Fee set forth in (ii) above with a minimum fee of \$20,000 plus out of pocket expenditures unless otherwise agreed to in writing for smaller projects.
  - (iv) The cost incurred by the Agency and paid by the Applicant, including bond/transaction counsel and the Agency's general counsel's fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.

If 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 Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon presentation of an invoice, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

- I. FOIL. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.



- J. Financial Review. The Applicant acknowledges that the Agency shall undertake an assessment of all material information included in connection with the Application for Financial Assistance as necessary to afford a reasonable basis for the decision by the Agency to provide Financial Assistance for the Project, including, but not limited to qualification of the proposed project under the GML (including any retail analysis, as applicable), conducting a full application review, review of applicant financial history and project pro-formas, and consideration of all local development priorities.
- K. The Applicant represents and warrants that the information contained in this Application, to the best of the Applicant's knowledge, is true, accurate and complete.
- L. 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.
- M. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provisions of Section 859-a(5) and Section 862(1) of the New York General Municipal Law.
- N. 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 in the Project.
- O. The Applicant and the individual executing this application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants 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.

Name: Ian Gaffney

Title: co-founder

Company: Emmy's Organics LLC

Date: 05-14-2019

STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF TOMPKINS        )

On the \_\_ day of \_\_\_\_\_ in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**NEW YORK STATE FINANCIAL REPORTING  
REQUIREMENTS FOR INDUSTRIAL DEVELOPMENT AGENCIES**

Please be advised that the New York General Municipal Law imposes certain reporting requirements on IDAs and recipients of IDA financial assistance. Of particular importance to IDA applicants is Section 859 (copy attached). This section requires IDAs to transmit financial statements within 90 days following the end of an Agency's fiscal year ending December 31, prepared by an independent, certified public accountant, to the New York State Comptroller, the Commissioner of the New York State Department of Economic Development. These audited financial statements shall include supplemental schedules listing the following information:

1. All straight-lease ("sale-leaseback") transactions and whether or not they are obligations of the Agency.
2. All bonds and notes issued, outstanding or retired during the period and whether or not they are obligations of the Agency.
3. All new bond issues shall be listed and for each new bond issue, the following information is required:
  - a. Name of the project financed with the bond proceeds.
  - b. Whether the project occupant is a not-for-profit corporation.
  - c. Name and address of each owner of the project.
  - d. The estimated amount of tax exemptions authorized for each project.
  - e. Purpose for which the bond was issued.
  - f. Bond interest rate at issuance and, if variable, the range of interest rates applicable.
  - g. Bond maturity date.
  - h. Federal tax status of the bond issue.
  - i. Estimate of the number of jobs created and retained for the project.
4. All new straight lease transactions shall be listed and for each new straight lease transaction, the following information is required:
  - a. Name of the project.
  - b. Whether the project occupant is a not-for-profit corporation.
  - c. Name and address of each owner of the project.
  - d. The estimated amount of tax exemptions authorized for each project.
  - e. Purpose for which each transaction was made.
  - f. Method of financial assistance utilized for each project, other than the tax exemptions claimed by the project.
  - g. Estimate of the number of jobs created and retained for the project.

Please sign below to indicate that you have read and understood the above.

Name: Ian Gaffney

Title: co-founder

Company: Emmy's Organics LLC

Date: 05-14-2019

**Emmy's Organics Cost Benefit Analysis**

**Assumptions**

\$ 1,150,000	Current Assessment
\$ 350,000	Increase in Assessment
1%	Annual Tax Rate/Assessment Increase

	Tax Rates
County	4.015641
Town	4.740154
Village	0.000000
School	22.610936
<b>Total</b>	<b>31.366731</b>

**Project Costs \$ 2,360,000**

**Inputs**

Year	Abatement Multipliers		New Taxable Value	Existing Taxable Value
1	0.0000	1.0000	350,000	1,150,000
2	0.0000	1.0000	353,500	1,161,500
3	0.0000	1.0000	357,035	1,173,115
4	0.0000	1.0000	360,605	1,184,846
5	0.0000	1.0000	364,211	1,196,695
6	0.0000	1.0000	367,854	1,208,662
7	0.0000	1.0000	371,532	1,220,748
8	0.0000	1.0000	375,247	1,232,956
9	0.0000	1.0000	379,000	1,245,285
10	0.0000	1.0000	382,790	1,257,738

**Proposed Incentive - Deviates from Standard Schedule**

Year	Tax Payment	Taxes Abated
1	36,072	10,978
2	36,072	11,449
3	36,072	11,924
4	36,072	12,404
5	36,072	12,889
6	36,072	13,378
7	36,072	13,873
8	40,000	10,444
9	45,000	5,949
10	50,000	1,458
<b>Total</b>	<b>387,502</b>	<b>104,746</b>

**Estimated Actual with No Incentive (for corr**

Year	Abatement	County	Town	School	New Taxes Paid	Existing Taxes Paid	Total Taxes Paid
1	0%	1,405	1,659	7,914	10,978	36,072	47,050
2	0%	1,420	1,676	7,993	11,088	36,432	47,521
3	0%	1,434	1,692	8,073	11,199	36,797	47,996
4	0%	1,448	1,709	8,154	11,311	37,165	48,476
5	0%	1,463	1,726	8,235	11,424	37,536	48,961
6	0%	1,477	1,744	8,318	11,538	37,912	49,450
7	0%	1,492	1,761	8,401	11,654	38,291	49,945
8	0%	1,507	1,779	8,485	11,770	38,674	50,444
9	0%	1,522	1,797	8,570	11,888	39,061	50,949
10	0%	1,537	1,814	8,655	12,007	39,451	51,458
<b>Total</b>		<b>14,704</b>	<b>17,357</b>	<b>82,796</b>	<b>114,858</b>	<b>377,390</b>	<b>492,248</b>

**Estimated 7 Year Standard Incentive (for comparison)**

Year	Abatement	New Taxes Paid \$ 38,877			New Taxes Paid	Existing Taxes Paid	Total Taxes Paid	Taxes Abated \$ 40,316			Total Taxes Abated
		County	Town	School				County	Town	School	
1	90%	141	166	791	1,098	36,072	37,170	1,265	1,493	7,122	9,881
2	77%	325	383	1,827	2,535	36,432	38,967	1,095	1,293	6,166	8,553
3	64%	512	605	2,884	4,000	36,797	40,797	922	1,088	5,189	7,199
4	51%	703	830	3,961	5,495	37,165	42,660	745	879	4,193	5,816
5	39%	899	1,061	5,060	7,019	37,536	44,555	564	666	3,175	4,405
6	26%	1,098	1,296	6,180	8,573	37,912	46,485	380	448	2,138	2,965
7	13%	1,300	1,535	7,322	10,157	38,291	48,448	192	226	1,079	1,496
<b>Total</b>		<b>4,977</b>	<b>5,875</b>	<b>28,025</b>	<b>38,877</b>	<b>260,205</b>	<b>299,082</b>	<b>5,161</b>	<b>6,093</b>	<b>29,062</b>	<b>40,316</b>

**Sales Taxes Abatement**

category	value	taxes
construction	335,000	26,800
ff&e	200,000	16,000
<b>Total</b>		<b>42,800</b>

**Mortgage Recording Tax Abatement**

Mortgage	2,067,500
<b>Tax</b>	<b>5,169</b>

**Fees**

IDA (.5% of Project Costs)	\$11,800
IDA Attorney (negotiated)	\$11,000
CIITAP app	\$0
IDA app	\$1,000
<b>Total Fees</b>	<b>\$23,800</b>



May 15, 2019

Martha Armstrong, AICP  
Vice President, Director of Economic Development Planning  
Tompkins County Area Development  
401 E. State St., Suite 402B  
Ithaca, NY 14850

Dear Martha,

Taitem is pleased to present a scope of work and fee for the TCAD – IDA Energy Policy Revision.

#### Background

Taitem developed technical guidelines for the IDA's enhanced energy tax abatement a few years ago. Although the IDA reportedly did not formally adopt it, the IDA has used the guidelines several times, including such projects as City Centre, Harold Square, and 323 Taughannock Boulevard. The program is implemented by TCAD. It is regarded as having been a success, influencing multiple developers to build energy-efficiently, substantially increasing the use of heat pumps in new buildings, and having a ripple effect, such as being used in the proposed City of Ithaca and Town of Ithaca green building policy.

Now that we have a few years of experience with it, we are aware of adjustments that would be beneficial to the IDA technical guidelines. These include:

- a. The technical guidelines call for NYSERDA's "Tier 3" energy program for multifamily buildings. NYSERDA now has two such programs, one for high-rise buildings and one for low-rise buildings. The Tier 3 requirement for low-rise buildings is unusually challenging, and represents roughly 90% less energy than typical, rather than the 40% less energy that the policy seeks as a goal and that is required for NYSERDA high-rise multifamily buildings as well as other commercial buildings. It would make sense to make the requirements for low-rise buildings consistent to the requirements for other buildings.
- b. It might be worth applying energy requirements for buildings that do not pursue the enhanced energy tax abatements, but still do seek the base-level tax abatements. The original technical guideline sought 10% reduction in energy use, but it was viewed as

being too complex to enforce. A simpler requirement is sought. In a meeting at TCAD in early May, it was generally agreed to simply require heat pumps for space heating and possibly water heating for buildings, as a base requirement that could readily be implemented, could readily be verified, and that would measurably reduce carbon emissions. Taitem should evaluate this proposal and spell out the requirements.

c. The enhanced energy incentive has created some questions for developers, for TCAD which implements the tax abatements, and for consultants. Various questions have arisen, and it would be good to review these and seek clarifications or simplifications. For example, commercial buildings coming through NYSERDA's C-NCP program are not required to reach 40% energy efficiency, as is required by the IDA program. A template compliance document would be helpful, such as a letter provided by the modeling or design professional that states that the project came through NYSERDA's program and was modeled at 40% lower energy use using NYSERDA's modeling standard, and this statement is provided by a licensed architect or engineer.

Changes are also needed due to the aforementioned City of Ithaca and Town of Ithaca green building policy: Should this policy be adopted, as expected (likely in 2020), then it would not make sense for the IDA to incentivize buildings that essentially are being required by a local energy code to meet the same level of energy efficiency. As the green building policy is proposed to ramp up again in 2025, and then again finally in 2030, the IDA enhanced energy incentives also need to ramp up. Lastly, the proposed green building policy has both a "Whole Building" compliance path (virtually identical to the IDA requirements) but also has a newly-developed "Easy Path", which emphasizes heat pumps and affordability. It might make sense for the IDA to also offer the Easy Path for compliance.

Proposed Scope of Work and Fee

1. Present to the IDA energy committee, likely in late June 2019:
  - a. Success so far: Uptake - which projects have used the policy; Examples of how designs were changed; Impact on green building policy
  - b. Challenges so far
  - c. Proposed changes: 100% electric for base incentive; 2020/2025/2030 plan
2. Review of the existing standard and of projects that have come through the IDA program, to see what obstacles were faced.
3. Review of the NYSERDA multifamily low-rise program requirements, to establish a verifiable goal that is less rigorous than the current Tier 3 low-rise NYSERDA requirement.
4. Development of compliance documentation to make it easier for TCAD to evaluate compliance, preferably to make it entirely self-explanatory.
5. Review of the proposal to make heat pumps a requirement for the base IDA tax abatements. Develop language to clarify this requirement.
6. Write up a draft of the revised technical guidelines.
7. Solicit developer feedback and incorporate into draft.
8. Review again with IDA Energy Committee, likely in late summer 2019.
9. Revise as necessary.
10. Present to the full IDA board, likely in fall 2019.
11. Revise and release the final IDA enhanced energy technical guidelines.

Fee: \$19,720.00

This work will be conducted by Ian Shapiro, with support as appropriate. Please let me know what questions arise. I look forward to working with you on the energy policy revisions.

Sincerely,

*Beth Mielbrecht*

Beth Mielbrecht, PE

**Tompkins County Industrial Development Agency**  
**Board of Directors Meeting DRAFT Minutes**  
**May 8, 2019**  
**2:30 PM**  
**Tompkins County Legislative Offices**  
**121 E. Court Street, Ithaca, NY**

**Present:** Rich John, Jennifer Tavares, Mike Sigler, John Guttridge, Laura Lewis, Martha Robertson, Leslyn McBean-Clairborne

**Staff Present:** Heather McDaniel, Ina Arthur, Russ Gaenzle (Harris Beach, PLLC)

**Guests:** Frost Travis (Ex Libris, LLC), Neil Patel (Hilton Canopy), Phil Proujansky, Herman Sieverding (B&T Visions Holdings LLC), Leslie Spirgen, Evan Cleveland (Insero & Co.), Rick Snyder (TC Finance)

## **CALL TO ORDER**

Rich John called the meeting of the **Tompkins County Industrial Development Agency** to order at 2:30 pm.

### 2018 TCIDA/TCDC Audit – Presentation of Final Documents

Leslie Spirgen and Evan Cleveland of Insero & Co. presented the 2018 TCIDA/TCDC Audit documents. They reviewed the Executive Summary. Both the TCIDA and TCDC are presented in the financial statements. The statements present an unmodified opinion that means they are fairly stated and are in line with general accounting standards. There were no problems with internal controls. There were no issues with conducting the audit. The audit was previously presented to the IDA Audit Committee and approved by that committee.

The NYS required supplemental information from projects is also included in the audit documents. Ms. Spirgen noted the continuing issues with Board's composition with a majority of County Legislators.

The financial statements were reviewed along with the note for future encumbrance of funds to support economic development and TCAD.

Rich John thanked the auditors for their work.

## **PRIVILEGE OF THE FLOOR**

Robert Lynch – Spoke about his efforts on speaking against the Library Place project (February – today). He stated that the word “industrial” is in the name of the TCIDA. He spoke of Borg Warner coming to Ithaca with assistance from the IDA. The IDA was involved and hundreds of jobs were created and retained. Library Place will not create any direct jobs. He feels that the project should not receive any tax abatements and should stand on its own two feet.



Evan Hallas – Taitem Engineering – Spoke in support of the Vecino group and the Ithaca Arthaus project. He has been working with this project on energy and sustainability. This project has committed to be an all-electric building and will be a self-greening building. It will do domestic hot water heat pumps as well. They will also be participating in the NYSERDA new construction program and building to about 35% better than the current code.

Patty Siegard – Local 241 IBEW Electric – She spoke supporting local labor on the upcoming projects. She said that local does not need to be union.

Tom Butler – President of Board of Lifelong. He outlined how Lifelong will be able to use 1,800 sf of space in Library Place project – this is an expansion for their programs that is greatly needed. They will only be paying utilities and will also be able to get income from the rental of this space.

John Spence – He is the former executive director of Better Housing for Tompkins County. He spoke in support of Ithaca Arthaus because affordable housing is greatly needed in Tompkins County. He is also encouraged by the walkability to downtown and the availability of community space.

Joan Jacobs Brumberg – She spoke in favor of Ex Libris. She spoke of the housing symposium that was held three years ago. This project will fill the gap for senior housing that is just as significant as affordable housing. Density and diversity is needed downtown.

Theresa Alt – She spoke against the Ex Libris project. She feels it is irresponsible and doesn't deserve any abatement because it does not include affordable housing. She feels that lower income people pay the weight of full taxes through their rents.

Peter Wissoker – **see attached comments**. He spoke against Ex Libris. He would like Ithaca Arthaus to be located somewhere else in Ithaca. He spoke to the proposed Bylaws and the education seat.

Brett Bossard– He spoke in favor of the Ithaca Arthaus project. He feels this project addresses the need for affordable housing and includes people working in the creative arts. He commented that where he works they are a living wage employer and the employees there would qualify to live in this project at 50-80% AMI.

Suzy Kramer – She spoke against the Ex Libris project and referenced the letter she sent previously. She thanked Rich John for speaking with her at length. **See attached letter.**

## **ADDITIONS TO THE AGENDA**

B&T Visions Holdings LLC – Sales Tax Exemption Request – this will be covered under new business

## **OLD BUSINESS**

### Ithaca Downtown Associates – Hilton Canopy – PILOT Modification

Heather McDaniel reviewed the PILOT recommendation that were sent out with the agenda packet. The delay in construction was the primary cause for this recommended adjustment.

Martha Robertson stated that this project, as do all the PILOT projects, does not abate existing taxes; only new taxes are abated.



**Martha Robertson moved to approve the authorizing resolution for the PILOT modifications for Ithaca Downtown Associates. John Guttridge seconded the motion. The motion was approved 7-0.**

Ithaca Arthaus, LLC (Vecino Group) Final Approval

**John Guttridge moved to approve the authorizing resolution for the Vecino Group (Ithaca Arthaus, LLC) project. Leslyn McBean Clairborne seconded the motion.**

John Guttridge spoke about the great amenities and the location of the project. He addressed the comments that this project location is bad (ghettoizing). While the project is located next to a former industrial area, it is also on prime waterfront next to the black diamond trail. He understands the comments about the design and hopes the issues can be worked out.

Laura Lewis appreciates all the public comment and wants to assure all that their comments are taken seriously and considered. This project will have air source heat pumps and she is very happy about this.

Martha Robertson agrees with some of the comments about the look of the project – however the “look” is not up to the IDA. That is the job of the City’s Planning Board during the site plan review.

Leslyn McBean Clairborne stated that she hopes the look of the windows will change and that she is in favor of the project.

John Guttridge spoke to the fact that the project will have a good income mix of residents – homeless and working class.

Rich John echoed the comments of other board members. He spoke of other groups that need housing support – those coming out of jails and those who are coming out of drug recovery programs.

**A vote was taken on the motion. The motion passed 7-0.**

Ex Libris, LLC Final Approval

**Laura Lewis moved to approve the authorizing resolution for the Ex Libris LLC project. Mike Sigler seconded the motion.**

Mike Sigler addressed a comment during the public hearing that this project was “shrouded in mystery.” He feels that through the whole process, beginning with the City of Ithaca CIITAP process and now at the IDA, has been very transparent. He referenced the sale of the property to the developer at the County level and then the review of the project at that level.

Laura Lewis referred to the City’s CIITAP letter of support for this project. All four eligibility requirements for this project at the CIITAP level have been satisfied. She pointed out that the project’s application to the City under CIITAP was submitted prior to the City’s affordable housing requirement. There is the potential for affordable housing with this project if funding is found.

Leslyn McBean Clairborne echoed Mike Sigler’s comments. There has been a lot of public comment on this project.

Martha Robertson asked about the memo of financial need that was sent in the agenda packet.

Heather McDaniel commented that she has reviewed the construction budget and pro forma looking out five years to see if the costs are reasonable and if the developer's fee is reasonable. The ROI should be below 20% for the first five years – this project has a much lower threshold for ROI, even lower than other projects that have been approved prior.

Martha Robertson also referenced comments from Nels Bohn of the City of Ithaca regarding the Ithaca Gun clean up project – the developer is in compliance with the DEC process. The developer is working through a difficult process to clean up the site for future housing.

She also spoke to the other developer projects that were considered before the current developer was chosen and how that might have been received.

Leslyn McBean Clairborne commented that even Ex Libris has gone through changes since originally presented to the County.

Laura Lewis commented that the Ex Libris project would bring more diversity to downtown.

Mike Sigler spoke of his excitement of the project. This will bring the property back on the tax rolls – the full taxes will be phased in over 10 years and this is a good thing. He also spoke about that “affordable” means – it is relative; it is an option for those who cannot afford very costly retirement homes in other parts of the County.

Jennifer Tavares spoke that this project is an important option for housing needs. There are assumptions made about incomes and what is affordable for whom – and this is not appropriate. Also the comments about the developer are unfair.

Rich John spoke to the good in finally developing this property and the need for senior housing.

John Guttridge spoke about the even split in those speaking for and against this project. He feels it is important to address the issue of those who spoke against the project – they are valid issues.

**A vote was taken on the motion. The motion passed 6 for 1 against (McBean Clairborne)**

## **NEW BUSINESS**

### B&T Visions Holdings LLC – Sales Tax Exemption Application

Heather McDaniel introduced the sales tax exemption application from B&T Visions Holdings LLC. This is a renovation of the existing buildings at 61 Brown Road, Ithaca NY. The amount of exemptions is under \$100,000 threshold for a public hearing. The Board can approve the application at this meeting if it chooses.

Herman Sieverding spoke about the project. It is a renovation of space for two high tech companies that have come out of a local incubator program. The two companies, being nascent companies, do not have financial resources. The developer is willing to take a risk and support these two companies with needed renovations including lab space, clean rooms, dry rooms, shield hoods etc. These types of renovations are very expensive.

Phil Proujansky commented that the two companies are developing long-term battery/energy storage technology. These two companies are part of the solution set for energy issues we are all facing. We are hopeful that they will build their businesses here in Ithaca NY.

John Guttridge is impressed in the amount of investment and risk the developer is willing to take. It is an excellent use of relatively small public subsidy.

Laura Lewis asked about the use of local labor, the 20% - it was commented that the electrical contractor is local. Hayner Hoyt the general contractor is based out of Syracuse, while not technically local, they are only a 50 miles drive away and considered part of the labor market for Ithaca. Also the other components are very complex and specialized.

There is a natural gas moratorium in the location so they are working on meeting the energy needs with electric. They are also working to set up energy/heat recovery to help with this issue. The developer is also working with the County's BEA program in terms of financial resources.

**John Guttridge moved to approve the authorizing resolution for the sales tax exemption for B&T Visions Holdings LLC. Laura Lewis seconded the motion. The motion was approved 7-0.**

#### Approval of Proposed New Policies and Modifications to Existing Policies

Heather McDaniel commented that Bob Ryan of Harris Beach PLLC has reviewed all the TCIDA's existing policies and has made recommendations as to updating and developing other necessary policies per the PAAA guidelines. This also includes the charters to the Governance Committee and Finance and Audit Committees. Most of the proposed new policies pertain to employees of the IDA. The IDA does not have employees, but it was recommended that the policies be put into place.

The Governance Committee has met twice to review the new and updated policies and recommended approval.

The Committee also reviewed the Bylaws and application and made a few minor changes. The attorney has recommended removing the section in the Bylaws that address the make up of the Board so the Bylaws reflect the actual practice. The Legislature appoints the members of the IDA Board and has chosen to appoint a majority of legislators.

Martha Robertson asked that the Governance Committee review the Bylaws changes again. She would like to have the bylaws reflect what it actual process. Perhaps a different recommendation to the Legislature might be welcome.

Leslyn McBean Clairborne echoed the previous comments. She would like to have specificity remain in the bylaws.

**Jennifer Tavares moved to approve the new TCIDA policies as presented. Leslyn McBean Clairborne seconded the motion. The motion was approved 7-0.**

Updates to the Application include charging an application fee up front.

**John Guttridge moved to approve the updates to the Finance Committee and Governance Committee Charters as presented and to approve the updates to the TCIDA/TCDC Application as presented. Jennifer Tavares seconded the motion. The motion was approved 7-0.**

The TCIDA Bylaws will go back to the Governance Committee for further review.

## **CHAIRS REPORT**

None.

## **STAFF REPORT**

Heather McDaniel reported on the housing project in Lansing related to the Arrowhead project – Lansing Meadows. Last year, the Village of Lansing approved a 20-unit project with the requirements that a building permit be issued in 2018 and that it be completed by 2020. Building permits were issued in 2018. The IDA agreed with the Village’s requirements. There has been very little movement at this point and the developer has requested that the design be changed. The Village planning board will be meeting soon to determine if it is a minor or major change. If minor, they can move forward. If major, it will have to go through site plan approval again and thus miss the 2020 deadline. The ICSD is not happy with the project in its current iteration, pointing out that this is not the 12 unit project, wetland and bird habitat for which the incentive was approved back in 2011. A portion of the taxes collected from the BJ’s project are being used to pay the debt service for the housing project. The payments are being made, but the housing project hasn’t been built. It was questioned where the money has been spent.

Further discussion on this will take place next month.

## **APPROVAL OF MEETING MINUTES**

**Leslyn McBean Clairborne moved to approve the draft meeting minutes from the March 13, 2019 and April 10, 2019 Board meetings. John Guttridge seconded the motion. The motion was approved 7-0.**

## **ADJOURNMENT**

The meeting was adjourned at 4:30 PM

May 8, 2019

To: Heather McDaniel, President and the Board of Directors  
Tompkins County Industrial Development Agency

From: Peter Wissoker, 705 N. Tioga St., Ithaca, NY 14850

Re: Comments for the May 8, 2019 Board Meeting

---

These comments address two issues before the board today. Before doing so, I would note my hope that you vote against giving abatements as proposed to either the Ex-Libris or the ArtHaus projects. My thoughts on these issues were given during the public hearings and you should have the written comments that I sent following the hearing. Today, I rise to address two other issues, the idea of doing away with the seat on the board for a member of the Board of Education and the revisions to the application for tax breaks.

I urge the Board to reverse your proposed course and instead of removing the requirement that a member of the school board serve as a member of the board, as is proposed in the revision to Section 2 of the Agency by-laws, you insist on not only keeping the requirement, but ensure that someone is actually appointed to fill the long-vacant position—and no, someone who has worked as an educator does not suffice. I would suggest three reasons for doing so:

1. Most of the literature on making economic development work and building job ladders, like that of Nichola Lowe at UNC Chapel Hill, talks about the importance of integrating local education officials with industry professionals and economic development experts to build the best, that is to say, the most supportive systems for creating a workforce to attract additional firms into the region.

2. As the IDA increasingly plays a role in residential development, it is having a variety of effects on the school district and its schools, and the Board would benefit from the school board's elaboration of what these effects will be. For instance, having parents with kids move into the two large apartment buildings that are opening soon downtown, may or may not put additional stress on the local school. Do we know? Shouldn't there be someone here to ask?

3. The IDA is regularly promising significant tax breaks that may reduce the potential tax base for the school district. They should have a say on whether these breaks are given.

In summary, please reconsider the idea of doing away with the Board of Education seat. I suspect they have more to offer than you suspect.

In addition, I have a few suggested amendments to the TCIDA/TCDC Application:

The first, on page 7, is to add a line after the "Calculation of percentage of Project costs financed from public sector" that asks for the "Ratio of developer/investor equity contribution to tax

benefits received from the public sector.” This will highlight the amount of equity the developer is putting in relative to the contribution of the County and its related entities.

On page 8, I would suggest that in the calculation of *jobs created* you include the number of workers who are doing outsourced tasks—e.g. janitors, bookkeepers, etc.—as well as those of likely tenants. Then, I would urge you to change the question “Are you willing to pay a livable wage?” to “Are you willing to pay, and insist that any contractors, tenants or others who have business in or with the building pay, a livable wage?”

Thank you.

----- Forwarded message -----

From: **Susan Kramer** <[suzy196@msn.com](mailto:suzy196@msn.com)>

Date: Wed, May 8, 2019 at 2:10 PM

Subject: 105 W Court St. Library Place CIITAP and IDA Applications

To: [lmcbear@tompkins-co.org](mailto:lmcbear@tompkins-co.org) <[lmcbear@tompkins-co.org](mailto:lmcbear@tompkins-co.org)>, Svante Myrick <[mayormyrick@cityofithaca.org](mailto:mayormyrick@cityofithaca.org)>, JoAnn Cornish <[JCornish@cityofithaca.org](mailto:JCornish@cityofithaca.org)>, [rjohn@tompkins-co.org](mailto:rjohn@tompkins-co.org) <[rjohn@tompkins-co.org](mailto:rjohn@tompkins-co.org)>, [msigler@tompkins-co.org](mailto:msigler@tompkins-co.org) <[msigler@tompkins-co.org](mailto:msigler@tompkins-co.org)>, [jtavares@tompkinschamber.org](mailto:jtavares@tompkinschamber.org) <[jtavares@tompkinschamber.org](mailto:jtavares@tompkinschamber.org)>, [nelsbohn@cityofithaca.org](mailto:nelsbohn@cityofithaca.org) <[nelsbohn@cityofithaca.org](mailto:nelsbohn@cityofithaca.org)>, Heather MCD <[heatherm@tcad.org](mailto:heatherm@tcad.org)>, Laura A. Lewis <[lal8@cornell.edu](mailto:lal8@cornell.edu)>, [mrobertson@tompkins-co.org](mailto:mrobertson@tompkins-co.org) <[mrobertson@tompkins-co.org](mailto:mrobertson@tompkins-co.org)>

**Subject:** 105 W Court St. Library Place CIITAP and IDA Applications

Dear CIITAP committee members and members of the TCIDA:

In reviewing the applications submitted by Frost Travis on behalf of Ex Libris, I have noticed significant inconsistencies and misrepresentations of fact, both within and between the CIITAP application and the IDA application, and therefore wish to **respectfully request that the CIITAP Committee immediately rescind its approval--and furthermore, that the IDA members deny the tax abatement at this time--until these issues are thoroughly examined and resolved.**

In addition to the information submitted in my letter to the IDA on May 6<sup>th</sup>, I wish to highlight additional details below for consideration.

**Basis of Decision to Grant Abatement:**

Whether the site continues to sit vacant and undeveloped for a while longer because this development team's project is inherently financially infeasible without the abatement should not be the primary consideration to approve it.

**Problems with Accuracy and Completeness of Applications:**

I have carefully read the application received from Frost Travis in late June of 2018--the date on the application itself is missing. According to the CIITAP process, this application must be “reviewed for completeness” by the Planning Division before submission to the mayor.

The Applicant is listed as Ex Libris LLC, a partnership formed in November of 2017 to purchase and develop the “Old Library” site from Tompkins County, the acquisition of which

took place in December of 2017. In the Business History section of the application, Mr. Travis therefore states that the applicant Company was formed in 2017.

It seems reasonable that projects undertaken before this date that have not been directly managed by him or by his umbrella company, Travis Hyde, should not be considered in either application to establish an accurate business history or track record--Gateway, Carey Building, Gun Hill, are all recent or active projects that Frost Travis can take credit and responsibility for, while those completed successfully under previous management should not form the basis.

In the IDA application, however, most of the successful projects cited date from up to forty years ago and were completed long before the present Company or its manager were involved.

Existing size is illegible, but appears to be 57,000 sf (the existing building was closer to 38,630), with 88,000 proposed.

The required “proposed Project Start and Completion Dates” is incomplete--the answer given is simply “June 2018”--the same month as the application--when in fact no work had started since acquisition--or was formally scheduled to begin; work did not actually start until October of 2018.

The application states that the “names, nature of proposed tenants, and percentage of total square footage to be used for each” must be listed, but percentages are not given, nor is the nature of Lifelong’s business; the “full service restaurant” is here called merely a “café.”

Under project costs, the figure is 17 million, with equipment and soft costs bringing the total to 19,950,000. As will be noted below, this figure differs greatly from the cost listed in the IDA application, although the project’s scope remains the same.

#### **Municipal Compliance:**

To the important question of municipal compliance--one of just 4 Eligibility Criteria—the applicant lists “No.”



While this question as phrased here does not include the full language--which crucially also includes “consent agreements,” as well as “orders of the Director of Code Enforcement”--we know that at this time there were properties, among the many that qualify for scrutiny here, that did not yet have current Certificates of Compliance, and when asked about this issue at the January 7 public meeting, JoAnn Cornish stated that the applicant was still working on fulfilling this important requirement.

Mr. Travis’s answer was therefore not accurate as of the time of the application.

The extra time apparently afforded the applicant to bring the numerous properties in question (well over a dozen) into compliance perhaps explains the lengthy delay—over 7 months since the application was received-- for issuing the Letter of Approval in February 2019.

This may also explain why the applicant was not ready to submit the IDA application until 9 months after the CIITAP application was filled out.

### **Project Description and Huge Cost Discrepancy:**

The Project Description states that the building will consist of “a 66 unit apartment building with a first floor fitness and wellness center, as well as a full service restaurant and a 2,000 S.F. community room.” While the project remains fundamentally the same as it will be presented in the IDA application, as expected—66 units, fitness and wellness center (or “spa”), full-service restaurant—the total costs have risen by over 50% --by over 10 million dollars--a full third of the total! To what can this increase be attributed? From 17,000/19,950,000 to 27,080,00/31,713,00 in 9 months is a huge, and unaccounted for, increase.

As noted in my recent letter to the IDA, the reasons repeatedly cited for this doubling of costs since 2014/5, when the project’s total was 14 million--also the figure used by the CIITAP committee as provided by the City assessor in its review--cannot possibly apply, since these circumstances predate the CIITAP application; predate the final design configuration on this application; and even predate the formation of the applicant Company and its acquisition of the property.

### **Further Discrepancies and Concerns:**

### **Account of Demolition:**

At the January public meeting, when the Ex Libris principals answered questions about the asbestos abatement, they stated it “has been conducted in a safe manner”; in fact, weeks of further demolition activities after this time involved many lapses in safety protocols, even the minimal Labor ones, as documented by eyewitnesses, photos--some the developer’s own--and videos. The City’s own demolition requirements were also ignored: this building was not taken down “story by story.”

#### **Account of Affordability Requirement:**

Also at the meeting, the developer stated that the “Library Place project was approved for consideration under a previous version of...(CIITAP) before the 20% affordability eligibility requirement was added to the program.” How does simply submitting an application constitute being “approved for consideration”?

#### **Conflicting Explanations of Cost Increases:**

The shift from mid-market to luxury rate rents is also attributed to construction costs:

“At the RFP stage [2014], it appeared that units could be delivered with rents that would place it in the middle of the rental market but construction costs for the final approved building almost doubled, which meant that mid-market rents were not feasible.”

In contrast, the developer has asserted elsewhere that much of the cost increase in the rents is due to amenities added since the partnership with Bridges (it should be noted that the 2015 plan also included a fitness center, as well as amenities of community benefit--community gardens, a new Lifelong building, and a park open to the public--that were dropped).

In the next sentence, we’re told that “design changes required to satisfy the conditions of the ILPC and the Planning Board added well more than 50% to the final cost of the building vs. the costs as conceived at the RFP stage [14 million].”

The partnership with Bridges--and attendant changes made to the building’s interior configuration resulting in and justifying “luxury” rates--were choices made *after* ILPC and PB approval, so costs associated with this elective change of plans should not be conflated with previous “required” design changes.

#### **Has this Applicant Demonstrated Inspiring, and Confidence-Inspiring, Leadership?**

It should be clear that the repeated assertions by Frost Travis and his associates that the trials and tribulations, as well as the exorbitant cost increases, can all, or even largely, be blamed on the City, the ILPC, the environmental challenges of the site, or inflation.

When one looks carefully at the evidence, what it reveals is that the developer did not heed closely enough his dad's advice, or follow his example, during the planning this project: if "the key to planning is inspirational leadership and public input," attention to both these critical keys to success have been lacking.

Leadership on this project has rather inspired the Planning Board to unanimously endorse a rival project; resulted in a grudging endorsement (influenced by intense political pressure that raised issues not within their purview), by the ILPC, which passed the project by only one vote; left hundreds of citizens feeling ignored both during the design review process and the demolition with widespread asbestos in place; and to this day continues to upset next-door neighbors, and even members of council, with its poor communication, frustration over the significant delays, and worries about the huge cost increases and overall viability of the project.

#### **The City's Responsibility to the Public and the IDA's as a Public Authority:**

The Agency is a public authority, **so it is imperative that legitimate, evidence-based concerns of members of the public be taken seriously, and that we are confident that City officials are working diligently to provide complete and accurate information to the members of the IDA as it "carefully considers the community benefits of each project, weighing the value of scarce local resources."**

These scarce local resources must not be granted to developers and projects unless they have clearly demonstrated their eligibility and viability, not only to the City and to the IDA—but also to the public.

An applicant's statements and track record must therefore be thoroughly vetted for accuracy and completeness to ensure success--and the best use of public funds.

In last week's Tompkins Weekly, members of the IDA spoke with a reporter to clarify its policies, one being that "TCIDA holds the developers of its projects accountable." As Rich John tells the reporter, "that question of are you properly policing all your abatement projects is asked and looked at very carefully. So, it is not just the community looking at us. It is New York State, too."

So let's see this particularly critical IDA policy in action now--today.

For the many reasons cited herein, my urgent request is that the CIITAP application be rescinded or considered invalid; and the IDA should delay action on this matter and not vote to grant the tax abatement to Ex Libris at this time.

Sincerely,

Suzy Kramer

"Planning is key. And the key to planning is inspirational leadership and public input. We must know what the community wants: What projects?...What is going to work? We must think strategically and determine what the market will support."--Mack Travis, conclusion of [Shaping a City](#).

Sent from [Mail](#) for Windows 10