

Tompkins County Industrial Development Agency

Administration provided by Ithaca Area Economic Development

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY
BOARD OF DIRECTORS MEETING
Wednesday, October 9, 2024 • 2:00 – 4:00 PM**

**Legislative Chambers
Governor Daniel D. Tompkins Building
121 E. Court Street, Ithaca NY**

THIS MEETING WILL BE LIVESTREAMED

Link to live stream channel: <https://tinyurl.com/weo3tkk>

Mission Statement: The Tompkins County Industrial Development Agency delivers economic incentives to business and industry to diversify and strengthen Tompkins County's tax base and enhance community vitality, by supporting job creation, business and industrial development, and community revitalization. We strive to develop the local economy in an organized, sustainable and environmentally beneficial manner.

AGENDA

- | | |
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AUTHORIZING RESOLUTION
(Shift Chainworks Owner 1, LLC Project)

A regular meeting of the Tompkins County Industrial Development Agency was convened in public session on Wednesday, October 9, 2024, at 2:00 p.m., local time, at 121 E. Court Street, Ithaca, New York 14850.

The meeting was duly called to order by the Chair, with the following members being:

PRESENT:

ABSENT:

ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Tompkins County Industrial Development Agency:

RESOLUTION OF THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY"): (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY WITH RESPECT TO THE PROEJCT AS DESCRIBED BELOW; (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW AND 6 N.Y.C.R.R. PART 617 IN CONNECTION WITH THE PROEJCT AS DESCRIBED BELOW; (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS; (v) DESCRIBING AND AUTHORIZING THE FINANCIAL ASSISTANCE TO BE PROVIDED BY THE AGENCY TO THE COMPANY IN THE FORM OF (a) A SALES AND USE TAX EXEPTION, (b) A PARTIAL REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH THE TAX AGREEMENT, (b) A PARTIAL EXEMPTION FROM MORTGAGE RECORDING TAXES IMPOSED ON THE FINANCING RELATED TO THE PROJECT AND (c) A PARTIAL REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), duly enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, and Chapter 535 of the Laws of 1971 of the State as amended and codified as Section 895-b of the General Municipal Law (collectively, the "Act"), the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to acquire, construct, renovate, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction or renovation, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, **SHIFT CHAINWORKS OWNER 1, LLC**, for itself and/or on behalf of an entity or entities formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 95 acres of real property located at 620 S. Aurora Street, 810 Danby Road and Stone Quarry Road in the Town of Ithaca and City of Ithaca, New York (the "Land", being more particularly described as current tax parcel Nos. 106.-1-8.2, 40.-3-3 and 40.-3-14.2) and the existing improvements located thereon consisting principally of approximately 800,000 square feet of vacant industrial, commercial and manufacturing related spaces (the "Existing Improvements"); (ii) the planning, design, reconstruction, renovation, construction and leasing of the Existing Improvements to include approximately 1,000,000 square feet of multi-family space comprised of approximately 915 residential apartment units, approximately 450,000 square feet of commercial related space and approximately 250,000 square feet of industrial/manufacturing related space, together with additional tenant amenity spaces, lobbies, common areas, green spaces, various subsurface structural improvements, access and egress improvements, storm water improvements, utility improvements, signage, curbage, sidewalks, and landscaping improvements (the "Improvements"); and (iii) the acquisition of and installation in and around the Existing Improvements and the Improvements of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as such term is defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) negotiate and enter into an agent, financial assistance and project agreement (the "Project Agreement"), a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a payment-in-lieu-of-tax agreement (the "Tax Agreement") and related documents with the Company, (ii) take title to or a leasehold interest in, the Land, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iii) provide financial assistance to the Company in the

form of (a) an exemption from sales and use tax for the purchase or rentals of goods and services in connection with the Project, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) a partial exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins County, New York) ((a) through (c) are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, on September 11, 2024, the Agency, by duly approved motion, accepted the Application and directed that a public hearing be held; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, September 30, 2024, at 4:30 p.m., local time, at the Town of Ithaca Town Hall, Board Room, 215 North Tioga Street, Ithaca, New York 14850, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the City of Ithaca Planning and Development Board (the "Planning Board"), as an involved agency under SEQRA in connection with the Project, designated itself to act as Lead Agency for purposes of reviewing the Project as a proposed action under SEQRA and conducted a coordinated review of the Project; and

WHEREAS, on October 2, 2014, the Planning Board issued a Positive Declaration of environmental significance requiring the preparation of the Draft Environmental Impact Statement ("DEIS") for the Project; and

WHEREAS, at the conclusion of the SEQRA process, the Final Environmental Impact Statement (the "FEIS") was accepted by the Planning Board on March 26, 2019; and

WHEREAS, at its March 26, 2019 meeting pursuant to SEQRA, the Planning Board, after considering the relevant environmental impacts, facts and conclusions disclosed in the DEIS and FEIS and weighing and balancing the relevant environmental impacts with social, economic and other essential considerations, adopted a resolution adopting its findings (the "Findings Statement") determining that (1) the requirements of 6 NYCRR Part 617 have been met; and (2) that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the proposed action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents are being negotiated and will be presented to the Agency for execution upon approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application in a form acceptable to the Agency. Based upon representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

A. By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

B. The Agency has the authority to take the actions contemplated herein under the Act; and

C. The action to be taken by the Agency will induce the Company to develop the Project in Tompkins County, New York, and otherwise further the purposes of the Agency as set forth in the Act; and

D. The Project will not result in the removal of a civic, commercial, industrial or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one (1) or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

E. Based on the DEIS, the FEIS and the Findings Statements, the Agency hereby finds and determines as follows: (i) the Agency concurs with the Planning Board that the "proposed action" is a "Type I" action, as that term is defined under SEQRA, (ii) that the environmental review of the "proposed action" pursuant to SEQRA was conducted by the Planning Board, (iii) the requirements of SEQRA have been met, and (iv) the Agency concurs with the Findings Statement and adopts said findings as its own.

Section 2. The Public Hearing held by the Agency on September 30, 2024, concerning the Project and the Financial Assistance, was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing, affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) an exemption from sales and use tax for the purchase or rentals of goods and services in connection with the Project, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) a partial exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins County, New York).

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$250,931,000.00**, which result in New York State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$20,074,500.00**. The Agency agrees to consider any requests by the Company for increase to the amount of Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Pursuant to Section 875(3) of the New York General Municipal Law, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project.

As a condition precedent to receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Agency Documents and the delivery to the Agency of a binder, certificate or other evidence of a liability insurance policy for the Facility satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency, pursuant to the provisions of the Agency Documents: (i) to construct, reconstruct, renovate, refurbish and equip the Facility; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions as the stated agent for the

Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, the Company's status as agent of the Agency and related sales tax exemption letter shall expire on **December 31, 2034** (unless extended for good cause by the Administrative Director or other authorized representative of the Agency).

Section 7. The Chair, Vice Chair and/or Administrative Director of the Agency is hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement, *provided, that* (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (ii) the terms of the Tax Agreement are consistent with the Agency's Policy or the procedures for deviation have been complied with.

Section 8. The Chair, Vice Chair and/or Administrative Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender/financial institution identified by the Company (the "Lender") up to a maximum principal amount of **\$705,523,000.00**, acquire the Facility and/or finance or re-finance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and Tax Agreement, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chair, Vice Chair and/or Administrative Director of the Agency shall approve, the execution thereof by the Chair, Vice Chair and/or Administrative Director of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the office, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 10. All actions heretofore undertaken by the Agency with respect to the foregoing are hereby ratified and approved.

Section 11. These Resolutions shall take effect immediately.

The question of adoption of the foregoing Resolutions was duly put to vote on roll call, which resulted as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Rich John	[]	[]	[]	[]
Deborah Dawson	[]	[]	[]	[]
Anne Koreman	[]	[]	[]	[]
Jeff Gorsky	[]	[]	[]	[]
Jerry Dietz	[]	[]	[]	[]
Todd Bruer	[]	[]	[]	[]
Ducson Nguyen	[]	[]	[]	[]

The Resolution was thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Shift Chainworks Owner 1, LLC Project)

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

I, the undersigned Secretary of the Tompkins County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Tompkins County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on October 9, 2024, with the original thereof on file in the Agency's office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ____ day of _____, 2024.

Secretary

[SEAL]

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Tompkins County Industrial Development Agency (the "Agency") on Monday, September 30, 2024, at 4:30 p.m., local time, at the Town of Ithaca Town Hall, Board Room, 215 North Tioga Street, Ithaca, New York 14850, in connection with the following matter:

SHIFT CHAINWORKS OWNER 1, LLC, for itself and/or on behalf of an entity or entities formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 95 acres of real property located at 620 S. Aurora Street, 810 Danby Road and Stone Quarry Road in the Town of Ithaca and City of Ithaca, New York (the "Land", being more particularly described as current tax parcel Nos. 106.-1-8.2, 40.-3-3 and 40.-3-14.2) and the existing improvements located thereon consisting principally of approximately 800,000 square feet of vacant industrial, commercial and manufacturing related spaces (the "Existing Improvements"); (ii) the planning, design, reconstruction, renovation, construction and leasing of the Existing Improvements to include approximately 1,000,000 square feet of multi-family space comprised of approximately 915 residential apartment/townhome units, approximately 450,000 square feet of commercial related space and approximately 250,000 square feet of industrial/manufacturing related space, together with additional tenant amenity spaces, lobbies, common areas, green spaces, various subsurface structural improvements, access and egress improvements, storm water improvements, utility improvements, signage, curbage, sidewalks, and landscaping improvements (the "Improvements"); and (iii) the acquisition of and installation in and around the Existing Improvements and the Improvements of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and the Improvements, the "Facility"); and

The Agency will acquire title to or a leasehold interest in the Facility (as well as an interest in the Equipment) and lease the Facility back to the Company. The Company will lease the Facility to various third-party end users during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of: (i) an exemption from all New York State and local sales and use taxes with respect to the qualifying personal property included within the Facility or used in the acquisition, construction and equipping of the Facility, (ii) a partial exemption from mortgage recording taxes, and (iii) a real property tax abatement structured under an agreement or agreements between the Company and the Agency regarding payments in lieu of real property taxes for the benefit of each municipality having taxing jurisdiction over the Facility. **The real property tax abatement will deviate from the Agency's Uniform Tax Exemption Policy.**

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's Application and hear and accept written and oral comments from all

persons with views in favor of, opposed to or otherwise relevant to the proposed Financial Assistance.

The Agency will broadcast the public hearing live on YouTube at the following URL: <https://tinyurl.com/weo3tkk>

The Agency also encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to the Agency at: Tompkins County Industrial Development Agency, Attention: Ina Arthur, 119 East Seneca Street, Suite 200, Ithaca, New York 14850 and/or via email at info@ithacaareaed.org, with the subject line being "Shift Chainworks Owner 1, LLC Project", no later than 12:00 p.m. on Friday, September 27, 2024.

Dated: September 20, 2024

TOMPKINS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

To: Heather McDaniel
Russell E. Gaenzle
Stephen Maier

From: Brad Schwartz
SouthWorks

Re: Proposed PILOT Terms

Date: August 13, 2024, revised August 29, 2024, September 18, 2024

This Memorandum outlines proposed terms regarding the PILOT for the SouthWorks Project. These terms are intended to address the IDA’s feedback during the July 29 Special Meeting, and August 14 and September 11 Regular Meetings. The final agreed upon and approved terms would be memorialized in the Project Agreements entered between the Applicant and IDA.

Each “Sub-Area” shall constitute one or more buildings, or an area within the Chainway.

1. 10-year Sitewide Base PILOT, with 5-year Extension

- Applicant shall submit a request for a 5-Year Base PILOT Extension, which request shall be made at least 6 months prior to the expiration of the initial 10-Year period
- The extension request shall be reviewed and considered for approval by the IDA, with a Public Hearing, provided the following requirements are met:
 - 488 market-rate housing units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 122 affordable units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 400,000sf of commercial/office/manufacturing/industrial space has received a Final Certificate of Occupancy, is in construction, or has received a Building Permit

2. 20-year PILOT for each Sub-Area

a. Years 1-5

- For each Sub-Area that is either completed or has received a building permit and is under construction in the first five years after IDA approval of the Base PILOT, a new 20-year PILOT will be put in place administratively for that Sub-Area without additional IDA approval
- The Base PILOT will also be amended to remove the proportionate ‘pre- project’ value of the associated land and building for that Sub-Area

b. Year 5 Update & Extension for Years 5-10

- Applicant shall submit a request for a 5-Year Extension for this same administrative process to continue for another 5 years, which request shall be made at least 6 months prior to the expiration of the initial 5-year period
- The extension request shall be reviewed and considered for approval by the IDA, with a Public Hearing, provided the following requirements are met:
 - 244 market-rate housing units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 61 affordable units have received a Final Certificate of Occupancy, are in construction, or have received a Building Permit
 - 200,000 sf of commercial/office/manufacturing/industrial space has received a Final Certificate of Occupancy, is in construction, or has received a Building Permit
 - Reasonableness Assessment performed by independent 3rd Party, if requested by the IDA. The IDA’s selection of the independent consultant shall be made following consultation with the Applicant. The Applicant shall fund an escrow account to cover the IDA’s costs of the consultant.

c. Year 10 Update & Extension for Years 10-15

- Same as for Year 5 Update and extension request, except that the milestones shall be the same as the milestones for the Base PILOT extension request (i.e., 488 market-rate housing units, 122 affordable units, and 400,000sf of commercial/office/manufacturing/industrial space)

3. Exceptions and Reporting

- Notwithstanding anything to the contrary, the failure to meet one or more requirements or deadlines shall not result in a denial of any extension request, provided that the IDA finds in its reasonable discretion that the Applicant is working diligently, in good faith and using commercially reasonable efforts towards constructing the Project in an orderly and timely fashion, commensurate

with market demand and subject to economic conditions affecting the Project, and that the Applicant's failure to satisfy such requirement(s) or deadline(s) is not due to any unreasonable delay by the Applicant. The Applicant shall submit adequate information demonstrating that it is meeting such diligence obligations, and such other information as may be reasonably requested by the IDA. Upon such a showing, the IDA shall consider approving the extension request.

- In the event the Applicant anticipates not meeting one or more of the requirements on a date that is earlier than when the extension request is due, the Applicant shall submit a letter update to the IDA notifying the IDA of same, and the Applicant shall appear at an IDA meeting to discuss Project status upon IDA's request.
- For all extension requests (regarding both the Sitewide Base PILOT and the 20-year PILOT's administrative process for Sub-Areas), the IDA may (i) approve the extension request in accordance with these terms, with or without a modification to the then-current PILOT, including, without limitation, an increase or decrease in financial assistance based upon a material change in need and/or market conditions, or (ii) deny the extension request in accordance with these terms.
- The Applicant may submit a request at any time for an increase in financial assistance based upon need and market conditions.
- The Applicant shall submit an annual written report to the IDA, in such detail and at such other times as may be reasonably requested by the IDA, as to the actual progress of the Applicant's construction of the Project (*this is in addition to standard annual reporting requirements*).

4. Other IDA Policy Compliance and Requested Deviations

**** taken directly from the IDA Administrative Director's July 15, 2024 Memorandum**

i. Diversity and Inclusion Policy

Only single occupant projects (buildings developed specifically for one tenant or an owner-occupied facility) are subject to the Diversity and Inclusion Policy. This project is not a single occupant project.

ii. Enhanced Energy Incentive Policy

The policy does provide additional incentive for projects that exceed the requirements of the City of Ithaca's Green Building Code (the Stretch Code). In 2026, this policy will become obsolete when the Code will require net zero compliance. The applicant will comply with City Code. In consideration of the economic and community benefits which include energy and sustainability as well as mixed income housing, adaptive reuse, environmental remediation, workforce development, business growth and retention, and public amenities, the applicant has requested an incentive that exceeds that contained in the Enhanced Energy Policy.

iii. Local Labor Utilization Policy

The applicant intends to comply with the Local Labor Utilization Policy.

iv. Workforce Housing Policy

The applicant intends to substantially comply with the IDA’s Workforce Housing Policy by developing 915 housing units. 183 units, or 20% of the units (as required by the policy), will be affordable housing units.

- a. Some portions of the property may be subdivided and sold to a private developer that will build and sell market rate single family homes – ***The applicant requests these units count towards total units in the Project – these units will not be part of the PILOT.***
- b. Some portions of the property may be subdivided and sold to an affordable housing developer that will build and sell affordable single-family homes – ***The applicant requests these units count towards total units and affordable units in the Project – these units will not be part of the PILOT.***
- c. Some portions of the property may be subdivided and sold to either a for profit or a not-for profit affordable housing developer that will develop and manage affordable rental housing units .
 - ***The applicant requests that a sale to a for profit affordable housing developer be considered, which is not contemplated in the policy.***
 - ***The applicant requests a determination for these units to count towards the 20% affordable unit requirement per the Workforce Housing Policy as follows:***

(.....Excerpted from the Workforce Housing Policy):

“In the event that a proposed project consists of more than one parcel of real property owned by different corporate entities, the Tompkins County IDA will consider and determine whether to treat the development as a single project for purposes of calculating the 20% affordable total unit requirement. The following criteria are required:

- (1) The improvements to be made to the real properties will be constructed simultaneously or in sequence. Specifically, the affordable project will open for operation either before the market rate component or within three years after the opening of the market rate component; and
- (2) The land for the affordable housing portion of the project is being conveyed by the principal investor to a not-for profit affordable housing organization who will perform the development; and

The following criteria will be considered in making a determination:

- (1) The real properties involved are contiguous;
- (2) The real properties are, or were, considered for municipal site plan approval or SEQR determination as a single project;
- (3) The improvements to be made to the real properties are the product of a coordinated design with common design elements;
- (4) The purpose of maintaining separate corporate ownership of the real property is related to regulatory eligibility or financing requirements for affordable housing.”

v. Uniform Evaluation Policy

This policy establishes criteria to be used for the evaluation and selection for all projects for which the IDA may provide financial assistance. The criteria are established and required by state law. The IDA should use this policy to assess the project for approval. The policy is attached to this document.

5. Fees & Project Modifications

***** also taken directly from the IDA Administrative Director's July 15, 2024 Memorandum***

- A flat fee of \$35,060 (1% of current assessed value), plus attorney's fees at cost, will be assessed upon the Base PILOT approval and issuance of sales tax documents. Subsequent PILOTs will be assessed a fee based on costs of that improvement per the fee policy outlined in the TCIDA Uniform Tax Exemption Policy (an administrative of 1% of hard construction costs; and an additional 1/3 of the administrative cost in attorney fees).
- Any modifications to the project description in the TCIDA application for financial assistance that exceed a 10% threshold change in use, and any modifications that require additional SEQR/CEQRO review would need to be presented to the TCIDA for approval.

6. Recommendation to Future IDA Boards

- The IDA finds that the tax incentives approved by this Board properly balance the IDA's typical considerations in deciding applications for financial assistance, and the Applicant's interest in having a reasonable degree of certainty and predictability for this multi-year construction Project having multiple Sub-Areas. This is a challenging and ambitious Project that this IDA Board would like to see come to fruition for the benefit of our community, the surrounding region, and future generations of Ithaca residents.
- Accordingly, it is this IDA Board's intent and recommendation to future IDA Boards that they continue to facilitate and ensure the successful completion of the Project, including, but not limited to, by approving the requisite PILOT extension requests pursuant to these terms, and modifying the approvals granted by this IDA Board as may be appropriate as set forth above.

**Tompkins County Industrial Development Agency
October 9, 2024**

	2024 Budet Approved 10/11/23	2024 Budget w/carryover	2024 Budget YTD (8/24)	2024 Budget Projected YE	2025 Budget DRAFT
Starting Balance	\$ 1,661,181	\$ 2,002,257 *	\$ 2,002,257 *	\$ 2,002,257 *	\$ 1,692,147
INCOME					
Fees	\$ 460,274	\$ 460,274	\$ 271,370	\$ 271,370	\$ 494,985
Interest	\$ 650	\$ 650	\$ 382	\$ 564	\$ 500
Total	\$ 460,924	\$ 460,924	\$ 271,752	\$ 271,934	\$ 495,485
EXPENSES					
Administration mod 12/14/22	\$ 467,465	\$ 467,465	\$ 350,599	\$ 467,465	\$ 475,314
D&O Insurance	\$ 1,500	\$ 1,500	\$ 1,579	\$ 1,579	\$ 1,600
Contract svc/Broadband from 2022	\$ 255,500	\$ 255,500	\$ -	\$ -	\$ 255,500
Contract svc/Wayfinding mod 11/9/22		\$ 100,000	\$ 65,456	\$ 100,000	
Attorney Fees	\$ 8,000	\$ 8,000	\$ -	\$ -	
Misc. Studies	\$ 20,000	\$ 20,000	\$ -		
Audit	\$ 8,500	\$ 8,500	\$ 13,000	\$ 13,000	\$ 13,000
Total	\$ 760,965	\$ 860,965	\$ 430,634	\$ 582,044	\$ 745,414
Projected Ending Balance	\$ 1,361,140	\$ 1,602,216	\$ 1,843,375	\$ 1,692,147	\$ 1,442,218

* actual balance

**Tompkins County Industrial Development Agency
Board of Directors Meeting Draft Minutes
September 11, 2024 2:00 – 4:00 PM
TC Legislative Chambers
121 E. Court Street
Ithaca NY 14850**

Present: Rich John, Jeff Gorsky, Jerry Dietz, Ducson Nguyen, Anne Koreman, Deborah Dawson

Excused: Todd Bruer

Admin: Heather McDaniel, Ina Arthur Kellea Bauda (IAED), Russ Gaenzle (Harris Beach, remote)

Guests: Robert Lewis, Sarah Barden (Shift Capital); David Lubin (L Enterprises, remote); Nnenna Lynch (Xylem, remote); Melissa Suchodolski (USC Builds), Brad Schwartz (Zarin & Steinmetz, remote)

CALL TO ORDER

Rich John called meeting to order at 2:03 pm. He noted that today is 9/11.

PRIVILEGE OF THE FLOOR

Theresa Alt – 206 Eddy Street, Ithaca

Southworks has submitted a new application, but they still offer only the same number of affordable units, just 20% of the total number. So Dave Lubin is still not keeping his work – the assurance he gave at, I believe, Site Plan Review for Asteri, that the 38 units that he threatened there will a lawsuit would be replaced at Southworks. The minimum number of affordable units, that 20% cannot make up for an additional 38 driven out elsewhere. Moreover, I see that the 20% at Southworks are defined at 80% of AMI (Area Median income) I see these people as being beginning professionals or perhaps blue-collar workers or higher-grade clerical workers, not the very-low-income people who would have been housed at Asteri.

Let me also say that the backup study tries to quantify all the advantages of the project. I question many of the assumptions. Where did they find the supposed salaries of the new residents? They talk about Bureau of Labor statistics' household income ranges. For Tompkins County? Or for the whole state including New York City? I recall telling new Yorkers about my earnings as a Cornell secretary, and they were aghast at how low my earnings were. So all sorts of estimates of what people will be spending on clothing and entertainment are probably inaccurate. People in the workforce spend on housing, healthcare and food. They buy their clothing second hand and volunteer as ushers to see plays. But no time to go into that in detail. What's missing from the backup study is any estimate of the new costs to the City for wear and tear on roads, police, fire, runoff water and new costs to the School District for more kids in the schools.

I don't think this application is ready to go to the next step.

Peter Wissoker – Ithaca, NY

Good afternoon. I'm here to comment on the final draft of the SouthWorks evaluation by Camoin Associates as well as the revised PILOT terms being proposed by the developer. I'll be brief.

1) **First and foremost, I urge you not to make any decisions on the project at this point and instead go back and revisit both the Camoin report and the schedule you've received for abatements.** The central problem is that both treat the project as if it is all completed in the first year. This results in a flawed evaluation of a) the economic effects of the project—which in real life would not be immediate but gradual as each individual building is completed—and b) the taxes abated as well as collected by the taxing jurisdictions.

For the abatements, I went back and did a rough estimate of what the abatements would look like if instead of the property value increasing all at once (that is to say in year one) it increased equally from year to year, and assuming there was a 5% increase in the value of the property as well. What I found is that instead of the taxing jurisdictions receiving roughly \$2.8 million in the first five years (including the \$500,000 or so in existing taxes on the site), they would receive about \$1 million (including the \$500,000). Similarly, the developers would be receiving about \$4.8M in tax breaks, which was roughly 25% more than the current schedule suggests they would receive in the first year. The current schedule also does not include what would happen past the initial twenty years. If it takes fifteen years to finish everything the taxing jurisdictions would still go without the \$74,842,639 in tax breaks that were promised for the following twenty years it would take for the last of the abatements to finish.

There are similar problems with the economic projection as well. There are ways to do these projections with spending over time, and I know there are faculty at Cornell who work with these kinds of models who could help. I've asked a couple of them to take a look and give us their feedback.

2) **The analysis must include an estimate of the real costs to our communities of the project.** It currently does not. This should include everything, from the costs of plowing and policing, to infrastructure and firefighting, and, of course, the cost of educating the kids who move into the area. These are all costs we as tax payers (including those who rent and pay property taxes indirectly) will have to bear for decades to come.)

3) **The IDA needs to confirm the employment numbers and spending presented by the developers rather than take them as fact.** The report provided by the developers suggests that the average officer worker will be earning \$99,170 and the average retail employee \$59,660. Perhaps they should use the median instead? Those figures seem very high, and of course with the estimated 365 and 80 workers respectively, will shape the spending figures attached to the project.

4) **Include an analysis of the project if it receives abatements for everything but the market-rate housing.**

5) **The analysis needs to project what will happen if things go wrong,** or what is called a sensitivity analysis. Finally, I would suggest that in the revised developer proposal, that having a building permit is not a sufficient achievement in the five-year goal setting. Also, I believe that the affordable housing should be completed in a five-to-seven-year period rather than 15 (or more). And, as a reminded, David Lubin should be required to include the promised units we've discussed in the past.

As always, I'm happy to discuss all of this further with you. But, just to restate my initial request, I ask that you hold off making any data-based decisions until you have more reliable data with which to work. Thank you.

Martha Robertson (written comment read by Rich John)

As a former member of the Tompkins County IDA for 15+ years, I am writing to express my strong support for the Southworks project; I hope you will choose to support it as well. For more than 12 years I've known David Lubin, the main champion of this development. Along with many others in the community, I cheered him on in the years-long struggle to clean up the Emerson site so it could be repurposed to benefit our community. I was among many who urged him to include mixed-income housing, and ownership as well as rental, to best serve

the many needs of our diverse residents. And many of us encouraged David to incorporate as much renewable energy as possible, to show the way to create a sustainable development that would add to our local economy.

It seems that David has accomplished all this, and more, and Southworks is on the verge of becoming a truly transformational addition to Tompkins County and the entire region. However, like most ambitious projects that go the extra mile, this one needs a little help from the public sector. Although I am not familiar with the parameters of the assistance Southworks is seeking, I hope you will give it your support. The many years and huge financial risks that have already gone into this effort should be recognized, appreciated, and valued. What David and his partners have done could never have been done by the public sector alone. Without David's vision - and frankly, his blood, sweat, and tears - the Emerson plant would have remained a toxic eyesore using up our precious land for decades into the future. Please become a partner in this transformation by supporting Southworks' application for IDA assistance.

Thank you very much for your consideration.

ADDITIONS TO THE AGENDA

Consideration of the prompt payment memo from Harris Beach, PLLC for discussion at the end of Business.

BUSINESS

TCIDA Secretary Appointment

Ducson Nguyen made a motion to appoint Deborah Dawson as secretary of the TCIDA Board. Anne Koreman seconded the motion. The motion was approved 6-0.

SouthWorks – Discussion

Rich John reported that he did reach out to Rod Howe and Rich DePaolo of the Town of Ithaca regarding infrastructure and road/traffic management surrounding the project. They stated that they were comfortable with them from the Town's standpoint though discussions are ongoing.

Heather McDaniel presented the Final Reasonableness Assessment and Final Economic and Fiscal Impact Analysis. These two studies have been updated based on discussion and questions from the last meeting.

Deborah Dawson made a motion to accept the Final Reasonableness Assessment study. Jeff Gorsky seconded the motion.

It was pointed out that this document is just point in time. Further analysis could be costly.

Rich John stated that he is comfortable with the analysis. Deborah Dawson stated that she is not an expert. She is comfortable accepting but not adopting them.

Jeff Gorsky stated that what he got out of the reasonableness assessment is that a 20 year PILOT is warranted.

Ducson Nguyen commented on the cost and impact to municipalities regarding infrastructure. He is not worried about capacity.

A vote was taken. The motion was approved. 6-0

Jeff Gorsky made a motion to accept the Final Economic and Fiscal Impact Analysis study. Ducson Nguyen seconded the motion.

A focus on the impacts to the schools, roads, infrastructure would basically mean a reworking of the study. The IDA's focus is on tax incentives. It falls to the Town and City to review the other impacts and neither entity has come to say they are uncomfortable with these aspects of the project.

Deborah asked if anyone has spoken with the school district? They have been invited to comment but not asked to comment directly. Rich John volunteered to ask before the next meeting.

Land use was addressed in the environmental review process and there are mitigation measures as new housing is brought on board etc. that the Southworks team will be complying with in terms of the land usage issues.

A vote was taken. The motion was approved 6-0.

The revised Proposed PILOT terms were discussed.

Brad Schwartz highlighted the updates.

- Each extension request will have a public hearing
- For all extension requests, the IDA may approve or deny the extension request or may modify the then current PILOT
- Recommendations to future IDA Boards when considering extension requests incorporated

Deborah Dawson asked about edits to first paragraph. The last sentence was edited to remove potentially misleading information. Boards do not usually review legal documents handled by administrative staff.

On page 2 of the memo 2.b. first bullet point. "applicant will submit a request" the "will" should become "shall"

The IDA has the ability to modify – to change to say that the extension request will be considered with or without modifications

The reasonable assessments should be done by independent 3rd party – what happens if both parties don't agree? This will be fleshed out when final legal documents are finalized.

Jeff Gorsky commented on 4.iv.c (page 4 of the memo) – a modification of the housing policy that a for profit organization would be considered to build the affordable housing.

Environmental review was approved by the City of Ithaca under the PUD. Moving forward each sub-project will have site plan review. If there are modifications, to the PUD any changes would come back to the IDA.

Heather stated that the proposed PILOT terms will become part of the application. She asked that the board accept the application as complete and move the project to a public hearing.

Jeff Gorsky made a motion to accept the updated proposed PILOT terms memo. Jerry Dietz seconded the motion. The motion was approved 6-0.

What approach will the developer use to make sure that the trades are paid in a timely manner?

Melissa Suchodolski stated that payment to the trades means that your project happens or not. They are going to make sure payment is made.

Anne Koreman commented on lack of bids due to past non-payment. This issue will be focused on, and due diligence will be done in terms of enforcing local labor and review of lien issues. The history of contractors will be reviewed for past non-payment.

Rich John addressed the affordable housing unit issue between Vecino/Asteri and David Lubin's Harold Square development. When this was litigated, 38 affordable housing units were lost from the Asteri project. Vecino was offered the option to build affordable units at Southworks site the exact number was not determined. Vecino has not acted on that option to build, and the option has expired. There were never any extra units promised beyond the 915 total units.

Anne Koreman asked that the school be contacted so that they can weigh in with their comments. Heather will contact the superintendent.

Timeline – hold public hearing prior October board meeting and potentially approve the project at the October meeting.

It was asked that the public hearing be held in the evening and a press release be sent out in addition to the legal notice in the Ithaca Journal. This could ensure that other news outlets pick up the information.

Jeff Gorsky made a motion to accept the application as complete with the changes that were discussed today. Deborah Dawson seconded the motion. The motion was approved 6-0.

Jeff Gorsky made a motion to send the Southworks Project application to a public hearing. Anne Koreman seconded the motion. The motion was approved 6-0.

Prompt Payment Memo

Russ Gaenzle reviewed the Prompt Payment Act memo that was provided. Basically, non-compliance is an instance of default and can lead to termination of any agreement. By virtue of the PILOT, the IDA should be notified of any lien against a project for non-compliance/payment.

Deborah Dawson requested that language be added to project agreement documents stating that applicants need to abide by the prompt payment act.

CHAIRS REPORT

Rich John commented on information regarding solar project using high-grade agricultural land and what other IDAs are doing to discourage this. It has been reported that IDAs are weighting incentives to curb the use of high-grade agricultural land. Staff was asked to create a memo with information for a future meeting.

STAFF REPORT – None

MINUTES

Anne Koreman made a motion to approve the minutes from the August 14, 2024 board meetings. Deborah Dawson seconded the motion. The motion was approved (6-0).

Meeting was adjourned at 3:22 pm.

Action/Follow Up Items

- Report on other IDA Housing incentive information
- ICSD superintendent be contacted for comment on Southworks project
- Memo on Solar Projects and use of high-grade agriculture land – weighting incentives to curb use