



ROBERT M. PALMIERI
MAYOR

CITY OF UTICA

Utica Industrial Development Agency
1 Kennedy Plaza, Utica, New York 13502
(315)792-0195 fax: (315)797-6607

VINCENT GILROY, JR
CHAIRMAN

JACK N. SPAETH
EXECUTIVE DIRECTOR

Agenda

Utica Industrial Development Agency
Regular Meeting – Wednesday, June 7, 2023 @ 9:00am
Utica City Hall, Utica, New York and via WebEx

- I. Call to Order
- II. Approval of Minutes (May 3, 2023)
- III. Old Business
 - A.
- IV. New Business
 - A. **Lahinch Utica III LLC** - Consider an inducement resolution relating to the Lahinch Utica III, LLC Facility, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$788,741), exemptions from mortgage recording tax (valued at \$84,811) and reduction of real property taxes for a period of 12 years (valued at \$634,338), which is a deviation from the Agency's Uniform Tax Exemption Policy.

Consider a SEQR resolution relating to the Lahinch Utica III, LLC Facility. The City of Utica Planning Board served as lead agency for the SEQR review, and the Agency wishes to adopt the findings and determinations of the lead agency.
 - B. **Hotel Street Owner LLC** - Consider an inducement resolution relating to the Hotel Street Owner, LLC Facility, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$787,980), exemptions from mortgage recording tax (valued at \$109,268) and reduction of real property taxes for a period of 12 years (valued at \$621,391), which is a deviation from the Agency's Uniform Tax Exemption Policy.
 - C. **Annual Project Review (2022)**
- V. Executive Session (if required)
- VI. Adjourn

Members of the public may listen to the Agency meeting by calling 1-408-418-9388,
Access code: 2630 239 8356 or joining the meeting at Meeting link:
<https://cityofutica.webex.com/cityofutica/j.php?MTID=mc2965064e1da6b4dd132d2db3d49e200>
Meeting password: gnPhjNfb274

The Minutes of the Agency meeting will be transcribed and posted on the UIDA website.



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May 3, 2023 9:00a.m.
Utica Industrial Development Agency Regular Meeting
City Hall, Utica, NY – WebEx Conference Call/In-Person

Members Present: Vin Gilroy, Mark Curley, John Buffa, Emmett Martin

Excused: John Zegarelli,

Also Present: Jack Spaeth (Executive Director), Laura Ruberto (in person) and Linda Romano (via telephone) (BSK – Agency Counsel)

Others: Andy Patel, Rob Halpin, Esq, Dominick Pavia (Utica Harbor Lodging Group)

1) CALL MEETING TO ORDER: The meeting was called to order by Mr. Gilroy at 9:04a.m. The Finance, Governance and Audit Committees, as they consist of sitting Agency members, meet as a committee of the whole, and in doing such, meet at every meeting.

2) APPROVAL OF MINUTES: A motion was made by Mr. Buffa, seconded by Mr. Curley, to approve the minutes of the April 5, 2023 meeting. All in favor.

3A) Artspace Utica Lofts, LLC

Mr. Spaeth had noted that Artspace Utica required some changes to their application including project amounts and date of completion.

As such, Mr. Curley made a motion, seconded by Mr. Martin to accept the changes to the Artspace Utica Lofts, LLC application materials. All in favor.

4A) NEW BUSINESS – Utica Harbor Lodging Group, LLC

Mr. Spaeth introduced those present from Utica Harbor Lodging Group, LLC. Mr. Halpin started to describe the project at hand. It will consist of six buildings containing 240 units, pool, fitness room and other amenities as part of Phase I including a Marriott brand hotel with 100 units. Phase II could possibly consist of an indoor waterpark and another hotel. Construction should last 5-7 years.

The hotel cost is \$17MM with the balance of project costs devoted to the apartments. Due to surcharging needed of the soil, UHLG should break ground in spring 2024. All trades will work on apartment building #1 and then move to apartment building #2, etc.

Mr. Patel stated phase I as soil prep, phase II as apartments and hotel and phase III would be another

hotel and possibly the waterpark.

Mr. Buffa noted the PILOT request of 30 years at a fixed \$70,000 per year. He further noted that a PILOT of those terms is very long and well beyond any deviation the UIDA has provided in the past for similar projects. It was noted by UHLG reps that prevailing wage has a definite impact on project costs and that the ring road and electrical which was to originally be part of the City's work is to now be performed by the developer.

5) EXECUTIVE SESSION:

Mr. Buffa made a motion, seconded by Mr. Curley to enter Executive Session at 10:16am.

Mr. Buffa made a motion, seconded by Mr. Martin to enter Executive Session at 10:36am.

Mr. Gilroy requested Mr. Spaeth run the PILOT at a 12-year term for the apartments and hotel. This term would be similar to the PILOT for Colonial Deerfield which is close in size and budget amount as this project.

6) ADJOURNMENT: There being no further business brought before the Agency, Mr. Buffa made a motion to adjourn, seconded by Mr. Martin and the meeting was adjourned at 10:37am.

The next regular meeting of the Utica Industrial Development Agency is scheduled for Wednesday, June 7, 2023 at 9:00am at City Hall via WebEx and in-person.

**City of Utica
Industrial Development Agency
Application**

The information required by this form is necessary to determine the eligibility of your project for IDA benefits. Please answer all questions; insert "NONE", or "NOT APPLICABLE", where necessary. If an estimate is given, put "EST." after the figure. Attach additional sheets if more space is needed for a response than is provided. Return three copies of this application to the City of Utica Industrial Development Agency.

Once submitted with the IDA, this Application becomes public information and will be published on the IDA's website. If the applicant deems any information requested to be exempt from FOIL, please answer the question "CONFIDENTIAL" and submit the information on a separate attachment marked confidential and provide the statutory exemption

A project financed through this Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project.

PART I
Applicant

Applicant's legal Name: Hotel Street Owner LLC

Principal Address: 449 S. Salina St. Suite 200
Syracuse NY 13202

Project Address: 119-37 Hotel Street

Telephone Number(s): 315-476-1010

Federal Identification Number: 92-1198118

Company IRS Filing Office Location: CINCINNATI

Company Officer completing this application:

Name: Mr. Timothy Lynn

Title: Member

Phone: 3157294690 cell 3157662131 office

Email: tim@ldts-law.com

1. A. **Is the applicant a:**

() Corporation: If YES, Public () Private ()
If a PUBLIC Corporation, on which exchange is it listed?

() Sole Proprietorship

() Partnership

() Subchapter S

() DISC

(x) Other (specify) LLC

B. State of incorporation/organization, if applicable: New York

2. **Stockholders, Directors, Officers, Partners or Members**

A. Provide the following information in regard to principal stockholders or parties:

<u>Name</u>	<u>Home Address</u>	<u>Percentage of Ownership</u>
Morrisroe Lynn Developme	449 S. Salina St Syr NY	25
Lahinch Group LLC	102 W Division St Syr NY	25
Braxton Capital LLC	148 Berwyn Ave Syr NY	50

B. Provide the following information in regard to officers and directors:

<u>Company Officer</u>	<u>Name and Home Address</u>	<u>Other Principal Business Affiliation</u>
Timothy M. Lynn	449 S Salina St, Syracuse	Lynn D'Elia Temes & Stanczyk
Joseph C. Gehm	102 W Division St., Syracuse	Lahinch Group LLC
Charles F. Breuer	148 Berwyn Ave., Syracuse	Hueber-Breuer Construction Co

- C. Is the applicant or any of the persons listed in 2(A) above related, directly or indirectly, to any other entity by more than 50% common ownership? If also, indicate name of such entity and the relationship.

Utica Travelers MM LLC (managing member of Utica Travelers Building LLC)

OKM MM LLC (managing member of Oak Knitting Mill Commons)

- D. Is the applicant affiliated with any other entity, directly or indirectly, other than as indicated in response to paragraph C above? If YES, please indicate name and relationship of such other entity and the address thereof:

No

3. **Applicant's accountant**

Name and Title: Dan Griffin, CPA

Name of Firm: Grossman St. Amour

Address: 110 W Fayette St #900, Syracuse, NY 13202

Telephone Number: (315) 424-1120 Email: dgriffin@gsacpas.com

4. **Applicant's attorney**

Name and Title: Anthony D'Elia, Esq

Name of Firm: Lynn, D'Elia, Temes & Stanzyck LLC

Address: 449 S Salina St. Suite 200

Syracuse NY 13202

Telephone: 315-476-1010 Email: anthony@ldts-law.com

5. **References** (Individuals and institutions in this section may be contacted)

A. Banking/Financial Institution:

<u>Name of Institution</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>
Five Star Bank	100 Chestnut St, Rochester	John Berry
NBT Bank	126 N Salina St, Syracuse	Richard Driscoll

B. Business suppliers (list three largest accounts)

<u>Name of Supplier</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>
N/A		

C. Major customers (list three largest)

<u>Name of Customer</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>
N/A		

6. **Business Description**

A. Describe nature of business and principal products and/or services:

Hotel Street Owner LLC is a single-purpose entity for the purpose of acquiring, rehabilitating, owning and operating the historic buildings located at 119-137 Hotel Street, Utica, New York, transforming three vacant buildings in a mixed-use residential and commercial complex.

- B. Describe the geographical market(s) served:
Downtown Utica residents and neighboring communities.

7. **Present location(s) of business operations**

- A. List present location(s):

1. Project location

2.

3.

- B. For what purpose is each of these used?

1.

2.

3.

- C. For each of your present locations which are RENTED, provide the following information:

- D.

<u>Name of Landlord</u>	<u>Landlord's Address</u>	<u>Landlord's Telephone Number</u>
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1. N/A

2.

3.

Amount of Space

Annual Rental

Lease Termination Date

1. N/A

2.

3.

E. For each of your present locations which you OWN, provide the following information:

<u>Location</u>	<u>Annual Mortgage Payment</u>	<u>Termination Date</u>
1. 119-137 Hotel Street, Utica	Approx \$145,000	February 1, 2025
2.	(floating rate)	
3.		

F. List which of your present locations, if any, will be vacated if IDA approval for your project is given:

None

If any of these locations will be sublet or sold, provide information concerning your ability to do so:

N/A

PART II

Reasons for Project

Please explain in detail why you want to undertake this project and define scope of project:

We are very excited by the amazing growth and development occurring in downtown Utica and the wider region.

The development team recently completed the rehab of the Commercial Travelers Building at 70 Genesee St.

Hotel Street is marked by extreme vacancy and blight, with two of 19 properties active and in use.

Our project will restore three of these properties bringing over 70 residential units and a restaurant to the neighborhood.

With the development of the housing market, the new medical facilities, SUNY Poly, Wolfsped, the Nexus Center, and many

other investments in the community, we look forward to returning these historic buildings to their

prior position as an economic driver for downtown Utica. The project will also tie together the successful

projects in the Genesee Street corridor (such as Commercial Travelers) with the investments being made

in the hospital neighborhood, connecting and maximizing the impacts of these developments.

Why are you requesting the involvement of the IDA in your project?

These three historic buildings have long been vacant and neglected. Restoring these buildings

in compliance with federal and state requirements for certified historic rehabilitations

is a very difficult and costly rehabilitation. Combined with the inflation in construction costs over

the last two years and the impact of the current interest rate environment and lender restraint,

these facts make the IDA inducements necessary for the financing of the project. Without the

inducements, financing would not be available for the project.

How will the applicant's plans be affected if IDA approval is not granted?

Without the IDA inducements, it will not be possible to finance the project for three reasons:

(1) rising construction costs make the sales tax exemption necessary to keep project costs within lending capacity;

(2) rising financing costs and underwriting standards, makes the mortgage recording tax exemption necessary for financing;

(3) the impact of full property taxes on net operating income would reduce financing significantly and

sufficiently to make the project unfinance-able.

Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

☒ Yes or ☐ No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

N/A

Identify the assistance being requested of the Agency (select all that apply):

- | | | | | | |
|----|----------------------------------|---------------|--------|---------------|----|
| 1. | Exemption from Sales Tax | <u> X </u> | Yes or | <u> </u> | No |
| 2. | Exemption from Mortgage Tax | <u> X </u> | Yes or | <u> </u> | No |
| 3. | Exemption from Real Property Tax | <u> X </u> | Yes or | <u> </u> | No |
| 4. | Tax Exempt Financing * | <u> </u> | Yes or | <u> X </u> | No |

* (typically for not-for-profits & small qualified manufacturers)

A. **Type of Project**

Check category or categories best describing your project (O - Owner)
and all end-users (T – Tenant(s)) and the square footage of each:

	Manufacturing		sf
	Industrial (Assembly or Service)		sf
	Research and Development		sf
	Warehousing		sf
	Commercial		sf
	Pollution Control		sf
	Housing	65,000	sf
	Back Office		sf
	Facility for Aging		sf
	Multi-Tenant		sf
	Retail	5,000	sf
	Recreational		sf
	Other (specify)		sf
	Total	70,000	sf

B. **Description of Proposed Project**

Check all appropriate categories which apply to the proposed project:

- | | | |
|--|----------|---------|
| 1. Acquisition of land | YES() | NO(x) |
| 2. Acquisition of existing building | YES() | NO(x) |
| 3. Renovations to existing building | YES(x) | NO() |
| 4. Construction of addition to existing building | YES() | NO(x) |
| 5. Demolition | YES(x) | NO() |
| 6. Construction of a new building | YES() | NO(x) |
| 7. Acquisition of machinery and/or equipment | YES(x) | NO() |
| 8. Installation of machinery and/or equipment | YES(x) | NO() |
| 9. Other (specify) _____ | YES() | NO(x) |

C. What is the zoning classification of the proposed site?

Urban Mixed-Use

- D. For what purpose was the site most recently used (e.g. light manufacturing, heavy manufacturing, assembly, etc.)?

mostly vacant, some unimproved storage

E.	<u>Location(s)</u>	<u>Street Address</u>	<u>Number of Floors/ SF/floor</u>
		121 Hotel St	4 - 10,000
		123 Hotel St	4 - 48,000
		137 Hotel St	3 - 12,000

- F. Is the site in an Empire Zone? (☒) Yes (☐) No

Is the business Empire Zone certified at this location: (☐) Yes (☒) No

Attach a copy of the last Business Annual Report filed.

Is the proposed project located within the boundary of a Central New York Regional Transportation (Centro) District? (☒) Yes (☐) No

- G. 1. Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings and other existing structures or facilities) and attach plot plans, photos or renderings, if available.

Three vacant, connected buildings will be completely redeveloped into market-rate
apartments and ground floor retail / restaurant space. The team will demo and abate
the interior, then reinstall all new mechanicals, electric, plumbing, roofing
and interior build out. More information attached.

2. If construction or renovation work on this project has already begun, please describe the work in detail.

None

3. What is the estimated useful life of the:

a. Facility: 40 years

b. Equipment: 20 years

- H. List the principal items or categories of equipment to be acquired as part of the project.

Elevators, appliances, HVAC and venting

- I. If any of this equipment has already been purchased or ordered, please attach all invoices and purchase orders and list amounts paid and dates of expected delivery as well as a brief description:

n/a

- J. If the construction or operation of the proposed project will require any local ordinance or variance to be obtained or requires a permit or prior approval of any state or federal agency or body (other than normal occupancy/construction permits), please specify:

NYS SHPO Part 2 approval (received)

National Park Service Part 2 approval (pending)

- K. Will the project have a significant effect on the environment, YES () NO (x). If YES, please describe the effect. **Important: please attach Environmental Assessment Form to this Application**
-

- L. Will a related real estate holding company, partnership or other entity be involved in the ownership structure of the Transaction? YES () NO (x) If YES, please explain:

This is a single purpose real estate entity

M. 1. With regard to the present owner of the project site, please give:

Name: Hotel Street Owner LLC

Address: 449 S Salina Street Suite 200
Syracuse NY 13202

Telephone Number: 315-476-1010

2. If the applicant already owns the project site, indicate:

a. date of purchase: 1/24/23

b. purchase price: 2,150,000

3. If the project site is mortgaged, please indicate:

a. balance of mortgage: 1,720,000

b. holder of mortgage: Pathfinder Bank

N. Is there a relationship, legally, by virtue of common control, or through related persons, directly or indirectly, between the applicant and the present owner of the project site?
YES (x) NO () If YES, please explain:

The applicant is the present owner

O. Is the company currently a tenant in the building to be occupied?

YES () NO (x)

P. Are you planning to use/develop the entire proposed facility?

YES (x) NO ()

If NO, give the following information with respect to present tenants:

1. Present Tenant Information

a.	<u>Name of Business</u>	<u>Floors Occupied</u>	<u>Square Feet Occupied</u>	<u>Nature of Tenant's Business</u>
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No current tenants

b. Which of the above tenants will be vacating upon your initial use of the facility? How many jobs will be affected?

<u>Name of Firm</u>	<u>Jobs</u>	<u>Square Footage Now Occupied</u>
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N/A

c. For those tenants who will remain after your initial occupancy of the site, provide the following transaction:

<u>Name of Tenant</u>	<u>Term of Lease</u>	<u>Renewal Options</u>	<u>Square Footage Now Occupied</u>
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To be determined

Are any of the above tenants related to the owner of the facility? YES () NO (x)

d. If the applicant will be occupying the premises of any of the tenants listed in (c) when their lease expires, please list.

N/A

e. Please provide copies of all present lease(s) at the proposed project site.

- f. Do you propose to lease part of the project facility to firms not presently tenants?

YES (x) NO () If YES, provide details of your proposals:

Apartments will be leased in the future. Pending negotiation with a restaurant tenant for the entire commercial space. The restaurant will be a new, additional location for a successful restaurant in the Syracuse market (similar to what we did at Utica Steam Cotton with the Brooklyn Pickle)

- g. Will financing by the Agency for the Project result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area in the State of New York? YES () NO (x)

If the answer is YES, please explain briefly the reasons for the move.

The restaurant will be a new, added location for the restaurant.

Is the proposed project reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the State of New York?

YES () NO (x)

Is the proposed project reasonably necessary to preserve the competitive position of the project occupant in its respective industry? YES () NO (x)

- h. If any of the parties who will be tenants in this project are related to or affiliated with the applicant, please identify them:

N/A

1. Please attach any written agreements (e.g., options, purchase contracts, invoices, etc.) concerning the acquisition of the real property or equipment for this proposed facility.

2. Employment *

- a. List your present employment in the City of Utica, if any, and an estimate of the employment at the proposed facility at the end of two years. NOTE: New York State considers Full Time employment as 35 hours or more. Full-time jobs, plus the combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position (35 or more hours).

Employment	Current # of applicant's jobs at/or to be located at proposed project location	Number of FTE jobs to be RETAINED	Number of FTE jobs to be CREATED two years after project completion	Estimate number of residents in Labor Market Area that will fill projected jobs two years after project completion
Full-Time (FTE)	0	0	10	10

The Labor Market Area consists of the following counties: Oneida, Lewis, Herkimer, Otsego, Madison and Oswego

- b. Characterize the labor force to be associated with this project location according to the following categories:

Category	Current/ Anticipated	Avg Salary or Salary Range	Avg Fringe Benefits or Range
Officers	0/0		
Sales/Supervisory	0/0		
Clerical	0/0		
Plant/Production	0/0		
Other (specify)	10/10	25,000	2,500

Notes: All jobs at the buildings will be created by a tenant occupying the commercial space. The estimate 

- c. Estimate the Annual Payroll for the employees associated with the project location.

Currently	End of Year One	End of Year Two
\$ 0	\$ 0	\$ 250,000

*** Company/Applicant will be required to submit Annual Project Monitoring Reports (attached) along with a copy of the NYS 45 (four quarters) for a minimum of five (5) years for any commercial project and ten (10) years for any industrial/manufacturing project, or for the length of UIDA involvement in the project. Annual Project Monitoring Reports will be compared to employment counts as stated above and companies whose reported counts fall below those levels above will be subject to the Agency's Recapture Provisions Policy.**

<u>Sources of Funds for Project Costs:</u>		<u>% of Total project costs</u>
Bank Financing:	\$ 14,569,000	70.72%
Equity (excluding equity attributed to grants/tax credits)	\$ 1,143,391	5.55%
Tax Exempt Bond Issuance (if applicable)	\$ 0	
Taxable Bond Issuance (if applicable)	\$ 0	
Public Sources (Include sum total of all state and federal grants and tax credits)	\$ 4,888,466	23.73%

Federal Historic Tax Credit	\$ 1,765,495
NYS Historic Tax Credit	\$ 1,611,013
ESD Capital Grant	\$ 1,000,000
	\$

Have any of the above costs been paid or incurred as of the date of this Application?

Mortgage Recording Tax Exemption Benefit: Amount of mortgage that would be subject to mortgage recording tax:

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage	\$ <u>109,268</u>
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Please Note: The New York State General Municipal Law was recently amended to reflect that industrial development agencies are not exempt from the additional mortgage recording tax of .25% that is assessed to properties that are located within a regional transportation district. Oneida County is located within the Central New York Regional Transportation District; as such, all UIDA projects will be exempt from .75% of mortgage recording tax, but must pay .25% of mortgage recording tax, which will be directed to the Transportation District.

3. Estimated Project Cost

Listed the costs necessary for the construction, acquisition or renovation of the project (this should NOT include working capital needs, moving expenses, work in progress, stock in trade, applicant's debt repayment, real estate broker fees or your legal fees):

Acquisition of Land	\$ 0
Acquisition of Building(s)	\$ 0
Renovation Costs	\$ 14,853,046
New Construction of Buildings	\$ 0
Machinery and Equipment (taxable) (other than furniture costs)	\$ 324,000
Machinery and Equipment (non-taxable)	\$ 0
Furniture and Fixtures	\$ 467,000
Installation Costs	\$ 0
Architectural/Engineering Fees	\$ 400,000
Fees (other than your own counsel and brokerage fees)	\$ 3,507,122
Interest on Interim Financings	\$ 784,689
Other (specify) <small>Title, Insurance, counsel, third-party reports</small>	\$ 265,000
<hr/>	
Total Project Cost	\$ 20,600,857

Sales and Use Tax: 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:

\$ 9,005,484

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):

\$ 787,980

4. Real Estate Taxes

List separately the proposed project's Real Estate Taxes and/or Assessed Value as it applies to land and building:

Project's	Real Estate Taxes	Assessed Value
Land(s)	\$	\$
Building(s)	\$	\$
Total	\$ 16,463	\$ 244,800

Calculate the value of the PILOT exemption anticipated for the project described:

\$ 621,391

5. Project Schedule

Indicate the estimated dates for the following:

- a. Construction commencement: July 15, 2023
- b. Construction completion: June 30, 2024
- c. Project financing: List the dates and in what amounts the estimated funds will be required:

Financial closing projected for July 15, 2023. Construction loan will
be drawn in monthly installments with contractor payment applications.

HTC equity received in installments based upon completion benchmarks.

- d. Indicate the name of the incorporated municipality in which the facility will be located and the applicant's (or any related entity's) estimated capital expenditures in such municipality during the past three years:

City of Utica (related parties have made over \$25MM in capital investments in the last 3 years)

- e. What do you expect the applicant's (or any related entities) capital expenditures to be in the above municipality during the next three years (including this project):

This project \$19MM, other projects over \$22MM

- f. If the applicant or any related entity has previously secured the benefit of tax exempt financing in the City of Utica, whether through IDA, the New York Job Development Authority or any other entity, please explain (indicate date, location of financed facility, and outstanding balance):

No tax exempt financing. However, we note that GSCB LLC and Utica Travelers

Building LLC each received inducements from the Utica IDA in the form of

sales tax exemption, mortgage recording tax exemption and a PILOT Agreement.

- g. Has the applicant or any related entity received the benefit of tax exempt financing anywhere within the United States within the past 90 days or is the applicant or any related entity contemplating the receipt of such financing assistance within the next 90 days? YES () NO () if YES, please explain.

No tax exempt financing. However, we note that GSCB LLC and Utica Travelers

Building LLC each received inducements from the Utica IDA in the form of

sales tax exemption, mortgage recording tax exemption and a PILOT Agreement.

6. Project Financing Efforts

IT IS THE APPLICANT'S RESPONSIBILITY TO SECURE A PURCHASER FOR IDA BONDS ISSUED IN CONJUNCTION WITH THIS PROJECT. Below are a series of questions relating to your efforts to secure financing for your project if IDA approval is granted.

- A. Has the applicant contacted any bank, financial/lending institution or private investor in regard to the financing for this project? YES (x) NO () If YES, please give details:

Committed construction and permanent financing from NBT Bank.

Committed HTC equity from Berkshire Bank.

B. Have you obtained a financial commitment for this project? YES (x) NO ()

1. If YES, please briefly describe this commitment and attach related correspondence:

Approved at committee, awaiting commitment letter from
NBT Bank counsel

2. If NO, please explain how you will be able to finance this project:

C. Are there any other governmental agencies that you have contacted concerning financial assistance in regard to your proposed project? YES (x) NO () If YES, please explain:

Submitted a Restore NY application and CFA application to Empire State Development.

D. 1. Will the applicant's obligations be guaranteed, and if so, by whom?

Yes, by Timothy M Lynn, Joseph C. Gehm and Braxton Capital LLC

2. Is the guarantor related to or affiliated with the applicant?

Yes

E. Financial Information (Attach the Following).

1. Financial Statements for the last three fiscal years.
2. Pro forma Balance Sheet as at start of operations at project site.
3. Projected Profit and Loss Statements for first two years of operation at project site.
4. Projected "Cash Flow" Statement, by quarters, for first year of operation at project site.

REPRESENTATIONS AND CERTIFICATION BY APPLICANT

The undersigned requests that this Application be submitted for review to the City of Utica Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

1. **Annual Sales Tax Filings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the 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.
2. **Annual Employment Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax benefits received with the action of the Agency. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
3. **Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
4. **Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, 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 (A) 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, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) 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. If, for any reason, 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 Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, 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.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. 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.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would 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 or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

9. 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.
10. 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 the Project.

11. 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 provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

12. The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent 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.

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss.:
Onondaga

Joseph Gehm, being first duly sworn, deposes and says:

1. That I am the Member (Corporate Office) of Hofel Street Owner LLC (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.


(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 31st day of May, 2023

Charlene E. Mignacca
(Notary Public)

Charlene E. Mignacca
Notary Public, State of New York
Registration No. 01MI0003208
Qualified in Onondaga County
Commission Expires March 21, 2027

If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

By: _____

Name: _____

Title: _____

Date: _____

Return the original application and six copies with a check in the amount of \$250.00 made payable to: Utica Industrial Development Agency, 1 Kennedy Plaza, Utica, New York, Attn.: Jack N. Spaeth, Executive Director.

**UTICA INDUSTRIAL DEVELOPMENT AGENCY
COST/BENEFIT ANALYSIS
Required by §859-a(3) of the
New York General Municipal Law**

TO BE ATTACHED TO AND MADE PART OF APPLICATION TO THE AGENCY

Name of Applicant: Hotel Street Owner LLC

Address of Project: 119-37 Hotel Street

Description of Project:

The development team is rehabbing three contiguous buildings totaling 70,000 sf. The upper floors will be market rate apartments and ground floor restaurant space.

Name of all Sublessees or Other Occupants of Facility:

Not yet determined

Principals or Parent Company of Applicant:

Morrisroe Lynn Development LLC, Braxton Capital LLC, Lahinch Group LLC. It is likely that the owner of a pending negotiation tenant will also become a 10% owner of the project.

Principals of any Sublessee or Occupant:

Not yet determined

Product/Services of Applicant:

Single-purpose real estate entity

Estimated Completion Date of Project: 6/2024

Type of Financing/Structure:

<u> </u>	Tax-Exempt Financing
<u> </u>	Taxable Financing
<u> x </u>	Lease/Leaseback, Sale/Leaseback
<u>14,569,000</u>	Other

Explain:

Tax-Exempt Bonds

 x Sales Tax Until Completion Date

 x Mortgage Tax Abatement

Project Costs - Capital Investment

Land \$ 1,143,391 Cost per Acre \$ 0

Existing Building	\$ 0
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Rehab of Existing Building	\$ 0
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Construction of New Building	\$ 4,888,466	Cost per Sq Ft \$ 0
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Addition or Expansion	\$ 23.73%	Cost per Sq Ft \$ 0
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Engineering and Architectural Fees	\$ 1,765,495
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Equipment (detail below)	\$ 1,611,013
--------------------------	--------------

Legal Fees

Bank, Bond, Transaction, Company, Credit Provider, Trustee	\$ 1,000,000
---	--------------

Finance Charges

Title Insurance, Environmental
Review, Bank Commitment Fee,
Appraisals, etc. \$ _____

TOTAL COST OF PROJECT	\$ 20,600,857
------------------------------	----------------------

Type of Equipment to be Purchased	Elevators, appliances, HVAC and venting
-----------------------------------	---

Grants or Loans expected to be received (by who and amount)

ESD Capital Grant	\$ 100%
-------------------	---------

	\$ 109,268
--	------------

\$ 0

Company Information

Existing Jobs	0
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Created Jobs (by year 3)	10
--------------------------	----

Retained Jobs	0
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BENEFITS

Taxable Goods and Services

		Spending Rate	Wages	Expenditures	Sales Tax Rate	State/ Local Sales Tax Revenues
Direct Jobs						
<u>0</u>	Created	36.0%	x _____	= <u>14,853,046</u>	x 8.75%	= _____
<u>0</u>	Existing	36.0%	x _____	= <u>0</u>	x 8.75%	= _____
Indirect Jobs						
<u>10</u>	Created	36.0%	x <u>250,000</u>	= <u>324,000</u>	x 8.75%	= <u>0</u>
<u>0</u>	Existing	36.0%	x _____	= <u>467,000</u>	x 8.75%	= <u>0</u>
<u>240</u>	Construction	36.0%	x <u>8,004,793</u>	= <u>2,881,725</u>	x 8.75%	= <u>252,151</u>
	Totals		_____	_____		<u>260,026</u>
					x 3 years =	<u>780,078</u>

Real Property Taxes

Local (3 year) real property tax benefit (assuming 30 % of jobs existing and created own a residence with an average assessment of \$ 75,000 and the remainder of jobs existing and created pay real property taxes through rent based on an average assessment per apartment of \$ 400,000 Current tax rate: 66.25/\$1000 of AV

Real Property Taxes Paid \$ 80,700

3 Yr Comparative Benefits \$ 860,778

COSTS

Real Property Taxes Abated on Improvements only (3-year period) \$ 168,828

Mortgage Tax Abated \$ 109,268

Estimated Sales Tax Abated During Construction Period \$ 787,980

3 Yr Comparative Costs \$ 1,066,076

(If there is tax-exempt financing of all or a portion of the project cost, there is a neutral cost/benefit because of lower interest rates by reason of exclusion of interest from gross income of bondholders for purposes of Federal and State income taxes. Taxable financing carries the same cost/benefit for State Income Tax purposes. Such cost/benefits cannot be qualified.)

**City of Utica Industrial Development Agency
One Kennedy Plaza, Utica, New York 13502**

RETAIL DETERMINATION

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.

Please answer the following:

- A.** Will any portion of the project 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 or ☐ No. If the answer is yes, please continue.

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State 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 (ii) sales of a service to customers who personally visit the Project.

- 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? 6.5 %
If the answer is less than 33% do not complete the remainder of the retail determination.

If the answer to 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 or ☐ No.

2. Is the Project location or facility likely to attract a significant number of visitors from outside the City of Utica?

☐ Yes or ☐ No

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

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

☐ Yes or ☐ 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 or ☐ No.

If yes, explain _____
14,569,000

5. Is the project located in an area that has been designated an Empire Zone? ☐ Yes or ☐ No

The undersigned hereby certifies that the information contained in this Retail Determination is true, accurate and complete.

Print Name of Applicant: Hotel Street Owner LLC

Print Name of Authorized Representative: Joseph Gehm

Title: Member

Signature: _____

Date: _____

RESOLUTION OF THE CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION IN CONNECTION WITH A LEASE-LEASEBACK TRANSACTION FOR THE HOTEL STREET OWNER LLC FACILITY, APPOINTING HOTEL STREET OWNER LLC AND/OR AN ENTITY FORMED OR TO BE FORMED ON ITS BEHALF AS AGENT OF THE ISSUER FOR THE PURPOSE OF RENOVATING, REHABILITATING AND EQUIPPING THE FACILITY, AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT.

WHEREAS, Hotel Street Owner LLC, on behalf of itself and/or the principals of Hotel Street Owner LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the City of Utica Industrial Development Agency (the "Agency") to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of three connected, vacant and blighted historic industrial buildings measuring 70,000± square feet in the aggregate into a mixed-use building with 70-units of market rate residential units and retail/commercial space with on-site parking and common area amenities (collectively, the "Improvements") situated on three parcels of land measuring ____± acres in the aggregate located at 119 – 137 Hotel Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"), including, without limitation, the following as they relate to the partial demolition, renovation, rehabilitation and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the partial demolition, renovation, rehabilitation and equipping, and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with partial demolition, renovation, rehabilitation and equipping and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under such building; and

WHEREAS, the Company owns the Facility and will lease the Facility to the Agency; and

WHEREAS, the Facility will be leased back to the Company or such other person as may be designated by the Company and agreed upon by the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 710 of the Laws of 1981 of the State of New York, as may be amended from time to time (collectively, the “Act”); and

WHEREAS, the Company will further sublease portions of the Facility to residential tenants, to be identified from time to time (the “Residential Sublessees”); and

WHEREAS, the Company will further sublease portions of the Facility to commercial and/or retail tenants, to be identified (the “Commercial Sublessees” and together with the Residential Sublessees, the “Sublessees”); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of:

- Exemptions from sales and use taxes on materials and equipment purchased in connection with the Project, the value of which is estimated at \$787,980; and
- Exemptions from mortgage recording taxes, the value of which is estimated at \$109,268; and
- Abatement of real property taxes for a period of twelve years, the value of which is estimated at \$621,391, during which time the Company will make the following payments:

Yr 1	no taxes
Yr 2 – Yr 8	100% of taxes on base assessment*
Yr 9	100% of taxes on base assessed value + 20% of taxes on increase between base and final assessments **
Yr 10	100% of taxes on base assessed value + 40% of taxes on increase between base and final assessments
Yr 11	100% of taxes on base assessed value + 60% of taxes on increase between base and final assessments

Yr 12	100% of taxes on base assessed value + 80% of taxes on increase between base and final assessments
Yr 13	Full taxes based on final assessment

* Base assessed value is equal to the assessed value as determined by City Assessor on March 1, 2023

** Final assessed value is equal to assessed value upon completion of Project as determined by City Assessor

which financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"), to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, the Agency is contemplating deviating from Policy for the following reasons:

- ✓ The nature of the proposed Facility – **The mixed-use nature of the Facility will provide necessary amenities, is in furtherance of the Downtown Revitalization Initiative and is consistent with the Master Plan for the City of Utica. The Facility will also fill a demand for housing identified in the Vision2020 initiative and the City of Utica Housing Study.**
- ✓ The nature of the Facility before the project begins -- **The existing buildings are historic, distressed, vacant and underutilized.**
- ✓ The economic condition of the area at the time of the application – **the Facility is located in an area that has been designated an economic development zone pursuant to Article 18-B of the General Municipal Law, and is therefore located in a "highly distressed area" (as defined in Section 854(18) of the New York General Municipal Law) because the Facility is located in a former Empire Development Zone as described in Article 18-B of the General Municipal Law**
- ✓ The impact of the proposed Facility on existing and proposed businesses and economic development projects in the vicinity – **redeveloping and stabilizing the Facility will help to revitalize downtown Utica and will support and complement new and future projects, including the Mohawk Valley Health Services downtown campus, the Nexus Center and the Wolfspeed facility.**

- ✓ The extent to which the Facility will retain and increase permanent, private sector jobs
- ✓ The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located – **as the building has been vacant and underutilized for several years, private development and ownership will be a boost to the local taxing jurisdictions by providing for additional real property tax revenues through a higher assessed value.**

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, and such notice (together with proof of publication) will be substantially in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, the Agency must make a finding that the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency; and

WHEREAS, the Company has submitted to the Agency a “Limited Scope Market Study Proposed Redevelopment 121 Hotel Street, Utica, New York” prepared by Newmark Valuation and Advisory dated February 22, 2023 (the “Market Study”) to support said finding; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction, is either an inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

NOW, THEREFORE, BE IT RESOLVED by the City of Utica Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

- Section 1. (a) The partial demolition, renovation, rehabilitation and equipping of the Facility and the financing thereof by the Agency, through the lease of the Facility to the Company by the Agency pursuant to a lease-leaseback transaction will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the City of Utica and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved;
- (b) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction for the purpose of financing the costs of the partial demolition, renovation, rehabilitation and equipping of the Facility, together with necessary incidental expenses in connection therewith as reflected in the Company's application to the Agency and as amended from time to time prior to the closing of the sale-leaseback or lease-leaseback transaction.
- (c) Based on the Market Study and representations made by the Company in the Application, the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency.

Section 2. The form and substance of a proposed inducement agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the closing of the lease-leaseback transaction, and the development of the Facility (the "Agreement") are hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3. Subject to the conditions set forth in Section 4.02 of the Agreement, the Agency shall (i) partially demolish, renovate, rehabilitate and equip the Facility, (ii) lease (with an obligation to purchase) the Facility to the Company pursuant to an agreement by and between the Agency and the Company whereby the Company will be obligated, among other things, to make payments to or for the account of the Agency.

Section 4. The Company is herewith and hereby appointed the agent of the Agency to partially demolish, renovate, rehabilitate, equip and

complete the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to partially demolish, renovate, rehabilitate, equip and complete the Facility. The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman or Executive Director of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services, and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

- Section 5. The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel and Agency Counsel in connection with the sale-leaseback or lease-leaseback transaction.
- Section 6. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the sale-leaseback or lease-leaseback transaction.
- Section 7. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.
- Section 8. This resolution shall take effect immediately.

STATE OF NEW YORK }
COUNTY OF ONEIDA } ss:

I, the undersigned Assistant Secretary of the City of Utica Industrial Development Agency DOES HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the City of Utica Industrial Development Agency (the "Agency"), with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on June 7, 2023 at 9:00 a.m. local time, at Utica, New York which the following members were:

Members Present:
Members Excused:
Also Present:

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

and, therefore, the resolution was declared duly adopted.

The Agreement and the Application are in substantially the form presented to and approved at such meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand on June 7, 2023.

Jack N. Spaeth, Assistant Secretary

EXHIBIT A NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the City of Utica Industrial Development Agency (the "Agency") on the ____ day of June 2023 at ____ a.m., local time, at Utica City Hall, Urban & Economic Development conference room, Second Floor, One Kennedy Plaza, Utica, New York in connection with the following matters:

Hotel Street Owner LLC, on behalf of itself and/or the principals of Hotel Street Owner LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of three connected, vacant and blighted historic industrial buildings measuring 70,000± square feet in the aggregate into a mixed-use building with 70-units of market rate residential units and retail/commercial space with on-site parking and common area amenities (collectively, the "Improvements") situated on three parcels of land measuring ____± acres in the aggregate located at 119 – 137 Hotel Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"). The Facility will be initially leased, operated and/or managed by the Company.

The Company owns the Facility and will lease the Facility to the Agency, and the Agency will lease the Facility back to the Company. The Company will sublease portions of the Facility to residential tenants to be identified from time to time, and will sublease the commercial/retail portion of the Facility to a commercial and/or retail tenant. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and abatement of real property taxes for a period of twelve years, which proposed financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

A representative of the Agency will at the above-stated time and place hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Comments may also be submitted to the Agency in writing or electronically prior to the Public Hearing. Minutes of the Public Hearing will be transcribed and posted on the Agency's website. A copy of the Application for Financial Assistance filed by the Company with the Agency, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the Agency, One Kennedy Plaza, Utica, New York and on the Agency's website.

CITY OF UTICA INDUSTRIAL
DEVELOPMENT AGENCY

Dated: June __, 2023

By: /s/ Vincent J. Gilroy, Jr., Chairman

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON JUNE __, 2023

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY
2023 LEASE-LEASEBACK TRANSACTION
(HOTEL STREET OWNER LLC FACILITY)

1. Jack N. Spaeth, Executive Director of the City of Utica Industrial Development Agency (the "Agency"), called the hearing to order.
2. The Executive Director, also being the Assistant Secretary of the Agency, recorded the minutes of the hearing.
3. The Executive Director then described the proposed financial assistance and the location and nature of the Facility as follows:

Hotel Street Owner LLC, on behalf of itself and/or the principals of Hotel Street Owner LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of three connected, vacant and blighted historic industrial buildings measuring 70,000± square feet in the aggregate into a mixed-use building with 70-units of market rate residential units and retail/commercial space with on-site parking and common area amenities (collectively, the "Improvements") situated on three parcels of land measuring ____± acres in the aggregate located at 119 – 137 Hotel Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"). The Facility will be initially leased, operated and/or managed by the Company.

The Company owns the Facility and will lease the Facility to the Agency, and the Agency will lease the Facility back to the Company. The Company will sublease portions of the Facility to residential tenants to be identified from time to time, and will sublease the commercial/retail portion of the Facility to a commercial and/or retail tenant. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency contemplates that it will provide financial assistance to the Company in the

form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and abatement of real property taxes for a period of twelve years, which proposed financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

4. The Executive Director then opened up the hearing for comments from the floor for or against the proposed financial assistance and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:
5. The Executive Director then asked if there were any further comments, and, there being none, the hearing was closed at _____ AM.

Jack N. Spaeth, Assistant Secretary

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

I, the undersigned Assistant Secretary of the City of Utica Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held virtually by the City of Utica Industrial Development Agency (the "Agency") on June __, 2023 at _____ a.m. local time, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

I FURTHER CERTIFY that (i) the hearing was a public meeting open for the public to attend in person and public notice of the time, date and location of said hearing was duly given, (ii) the hearing in all respects was duly held, and (iii) members of the public had an opportunity to be heard.

IN WITNESS WHEREOF, I have hereunto set my hand as of June __, 2023.

Jack N. Spaeth, Assistant Secretary

EXHIBIT C

(To be copied on Agency letterhead and delivered to the Company when appropriate.)

June __, 2023

Timothy M. Lynn, Member
Hotel Street Owner LLC
449 South Salina Street, Suite 200
Syracuse, New York 13202

Re: *City of Utica Industrial Development Agency 2023 Lease-Leaseback Transaction
(Hotel Street Owner LLC Facility)*

Dear Mr. Lynn:

Pursuant to a resolution duly adopted on June 7, 2023, the City of Utica Industrial Development Agency (the "Agency") appointed Hotel Street Owner LLC, on behalf of itself and/or the principals of Hotel Street Owner LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") the true and lawful agent of the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of three connected, vacant and blighted historic industrial buildings measuring 70,000± square feet in the aggregate into a mixed-use building with 70-units of market rate residential units and retail/commercial space with on-site parking and common area amenities (collectively, the "Improvements") situated on three parcels of land measuring ____± acres in the aggregate located at 119 – 137 Hotel Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility" and the partial demolition, renovation, historic rehabilitation and equipping of the Facility referred to collectively as the "Project").

It is the intent of the Agency that this agency appointment include, from the effective date of such appointment, authority to purchase, lease and otherwise use on behalf of the Agency all materials, equipment, goods, services and supplies to be incorporated into and made an integral part of the Facility and also include the following activities as they relate to the Project, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases,

leases, rentals and other uses of tools, machinery and equipment in connection with the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the Project including all utility services and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such building, including all repairs and replacements of such property.

The agency appointment includes the power to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Company and to such other parties as the Company chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described.

In exercising this agency appointment, the Company, its agents, subagents, contractors and subcontractors, should give the supplier or vendor a copy of this letter to show that the Company, its agents, subagents, contractors and subcontractors are each acting as agent for the Agency. Construction contracts, purchase orders and other agreements relating to the project should be executed by the Company, or any sub-agent appointed by the Company, as agent of the Agency. Also, purchases must be billed or invoiced by the vendor to the Company, or any sub-agent appointed by the Company, as agent of the Agency (e.g. "Hotel Street Owner LLC as agent for the City of Utica Industrial Development Agency"). The supplier or vendor should identify the Facility as the **"Hotel Street Owner LLC Facility"** on each bill or invoice and indicate thereon that the Company, its agents, subagents, contractors and subcontractors acted as agent for the City of Utica Industrial Development Agency in making the purchase. You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Facility must execute a copy of the Contract in Lieu of Exemption Certificate attached hereto, and must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each Contract in Lieu of Exemption Certificate and completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Company which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of acquiring, renovating and equipping the Facility. **Failure to comply with these requirements may result in loss of sales tax exemptions for the Facility.**

You should be aware that the New York State General Municipal Law requires you to file with the New York State Department of Taxation and Finance Form ST-340 (Annual

Timothy M. Lynn
June __, 2023
Page 3

Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority) regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect to this Project. This statement must be filed on an annual basis for as long as the Company is claiming a sales tax exemption. **The penalty for failure to file such statement is the removal of your authority to act as an agent.**

The value of exemptions from sales and use taxes on materials and equipment currently authorized by the Agency shall not exceed \$787,980 in the aggregate. If the exemptions claimed by the Company exceed (a) \$100,000.00 for purchases made between June 7, 2023 and the date of the public hearing or (b) \$787,980 in the aggregate, it may subject the Company to recapture of the New York State portion of sales tax.

The aforesaid appointment of the Company as agent of the Agency to renovate, rehabilitate and equip the Facility shall expire on June __, 2024. If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files.

Very truly yours,

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Jack N. Spaeth, Executive Director

ACCEPTED and AGREED

HOTEL STREET OWNER LLC

By: _____
Timothy M. Lynn
Member

DRAFT

TO: All Contractors, Subcontractors,
Suppliers and Vendors, etc. of
Hotel Street Owner LLC

Attached please find a "Contract in Lieu of Exemption Certificate" (the "Contract") which will serve as documentation for not charging Hotel Street Owner LLC (the "Company") sales or use tax in connection with any purchase, lease, rental or other use of materials, equipment, goods, services or supplies at the facility to be owned or leased by the City of Utica Industrial Development Agency (the "Agency") and described in Addendum A to the aforesaid Contract (the "Facility").

Also attached is a letter signed by the Agency appointing the Company as its agent for the purpose of partially demolishing, renovating, rehabilitating and equipping the Facility. This letter authorizes the Company to delegate its authority as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company authorizes.

In accordance with the authority granted to the Company by the Agency, you are hereby appointed as agent of the Agency for the purpose of making purchases or leases of materials, equipment, goods, services and supplies with respect to the Facility. **Your appointment as agent of the Agency is contingent upon your completing the attached Form ST-60 and returning it to us and the Form ST-60 then being filed by the Agency with the New York State Department of Taxation and Finance.**

Very truly yours,

HOTEL STREET OWNER LLC

By: _____

Name:

Title:

cc: City of Utica Industrial Development Agency

CONTRACT IN LIEU OF EXEMPTION CERTIFICATE

This Contract is entered into by and between **HOTEL STREET OWNER LLC** (the "Company"), as agent for and on behalf of the City of Utica Industrial Development Agency, a public benefit corporation and a governmental agency of the State of New York (the "Agency") in connection with the renovation, rehabilitation, equipping and completion of the facility described in Addendum A hereto (the "Facility") and the contractor or the subcontractor more particularly described on page 2 hereof (the "Contractor").

Pursuant to the authority granted to the Company, as agent of the Agency, the Contractor is hereby appointed agent of said Agency for purposes of completing, executing or otherwise carrying out the obligations imposed under this Contract.

The Contractor acknowledges that the Agency has acquired or will acquire title to or a leasehold interest in the Facility and the Agency is a public benefit corporation and governmental entity of the State of New York. By reason of such status, Agency and its agents acting on its behalf are exempt from payment of all New York State and local sales and use taxes on the purchase or lease of all materials, equipment, goods, services and supplies incorporated into and made an integral component part of any structure, building or real property which becomes the property of Agency, and all equipment, machinery and other tangible personal property (including installation costs with respect thereto) which becomes the property of Agency or in which the Agency has a leasehold interest. In addition, Agency and its agents acting on its behalf are exempt from all sales and use taxes arising out of or connected with the following, as they relate to performance under this Contract: (i) purchases, leases, rentals and other uses of tools, machinery and equipment, and (ii) purchases, leases, rentals, uses or consumption of supplies, goods, materials and services of every kind and description; provided, however, that exemption from sales and use tax with respect to clauses (i) and (ii) above shall apply only if the Contractor is then acting as agent for Agency under the terms of this Contract.

Pursuant to these exemptions from sales and use taxes, the Contractor shall not include such taxes in its contract price, bid, or reimbursable costs, as the case may be. If the Contractor does not comply with the requirements for sales and use tax exemptions, as described above, then it shall be responsible for and pay any and all applicable New York State sales and use taxes, and no portion thereof shall be charged or billed to the Agency or the Company directly or indirectly, the intent of this Contract being that neither Agency nor the Company shall be liable for any of the sales or use taxes described above. This Contract may be accepted by the Contractor in lieu of an exemption certificate, and the Contractor shall retain a copy hereof to substantiate the sales and use tax exemption.

The aforesaid appointment of the Company as agent of the Agency to renovate, rehabilitate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) June __, 2024, provided, however, such

appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

The value of exemptions from sales and use taxes on materials and equipment currently authorized by the Agency shall not exceed \$787,980 in the aggregate. If the exemptions claimed by the Company exceed (a) \$100,000.00 for purchases made between June 7, 2023 and the date of the public hearing or (b) \$787,980 in the aggregate, it may subject the Company to recapture of the New York State portion of sales tax.

The Agency shall have the right to assign this Contract to the Company by written notice to the Contractor and without written consent of the Contractor, in which case Agency shall be relieved of all obligations hereunder. In the event of such assignment, all applicable sales and use taxes shall be added to the purchase price and paid to the Contractor pursuant to a change order. All of the above provisions with respect to exemptions for New York State sales and use taxes shall apply to all subcontractors and other parties in privity of contract with the Company, Agency or the Contractor pursuant to the terms of this Contract.

OWNER:

HOTEL STREET OWNER LLC

[Insert name of Contractor or
Subcontractor]

as agent for and on behalf of the City of
Utica Industrial Development Agency

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

DATE: _____

DATE: _____

Address of Contractor or
Subcontractor:

cc: City of Utica Industrial Development Agency

ADDENDUM A

DESCRIPTION OF THE FACILITY

The acquisition, partial demolition, historic rehabilitation and renovation of three connected, vacant and blighted historic industrial buildings measuring 70,000± square feet in the aggregate into a mixed-use building with 70-units of market rate residential units and retail/commercial space with on-site parking and common area amenities (collectively, the “Improvements”) situated on three parcels of land measuring ____± acres in the aggregate located at 119 – 137 Hotel Street, City of Utica, Oneida County, New York (the “Land”), and the acquisition and installation of equipment in the Improvements (the “Equipment”), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica.



ROBERT M. PALMIERI
MAYOR

CITY OF UTICA

Utica Industrial Development Agency
1 Kennedy Plaza, Utica, New York 13502
(315)792-0195 fax: (315)797-6607

VINCENT GILROY, JR
CHAIRMAN

JACK N. SPAETH
EXECUTIVE DIRECTOR

Agenda

Utica Industrial Development Agency
Regular Meeting – Wednesday, June 7, 2023 @ 9:00am
Utica City Hall, Utica, New York and via WebEx

- I. Call to Order
- II. Approval of Minutes (May 3, 2023)
- III. Old Business
 - A.
- IV. New Business
 - A. **Lahinch Utica III LLC** - Consider an inducement resolution relating to the Lahinch Utica III, LLC Facility, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$788,741), exemptions from mortgage recording tax (valued at \$84,811) and reduction of real property taxes for a period of 12 years (valued at \$634,338), which is a deviation from the Agency's Uniform Tax Exemption Policy.

Consider a SEQR resolution relating to the Lahinch Utica III, LLC Facility. The City of Utica Planning Board served as lead agency for the SEQR review, and the Agency wishes to adopt the findings and determinations of the lead agency.
 - B. **Hotel Street Owner LLC** - Consider an inducement resolution relating to the Hotel Street Owner, LLC Facility, granting preliminary approval for financial assistance in the form of exemptions from sales tax (valued at \$787,980), exemptions from mortgage recording tax (valued at \$109,268) and reduction of real property taxes for a period of 12 years (valued at \$621,391), which is a deviation from the Agency's Uniform Tax Exemption Policy.
 - C. **Annual Project Review (2022)**
- V. Executive Session (if required)
- VI. Adjourn

Members of the public may listen to the Agency meeting by calling 1-408-418-9388,
Access code: 2630 239 8356 or joining the meeting at Meeting link:
<https://cityofutica.webex.com/cityofutica/j.php?MTID=mc2965064e1da6b4dd132d2db3d49e200>
Meeting password: gnPhjNfb274

The Minutes of the Agency meeting will be transcribed and posted on the UIDA website.



ROBERT M. PALMIERI
MAYOR

CITY OF UTICA

Utica Industrial Development Agency
1 Kennedy Plaza, Utica, New York 13502
(315)792-0195 fax: (315)797-6607

VINCENT GILROY, JR
CHAIRMAN

JACK N. SPAETH
EXECUTIVE DIRECTOR

May 3, 2023 9:00a.m.
Utica Industrial Development Agency Regular Meeting
City Hall, Utica, NY – WebEx Conference Call/In-Person

Members Present: Vin Gilroy, Mark Curley, John Buffa, Emmett Martin

Excused: John Zegarelli,

Also Present: Jack Spaeth (Executive Director), Laura Ruberto (in person) and Linda Romano (via telephone) (BSK – Agency Counsel)

Others: Andy Patel, Rob Halpin, Esq, Dominick Pavia (Utica Harbor Lodging Group)

1) CALL MEETING TO ORDER: The meeting was called to order by Mr. Gilroy at 9:04a.m. The Finance, Governance and Audit Committees, as they consist of sitting Agency members, meet as a committee of the whole, and in doing such, meet at every meeting.

2) APPROVAL OF MINUTES: A motion was made by Mr. Buffa, seconded by Mr. Curley, to approve the minutes of the April 5, 2023 meeting. All in favor.

3A) Artspace Utica Lofts, LLC

Mr. Spaeth had noted that Artspace Utica required some changes to their application including project amounts and date of completion.

As such, Mr. Curley made a motion, seconded by Mr. Martin to accept the changes to the Artspace Utica Lofts, LLC application materials. All in favor.

4A) NEW BUSINESS – Utica Harbor Lodging Group, LLC

Mr. Spaeth introduced those present from Utica Harbor Lodging Group, LLC. Mr. Halpin started to describe the project at hand. It will consist of six buildings containing 240 units, pool, fitness room and other amenities as part of Phase I including a Marriott brand hotel with 100 units. Phase II could possibly consist of an indoor waterpark and another hotel. Construction should last 5-7 years.

The hotel cost is \$17MM with the balance of project costs devoted to the apartments. Due to surcharging needed of the soil, UHLG should break ground in spring 2024. All trades will work on apartment building #1 and then move to apartment building #2, etc.

Mr. Patel stated phase I as soil prep, phase II as apartments and hotel and phase III would be another

hotel and possibly the waterpark.

Mr. Buffa noted the PILOT request of 30 years at a fixed \$70,000 per year. He further noted that a PILOT of those terms is very long and well beyond any deviation the UIDA has provided in the past for similar projects. It was noted by UHLG reps that prevailing wage has a definite impact on project costs and that the ring road and electrical which was to originally be part of the City's work is to now be performed by the developer.

5) EXECUTIVE SESSION:

Mr. Buffa made a motion, seconded by Mr. Curley to enter Executive Session at 10:16am.

Mr. Buffa made a motion, seconded by Mr. Martin to enter Executive Session at 10:36am.

Mr. Gilroy requested Mr. Spaeth run the PILOT at a 12-year term for the apartments and hotel. This term would be similar to the PILOT for Colonial Deerfield which is close in size and budget amount as this project.

6) ADJOURNMENT: There being no further business brought before the Agency, Mr. Buffa made a motion to adjourn, seconded by Mr. Martin and the meeting was adjourned at 10:37am.

The next regular meeting of the Utica Industrial Development Agency is scheduled for Wednesday, June 7, 2023 at 9:00am at City Hall via WebEx and in-person.

**City of Utica
Industrial Development Agency
Application**

The information required by this form is necessary to determine the eligibility of your project for IDA benefits. Please answer all questions; insert "NONE", or "NOT APPLICABLE", where necessary. If an estimate is given, put "EST." after the figure. Attach additional sheets if more space is needed for a response than is provided. Return three copies of this application to the City of Utica Industrial Development Agency.

Once submitted with the IDA, this Application becomes public information and will be published on the IDA's website. If the applicant deems any information requested to be exempt from FOIL, please answer the question "CONFIDENTIAL" and submit the information on a separate attachment marked confidential and provide the statutory exemption

A project financed through this Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project.

PART I
Applicant

Applicant's legal Name: Lahinch Utica III LLC

Principal Address: 449 S. Salina St. - Second Floor
Syracuse NY 13202

Project Address: 239 Genesee Street

Telephone Number(s): 315-476-1010

Federal Identification Number: 85-2328337

Company IRS Filing Office Location: Cincinnati

Company Officer completing this application:

Name: Mr. Timothy Lynn

Title: Member

Phone: 315-729-4690 cell 315-766-2131 office

Email: tim@ldts-law.com

1. A. **Is the applicant a:**

() Corporation: If YES, Public () Private ()
If a PUBLIC Corporation, on which exchange is it listed?

() Sole Proprietorship

() Partnership

() Subchapter S

() DISC

(x) Other (specify) Limited Liability Company

B. State of incorporation/organization, if applicable: New York

2. **Stockholders, Directors, Officers, Partners or Members**

A. Provide the following information in regard to principal stockholders or parties:

<u>Name</u>	<u>Home Address</u>	<u>Percentage of Ownership</u>
REGS Enterprises LLC	251 Ramblewood Dr	30
Joseph Gehm	102 W Division St Syr NY	30
Morrisroe Lynn Developer	449 S. Salina Suite 200	5
Krafts Island LLC	126 Business Park Dr	15
LD EXEC IX LLC	302 Washington Ave Ext	20

B. Provide the following information in regard to officers and directors:

<u>Company Officer</u>	<u>Name and Home Address</u>	<u>Other Principal Business Affiliation</u>
Joseph Gehm, Manager	102 W Division St, Syracuse, NY	Lahinch Group LLC
Ronald Cuccaro, Manager	126 Business Park Drive, Utica	Rising Phoenix Holdings
REGS Enterprises LLC, Manager	126 Business Park Drive, Utica	Rising Phoenix Holdings
LD Exec IX LLC, Manager	302 Washington Ave Ext, Albany	BBL Construction
Timothy Lynn, Manager	449 S Salina St, Syracuse, NY	Lynn D'Elia Temes & Stanczyk LLP

- C. Is the applicant or any of the persons listed in 2(A) above related, directly or indirectly, to any other entity by more than 50% common ownership? If also, indicate name of such entity and the relationship.

See attached Schedule 2(C) & (D)

- D. Is the applicant affiliated with any other entity, directly or indirectly, other than as indicated in response to paragraph C above? If YES, please indicate name and relationship of such other entity and the address thereof:

See attached Schedule 2(C) & (D)

3. **Applicant's accountant**

Name and Title: Dan Griffin, CPA

Name of Firm: Grossman St. Amour

Address: 110 W Fayette St #900, Syracuse, NY 13202

Telephone Number: (315) 424-1120 Email: dgriffin@gsacpas.com

4. **Applicant's attorney**

Name and Title: Anthony D'Elia, Esq

Name of Firm: Lynn, D'Elia, Temes & Stanzyck LLC

Address: 449 S Salina St. Suite 200

Syracuse NY 13202

Telephone: 315-476-1010 Email: anthony@ldts-law.com

5. **References** (Individuals and institutions in this section may be contacted)

A. Banking/Financial Institution:

<u>Name of Institution</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>
Five Star Bank	100 Chestnut St, Rochester	John Berry
NBT Bank	126 N Salina St, Syracuse	Richard Driscoll
Tompkins Trust	6872 E Genesee St, Fayetteville	Kip Allen

B. Business suppliers (list three largest accounts)

<u>Name of Supplier</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>

C. Major customers (list three largest)

<u>Name of Customer</u>	<u>Address and Phone Number</u>	<u>Account Officer/ Contact Person</u>

6. **Business Description**

A. Describe nature of business and principal products and/or services:

Lahinch Utica III LLC is a single-purpose entity for the purpose of acquiring, rehabilitating, owning and operating the historic Mayro Building as a mixed-use commercial and residential building.

- B. Describe the geographical market(s) served:
Downtown Utica residents and neighboring communities.

7. **Present location(s) of business operations**

- A. List present location(s):

1. 239 Genesee Street

2.

3.

- B. For what purpose is each of these used?

1. Commercial and residential

2.

3.

- C. For each of your present locations which are RENTED, provide the following information:

- D. Name of Landlord Landlord's Address Landlord's
Telephone Number

1. N/A

2.

3.

Amount of Space

Annual Rental

Lease Termination Date

1. N/A

2.

3.

E. For each of your present locations which you OWN, provide the following information:

<u>Location</u>	<u>Annual Mortgage Payment</u>	<u>Termination Date</u>
1. 239 Genesee Street, Utica	not yet in place	
2.		
3.		

F. List which of your present locations, if any, will be vacated if IDA approval for your project is given:

None

If any of these locations will be sublet or sold, provide information concerning your ability to do so:

N/A

PART II

Reasons for Project

Please explain in detail why you want to undertake this project and define scope of project:

We are very excited by the amazing growth and development occurring in downtown Utica and the wider region. With the development of the housing market, the new medical facilities, SUNY Poly, Wolfspeed, the Nexus Center, and many other investments in the community, we look forward to returning the historic Mayro Building to its prior position as an economic driver for Utica's central business district. The development team has already completed two similar historic rehabilitation projects in downtown Utica, bringing new residents along with the Brooklyn Pickle and Barton & Loguidice to downtown. The Mayro Building is an opportunity to leverage these successes.

Why are you requesting the involvement of the IDA in your project?

The Mayro Building, due to its age, a prior fire, and years of neglect, is a very difficult rehabilitation. We are completed an historic rehabilitation certified by SHPO and National Park Service and in accordance with the standards for rehabilitation of National Register buildings. These factors, combined with the incredible inflation in construction costs, makes the IDA inducements necessary for the financing of the project and to address the additional costs from inflation and historic rehabilitation.

How will the applicant's plans be affected if IDA approval is not granted?

Without the IDA inducements, it will not be possible to finance the project,
in part due to increased construction costs, but more so due to the impact
of property taxes on net operating income and the reduction in financing
resulting therefrom.

Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

☒ Yes or ☐ No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

N/A

Identify the assistance being requested of the Agency (select all that apply):

- | | | |
|----|----------------------------------|--------------------------------------|
| 1. | Exemption from Sales Tax | <u> X </u> Yes or <u> </u> No |
| 2. | Exemption from Mortgage Tax | <u> X </u> Yes or <u> </u> No |
| 3. | Exemption from Real Property Tax | <u> X </u> Yes or <u> </u> No |
| 4. | Tax Exempt Financing * | <u> </u> Yes or <u> X </u> No |

* (typically for not-for-profits & small qualified manufacturers)

A. **Type of Project**

Check category or categories best describing your project (O - Owner) and all end-users (T – Tenant(s)) and the square footage of each:

	Manufacturing		sf
	Industrial (Assembly or Service)		sf
	Research and Development		sf
	Warehousing		sf
X	Commercial	17,788	sf
	Pollution Control		sf
X	Housing	33,975	sf
	Back Office		sf
	Facility for Aging		sf
	Multi-Tenant		sf
	Retail		sf
	Recreational		sf
X	Other (specify)	18,387 Common Areas and Amenities	sf
	Total	70,150	sf

B. **Description of Proposed Project**

Check all appropriate categories which apply to the proposed project:

- | | | |
|--|----------|---------|
| 1. Acquisition of land | YES() | NO(x) |
| 2. Acquisition of existing building | YES() | NO(x) |
| 3. Renovations to existing building | YES(x) | NO() |
| 4. Construction of addition to existing building | YES() | NO(x) |
| 5. Demolition | YES(x) | NO() |
| 6. Construction of a new building | YES() | NO(x) |
| 7. Acquisition of machinery and/or equipment | YES(x) | NO() |
| 8. Installation of machinery and/or equipment | YES(x) | NO() |
| 9. Other (specify) _____ | YES() | NO(x) |

C. What is the zoning classification of the proposed site?

Urban Mixed-Use

- D. For what purpose was the site most recently used (e.g. light manufacturing, heavy manufacturing, assembly, etc.)?

Substantially vacant with some month-to-month office and first floor retail/restaurant

E.	<u>Location(s)</u>	<u>Street Address</u>	<u>Number of Floors/ SF/floor</u>
		239 Genesee St	6 - 70,150 total SF

- F. Is the site in an Empire Zone? (☒) Yes (☐) No

Is the business Empire Zone certified at this location: (☐) Yes (☒) No

Attach a copy of the last Business Annual Report filed.

Is the proposed project located within the boundary of a Central New York Regional Transportation (Centro) District? (☒) Yes (☐) No

- G. 1. Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings and other existing structures or facilities) and attach plot plans, photos or renderings, if available.

SEE ATTACHED

2. If construction or renovation work on this project has already begun, please describe the work in detail.

Limited demolition pursuant to a demolition permit

3. What is the estimated useful life of the:

a. Facility: 40 years

b. Equipment: 20 years

- H. List the principal items or categories of equipment to be acquired as part of the project.

Elevators, appliances, HVAC and venting

- I. If any of this equipment has already been purchased or ordered, please attach all invoices and purchase orders and list amounts paid and dates of expected delivery as well as a brief description:

N/A

- J. If the construction or operation of the proposed project will require any local ordinance or variance to be obtained or requires a permit or prior approval of any state or federal agency or body (other than normal occupancy/construction permits), please specify:

NYS SHPO Part 2 approval (received)

National Park Service Part 2 approval (received)

- K. Will the project have a significant effect on the environment, YES () NO (x). If YES, please describe the effect. **Important: please attach Environmental Assessment Form to this Application**
-
-
-

- L. Will a related real estate holding company, partnership or other entity be involved in the ownership structure of the Transaction? YES () NO (x) If YES, please explain:
-
-
-
-

M. 1. With regard to the present owner of the project site, please give:

Name: Lahinch Utica III LLC

Address: 449 S Salina Street Suite 200
Syracuse NY 13202

Telephone Number: 315-476-1010

2. If the applicant already owns the project site, indicate:

a. date of purchase: 4/1/21

b. purchase price: 1,100,000

3. If the project site is mortgaged, please indicate:

a. balance of mortgage: 880,000

b. holder of mortgage: First Source FCU

N. Is there a relationship, legally, by virtue of common control, or through related persons, directly or indirectly, between the applicant and the present owner of the project site?
YES (x) NO () If YES, please explain:

The applicant is the present owner

O. Is the company currently a tenant in the building to be occupied?

YES () NO (x)

P. Are you planning to use/develop the entire proposed facility?

YES (x) NO ()

If NO, give the following information with respect to present tenants:

1. Present Tenant Information

a.	<u>Name of Business</u>	<u>Floors Occupied</u>	<u>Square Feet Occupied</u>	<u>Nature of Tenant's Business</u>
----	-------------------------	------------------------	-----------------------------	------------------------------------

No current tenants

b. Which of the above tenants will be vacating upon your initial use of the facility? How many jobs will be affected?

<u>Name of Firm</u>	<u>Jobs</u>	<u>Square Footage Now Occupied</u>
---------------------	-------------	------------------------------------

N/A

c. For those tenants who will remain after your initial occupancy of the site, provide the following transaction:

<u>Name of Tenant</u>	<u>Term of Lease</u>	<u>Renewal Options</u>	<u>Square Footage Now Occupied</u>
-----------------------	----------------------	------------------------	------------------------------------

To be determined

Are any of the above tenants related to the owner of the facility? YES () NO (x)

d. If the applicant will be occupying the premises of any of the tenants listed in (c) when their lease expires, please list.

N/A

e. Please provide copies of all present lease(s) at the proposed project site.

- f. Do you propose to lease part of the project facility to firms not presently tenants?

YES (x) NO () If YES, provide details of your proposals:

Apartments will be leased in the future. We are currently marketing the property to potential commercial tenants but have no commitments yet from commercial tenants.

- g. Will financing by the Agency for the Project result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area in the State of New York? YES () NO (x)

If the answer is YES, please explain briefly the reasons for the move.

Is the proposed project reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the State of New York?

YES () NO (x)

Is the proposed project reasonably necessary to preserve the competitive position of the project occupant in its respective industry? YES () NO (x)

- h. If any of the parties who will be tenants in this project are related to or affiliated with the applicant, please identify them:

N/A

1. Please attach any written agreements (e.g., options, purchase contracts, invoices, etc.) concerning the acquisition of the real property or equipment for this proposed facility.

2. Employment *

- a. List your present employment in the City of Utica, if any, and an estimate of the employment at the proposed facility at the end of two years. NOTE: New York State considers Full Time employment as 35 hours or more. Full-time jobs, plus the combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position (35 or more hours).

Employment	Current # of applicant's jobs at/or to be located at proposed project location	Number of FTE jobs to be RETAINED	Number of FTE jobs to be CREATED two years after project completion	Estimate number of residents in Labor Market Area that will fill projected jobs two years after project completion
Full-Time (FTE)	0	0	17	17

The Labor Market Area consists of the following counties: Oneida, Lewis, Herkimer, Otsego, Madison and Oswego

- b. Characterize the labor force to be associated with this project location according to the following categories:

Category	Current/ Anticipated	Avg Salary or Salary Range	Avg Fringe Benefits or Range
Officers	0/0		
Sales/Supervisory	0/0		
Clerical	0/0		
Plant/Production	0/0		
Other (specify)	0/17	TBD	TBD

Notes: All jobs at the building will be created by tenants occupying the commercial spaces.

- c. Estimate the Annual Payroll for the employees associated with the project location.

Currently	End of Year One	End of Year Two
\$ 0	\$ 0	\$ 425,000

*** Company/Applicant will be required to submit Annual Project Monitoring Reports (attached) along with a copy of the NYS 45 (four quarters) for a minimum of five (5) years for any commercial project and ten (10) years for any industrial/manufacturing project, or for the length of UIDA involvement in the project. Annual Project Monitoring Reports will be compared to employment counts as stated above and companies whose reported counts fall below those levels above will be subject to the Agency's Recapture Provisions Policy.**

Sources of Funds for Project Costs:

		% of Total project costs
Bank Financing:	\$ <u>11,308,113</u>	<u>48%</u>
Equity (excluding equity attributed to grants/tax credits)	\$ <u>1,617,987</u>	<u>7%</u>
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)	\$ <u>10,759,362</u>	<u>45%</u>

Identify each state and federal grant/credit:

<u>Restore NY</u>	\$ <u>4,000,000</u>
<u>CFA</u>	\$ <u>1,000,000</u>
<u>Federal HTC's</u>	\$ <u>3,403,588</u>
<u>NYS HTC's</u>	\$ <u>3,105,774</u>

Total Sources of Funds for Project Costs: \$ 23,685,461 100%

Have any of the above costs been paid or incurred as of the date of this Application?

☐ Yes ☒ No. If Yes, describe particulars: _____

Mortgage Recording Tax Exemption Benefit: Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ 11,308,113

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage \$ 84,811

Amount as indicated above multiplied by 0.75%):

Please Note: The New York State General Municipal Law was recently amended to reflect that industrial development agencies are not exempt from the additional mortgage recording tax of .25% that is assessed to properties that are located within a regional transportation district. Oneida County is located within the Central New York Regional Transportation District; as such, all UIDA projects will be exempt from .75% of mortgage recording tax, but must pay .25% of mortgage recording tax, which will be directed to the Transportation District.

3. Estimated Project Cost

Listed the costs necessary for the construction, acquisition or renovation of the project (this should NOT include working capital needs, moving expenses, work in progress, stock in trade, applicant's debt repayment, real estate broker fees or your legal fees):

Acquisition of Land	\$ _____
Acquisition of Building(s)	\$ _____
Renovation Costs	\$ _____
New Construction of Buildings	\$ <u>14,524,107</u>
Machinery and Equipment (taxable) (other than furniture costs)	\$ <u>2,343,836</u>
Machinery and Equipment (non-taxable)	\$ _____
Furniture and Fixtures	\$ _____
Installation Costs	\$ _____
Architectural/Engineering Fees	\$ <u>397,500</u>
Fees (other than your own counsel and brokerage fees)	\$ <u>2,438,307</u>
Interest on Interim Financings	\$ <u>1,237,963</u>
Other (specify) Title, counsel, commissions insurance, tax on grant income	\$ <u>2,743,748</u>
Total Project Cost	<u>23,685,461</u>
	\$ _____

Sales and Use Tax: 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:

\$ 9,014,180

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):

\$ 788,741

4. Real Estate Taxes

List separately the proposed project's Real Estate Taxes and/or Assessed Value as it applies to land and building:

Project's	Real Estate Taxes	Assessed Value
Land(s)	\$ 4,884	\$ 73,000
Building(s)	\$ 28,566	\$ 427,000
Total	\$33,450	\$500,000

Calculate the value of the PILOT exemption anticipated for the project described:

\$ 634,338

5. Project Schedule

Indicate the estimated dates for the following:

- a. Construction commencement: July 1, 2023
- b. Construction completion: June 30, 2024
- c. Project financing: List the dates and in what amounts the estimated funds will be required:

During construction, we have the following sources: \$1,000,000 in owner equity,
\$5,858,425 in HTC equity, \$650,936 HTC Bridge Loan, \$2,821,257 Grant
Bridge Loan, \$11,308,113 in Construction Loan, all closing June 2023

- d. Indicate the name of the incorporated municipality in which the facility will be located and the applicant's (or any related entity's) estimated capital expenditures in such municipality during the past three years:

City of Utica (related parties have made over \$25MM in capital investments in the last 3 years)

- e. What do you expect the applicant's (or any related entities) capital expenditures to be in the above municipality during the next three years (including this project):

This project \$23MM, other projects over \$22MM

- f. If the applicant or any related entity has previously secured the benefit of tax exempt financing in the City of Utica, whether through IDA, the New York Job Development Authority or any other entity, please explain (indicate date, location of financed facility, and outstanding balance):

No tax exempt financing. However, we note that GSCB LLC and Utica Travelers

Building LLC each received inducements from the Utica IDA in the form of

sales tax exemption, mortgage recording tax exemption and a PILOT Agreement.

- g. Has the applicant or any related entity received the benefit of tax exempt financing anywhere within the United States within the past 90 days or is the applicant or any related entity contemplating the receipt of such financing assistance within the next 90 days? YES () NO (x) if YES, please explain.

No tax exempt financing. However, we note that GSCB LLC and Utica Travelers

Building LLC each received inducements from the Utica IDA in the form of

sales tax exemption, mortgage recording tax exemption and a PILOT Agreement.

6. Project Financing Efforts

IT IS THE APPLICANT'S RESPONSIBILITY TO SECURE A PURCHASER FOR IDA BONDS ISSUED IN CONJUNCTION WITH THIS PROJECT. Below are a series of questions relating to your efforts to secure financing for your project if IDA approval is granted.

- A. Has the applicant contacted any bank, financial/lending institution or private investor in regard to the financing for this project? YES (x) NO () If YES, please give details:

We have lined up HTC equity from Berkshire Bank in the approximate

amount of \$6.5MM. Currently negotiated construction and permanent

financing with lenders, including Berkshire Bank.

B. Have you obtained a financial commitment for this project? YES () NO (x)

1. If YES, please briefly describe this commitment and attach related correspondence:

2. If NO, please explain how you will be able to finance this project:

Conventional construction loan and permanent financing
plus an HTC bridge loan from Berkshire and a Grant Bridge
Loan from another lender

C. Are there any other governmental agencies that you have contacted concerning financial assistance in regard to your proposed project? YES (x) NO () If YES, please explain:

Empire State Development with respect to the Restore NY grant and the
CFA grant

D. 1. Will the applicant's obligations be guaranteed, and if so, by whom?

Yes, by Joseph Gehm, Steve Surace, and DRL LLC

2. Is the guarantor related to or affiliated with the applicant?

Yes

E. Financial Information (Attach the Following).

1. Financial Statements for the last three fiscal years.
2. Pro forma Balance Sheet as at start of operations at project site.
3. Projected Profit and Loss Statements for first two years of operation at project site.
4. Projected "Cash Flow" Statement, by quarters, for first year of operation at project site.

REPRESENTATIONS AND CERTIFICATION BY APPLICANT

The undersigned requests that this Application be submitted for review to the City of Utica Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

1. **Annual Sales Tax Filings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the 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.
2. **Annual Employment Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax benefits received with the action of the Agency. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
3. **Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
4. **Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, 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 (A) 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, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) 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. If, for any reason, 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 Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, 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.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. 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.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would 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 or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
9. 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.
10. 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 the Project.

11. 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 provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

12. The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent 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.

STATE OF NEW YORK)
COUNTY OF ~~ONEIDA~~ Onondaga) ss.:

Joseph G. Chen, being first duly sworn, deposes and says:

1. That I am the Member (Corporate Office) of Lahinch Utica III LLC (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.


(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 31st day of May, 2023

Charlene E. Mignacca
(Notary Public)

Charlene E. Mignacca
Notary Public, State of New York
Registration No. 01M10003208
Qualified in Onondaga County
Commission Expires March 21, 2027

If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

By: _____

Name: _____

Title: _____

Date: _____

Return the original application and six copies with a check in the amount of \$250.00 made payable to: Utica Industrial Development Agency, 1 Kennedy Plaza, Utica, New York, Attn.: Jack N. Spaeth, Executive Director.

**UTICA INDUSTRIAL DEVELOPMENT AGENCY
COST/BENEFIT ANALYSIS
Required by §859-a(3) of the
New York General Municipal Law**

TO BE ATTACHED TO AND MADE PART OF APPLICATION TO THE AGENCY

Name of Applicant: Lahinch Utica III LLC

Address of Project: 239 Genesee St Utica NY

Description of Project:

The development team is taking a vacant, blighted property and turning it into 47-market rate apartments and ground floor retail/commercial space along Bank Place

Name of all Sublessees or Other Occupants of Facility:

Tenants not yet identified

Principals or Parent Company of Applicant:

REGS Enterprises LLC, Joseph Gehm ,Morrisroe Lynn Development LLC, Krafts Island LLC, LD EXEC IX LLC

Principals of any Sublessee or Occupant:

Product/Services of Applicant:

Single purpose real estate entity

Estimated Completion Date of Project: 6/2024

Type of Financing/Structure:

☐ Tax-Exempt Financing
☐ Taxable Financing
☒ Lease/Leaseback, Sale/Leaseback
☐ Other

Explain: _____

Tax-Exempt Bonds

 x Sales Tax Until Completion Date

x Mortgage Tax Abatement

x Real Property Tax Abatement

Land	\$ _____	Cost per Acre \$ _____
Existing Building	\$ _____	
Rehab of Existing Building	\$ 14,524,107	
Construction of New Building	\$ _____	Cost per Sq Ft \$ _____
Addition or Expansion	\$ _____	Cost per Sq Ft \$ _____
Engineering and Architectural Fees	\$ 397,500	
Equipment (detail below)	\$ 2,343,836	
Legal Fees		
Bank, Bond, Transaction, Company,		
Credit Provider, Trustee	\$ 150,000	
Finance Charges		
Title Insurance, Environmental		
Review, Bank Commitment Fee,		
Appraisals, etc.	\$ 6,270,018	
TOTAL COST OF PROJECT	\$ 23,685,461	

Type of Equipment to be Purchased	
Elevators, HVAC equipment, appliances, fire equipment	

Restore NY	\$ 4,000,000
CFA (ESD)	\$ 1,000,000
National Grid	\$ 250,000

Existing Jobs	0
Created Jobs (by year 3)	17
Retained Jobs	0

BENEFITS

Taxable Goods and Services

		Spending Rate	Wages	Expenditures	Sales Tax Rate	State/ Local Sales Tax Revenues
Direct Jobs						
<u>0</u>	Created	36.0%	x _____	= _____	x 8.75%	= _____
_____	Existing	36.0%	x _____	= _____	x 8.75%	= _____
Indirect Jobs						
<u>17</u>	Created	36.0%	x <u>425,000</u>	= <u>153,000</u>	x 8.75%	= <u>13,388</u>
_____	Existing	36.0%	x _____	= _____	x 8.75%	= _____
<u>270</u>	Construction	36.0%	x <u>10,800,000</u>	= <u>3,888,000</u>	x 8.75%	= <u>340,200</u>
	Totals		_____	_____		_____
						x 3 years = <u>1,060,764</u>

Real Property Taxes

Local (3 year) real property tax benefit (assuming 30 % of jobs existing and created own a residence with an average assessment of \$ 75,000 and the remainder of jobs existing and created pay real property taxes through rent based on an average assessment per apartment of \$ 25,000 Current tax rate: 66.25/\$1000 of AV

Real Property Taxes Paid \$ 136,182

3 Yr Comparative Benefits \$ 1,196,946

COSTS

Real Property Taxes Abated on Improvements only (3-year period) \$ 184,941

Mortgage Tax Abated \$ 84,811

Estimated Sales Tax Abated During Construction Period \$ 788,741

3 Yr Comparative Costs \$ 1,058,493

(If there is tax-exempt financing of all or a portion of the project cost, there is a neutral cost/benefit because of lower interest rates by reason of exclusion of interest from gross income of bondholders for purposes of Federal and State income taxes. Taxable financing carries the same cost/benefit for State Income Tax purposes. Such cost/benefits cannot be qualified.)

**City of Utica Industrial Development Agency
One Kennedy Plaza, Utica, New York 13502**

RETAIL DETERMINATION

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.

Please answer the following:

- A.** Will any portion of the project 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 or ☐ No. If the answer is yes, please continue.

For purposes of Question A, the term “retail sales” means (i) sales by a registered vendor under Article 28 of the Tax Law of the State 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 (ii) sales of a service to customers who personally visit the Project.

- 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? 20 %
If the answer is less than 33% do not complete the remainder of the retail determination.

If the answer to 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 or ☐ No.

2. Is the Project location or facility likely to attract a significant number of visitors from outside the City of Utica?

☐ Yes or ☐ No

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

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

☐ Yes or ☐ 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 or ☐ No.

If yes, explain _____

5. Is the project located in an area that has been designated an Empire Zone? ☐ Yes or ☐ No

The undersigned hereby certifies that the information contained in this Retail Determination is true, accurate and complete.

Print Name of Applicant: Lahinch Utica III LLC

Print Name of Authorized Representative: Joseph Gehm

Title: Member

Signature: _____

Date: _____

RESOLUTION OF THE CITY OF UTICA INDUSTRIAL
DEVELOPMENT AGENCY TAKING OFFICIAL ACTION IN
CONNECTION WITH A LEASE-LEASEBACK
TRANSACTION FOR THE LAHINCH UTICA III LLC
FACILITY, APPOINTING LAHINCH UTICA III LLC AND/OR
AN ENTITY FORMED OR TO BE FORMED ON ITS
BEHALF AS AGENT OF THE ISSUER FOR THE PURPOSE
OF RENOVATING, REHABILITATING AND EQUIPPING
THE FACILITY, AND AUTHORIZING THE EXECUTION
AND DELIVERY OF AN INDUCEMENT AGREEMENT.

WHEREAS, Lahinch Utica III LLC, on behalf of itself and/or the principals of Lahinch Utica III LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the City of Utica Industrial Development Agency (the "Agency") to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of an six-story historic commercial building measuring 70,150± square feet commonly known as the "Mayro Building" into a mixed-use building with 47 units of market rate residential units with common area amenities and retail/commercial space (collectively, the "Improvements") situated on a parcel of land measuring ____± acres in the aggregate located at 239 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"), including, without limitation, the following as they relate to the partial demolition, renovation, rehabilitation and equipping of such Facility, whether or not any materials or supplies described below are incorporated into or become an integral part of such Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with the partial demolition, renovation, rehabilitation and equipping, and (ii) purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with partial demolition, renovation, rehabilitation and equipping and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under such building; and

WHEREAS, the Company owns the Facility and will lease the Facility to the Agency; and

WHEREAS, the Facility will be leased back to the Company or such other person as may be designated by the Company and agreed upon by the Agency, pursuant to

Article 18-A of the General Municipal Law of the State of New York and Chapter 710 of the Laws of 1981 of the State of New York, as may be amended from time to time (collectively, the “Act”); and

WHEREAS, the Company will further sublease portions of the Facility to residential tenants, to be identified from time to time (the “Residential Sublessees”); and

WHEREAS, the Company will further sublease portions of the Facility to commercial and/or retail tenants, to be identified (the “Commercial Sublessees” and together with the Residential Sublessees, the “Sublessees”); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of:

- Exemptions from sales and use taxes on materials and equipment purchased in connection with the Project, the value of which is estimated at \$788,741; and
- Exemptions from mortgage recording taxes, the value of which is estimated at \$84,811; and
- Abatement of real property taxes for a period of twelve years, the value of which is estimated at \$634,338, during which time the Company will make the following payments:

Yr 1	no taxes
Yr 2 – Yr 8	100% of taxes on base assessment*
Yr 9	100% of taxes on base assessed value + 20% of taxes on increase between base and final assessments **
Yr 10	100% of taxes on base assessed value + 40% of taxes on increase between base and final assessments
Yr 11	100% of taxes on base assessed value + 60% of taxes on increase between base and final assessments
Yr 12	100% of taxes on base assessed value + 80% of taxes on increase between base and final assessments

Yr 13

Full taxes based on final assessment

* Base assessed value is equal to the assessed value as determined by City Assessor on March 1, 2023

** Final assessed value is equal to assessed value upon completion of Project as determined by City Assessor

which financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"), to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, the Agency is contemplating deviating from Policy for the following reasons:

- ✓ The nature of the proposed Facility – **The mixed-use nature of the Facility will provide necessary amenities, is in furtherance of the Downtown Revitalization Initiative and is consistent with the Master Plan for the City of Utica. The Facility will also fill a demand for housing identified in the Vision2020 initiative and the City of Utica Housing Study.**
- ✓ The nature of the Facility before the project begins -- **The Mayro Building is an historic building that is underutilized and in need of rehabilitation.**
- ✓ The economic condition of the area at the time of the application – **the Facility is located in an area that has been designated an economic development zone pursuant to Article 18-B of the General Municipal Law, and is therefore located in a "highly distressed area" (as defined in Section 854(18) of the New York General Municipal Law) because the Facility is located in a former Empire Development Zone as described in Article 18-B of the General Municipal Law**
- ✓ The impact of the proposed Facility on existing and proposed businesses and economic development projects in the vicinity – **redeveloping and stabilizing the Facility will help to revitalize downtown Utica and will support and complement new and future projects, including the Mohawk Valley Health Services downtown campus, the Nexus Center and the Wolfsped facility.**
- ✓ The extent to which the Facility will retain and increase permanent, private sector jobs

- ✓ The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located – **as the building has been underutilized for several years, private development and ownership will be a boost to the local taxing jurisdictions by providing for additional real property tax revenues through a higher assessed value.**

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the financial assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, and such notice (together with proof of publication) will be substantially in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, prior to the closing of a lease-leaseback transaction, and the granting of any financial assistance, the Agency must make a finding that the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency; and

WHEREAS, the Company has submitted to the Agency a “Limited Scope Market Study Proposed Redevelopment Mayro Building, 239 Genesee Street, Utica, New York” prepared by Newmark Valuation and Advisory dated February 21, 2023 (the “Market Study”) to support said finding; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction, is either an inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

NOW, THEREFORE, BE IT RESOLVED by the City of Utica Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

- Section 1. (a) The partial demolition, renovation, rehabilitation and equipping of the Facility and the financing thereof by the Agency, through the lease of the Facility to the Company by the Agency pursuant to a lease-leaseback transaction will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of

the City of Utica and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved;

- (b) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction for the purpose of financing the costs of the partial demolition, renovation, rehabilitation and equipping of the Facility, together with necessary incidental expenses in connection therewith as reflected in the Company's application to the Agency and as amended from time to time prior to the closing of the sale-leaseback or lease-leaseback transaction.
- (c) Based on the Market Study and representations made by the Company in the Application, the Project will promote employment opportunities and prevent economic deterioration in the area served by the Agency.

Section 2. The form and substance of a proposed inducement agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the closing of the lease-leaseback transaction, and the development of the Facility (the "Agreement") are hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3. Subject to the conditions set forth in Section 4.02 of the Agreement, the Agency shall (i) partially demolish, renovate, rehabilitate and equip the Facility, (ii) lease (with an obligation to purchase) the Facility to the Company pursuant to an agreement by and between the Agency and the Company whereby the Company will be obligated, among other things, to make payments to or for the account of the Agency.

Section 4. The Company is herewith and hereby appointed the agent of the Agency to partially demolish, renovate, rehabilitate, equip and complete the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to partially demolish, renovate, rehabilitate, equip and complete the Facility.

The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman or Executive Director of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services, and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

- Section 5. The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel and Agency Counsel in connection with the sale-leaseback or lease-leaseback transaction.
- Section 6. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the sale-leaseback or lease-leaseback transaction.
- Section 7. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.
- Section 8. This resolution shall take effect immediately.

STATE OF NEW YORK }
COUNTY OF ONEIDA } ss:

I, the undersigned Assistant Secretary of the City of Utica Industrial Development Agency DOES HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the City of Utica Industrial Development Agency (the "Agency"), with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on June 7, 2023 at 9:00 a.m. local time, at Utica, New York which the following members were:

Members Present:
Members Excused:
Also Present:

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

and, therefore, the resolution was declared duly adopted.

The Agreement and the Application are in substantially the form presented to and approved at such meeting.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand on June 7, 2023.

Jack N. Spaeth, Assistant Secretary

EXHIBIT A NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the City of Utica Industrial Development Agency (the "Agency") on the ____ day of June 2023 at ____ a.m., local time, at Utica City Hall, Urban & Economic Development conference room, Second Floor, One Kennedy Plaza, Utica, New York in connection with the following matters:

Lahinch Utica III LLC, on behalf of itself and/or the principals of Lahinch Utica III LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of an six-story historic commercial building measuring 70,150± square feet commonly known as the "Mayro Building" into a mixed-use building with 47 units of market rate residential units with common area amenities and retail/commercial space (collectively, the "Improvements") situated on a parcel of land measuring ____ ± acres in the aggregate located at 239 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"). The Facility will be initially leased, operated and/or managed by the Company.

The Company owns the Facility and will lease the Facility to the Agency, and the Agency will lease the Facility back to the Company. The Company will sublease portions of the Facility to residential tenants to be identified from time to time, and will sublease the commercial/retail portion of the Facility to a commercial and/or retail tenants. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and abatement of real property taxes for a period of twelve years, which proposed financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

A representative of the Agency will at the above-stated time and place hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Comments may also be submitted to the Agency in writing or electronically prior to the Public Hearing. Minutes of the Public Hearing will be transcribed and posted on the Agency's website. A copy of the Application for Financial Assistance filed by the Company with the Agency, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the Agency, One Kennedy Plaza, Utica, New York and on the Agency's website.

CITY OF UTICA INDUSTRIAL
DEVELOPMENT AGENCY

Dated: June __, 2023

By: /s/ Vincent J. Gilroy, Jr., Chairman

EXHIBIT B

MINUTES OF PUBLIC HEARING HELD ON JUNE __, 2023

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY
2023 LEASE-LEASEBACK TRANSACTION
(LAHINCH UTICA III LLC FACILITY)

-
1. Jack N. Spaeth, Executive Director of the City of Utica Industrial Development Agency (the "Agency"), called the hearing to order.
 2. The Executive Director, also being the Assistant Secretary of the Agency, recorded the minutes of the hearing.
 3. The Executive Director then described the proposed financial assistance and the location and nature of the Facility as follows:

Lahinch Utica III LLC, on behalf of itself and/or the principals of Lahinch Utica III LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of an six-story historic commercial building measuring 70,150± square feet commonly known as the "Mayro Building" into a mixed-use building with 47 units of market rate residential units with common area amenities and retail/commercial space (collectively, the "Improvements") situated on a parcel of land measuring ____± acres in the aggregate located at 239 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility"). The Facility will be initially leased, operated and/or managed by the Company.

The Company owns the Facility and will lease the Facility to the Agency, and the Agency will lease the Facility back to the Company. The Company will sublease portions of the Facility to residential tenants to be identified from time to time, and will sublease the commercial/retail portion of the Facility to commercial and/or retail tenants. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency contemplates that it will provide financial assistance to the Company in the

form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and abatement of real property taxes for a period of twelve years, which proposed financial assistance represents a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

4. The Executive Director then opened up the hearing for comments from the floor for or against the proposed financial assistance and the location and nature of the Facility. The following is a listing of the persons heard and a summary of their views:
5. The Executive Director then asked if there were any further comments, and, there being none, the hearing was closed at _____ AM.

Jack N. Spaeth, Assistant Secretary

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

I, the undersigned Assistant Secretary of the City of Utica Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held virtually by the City of Utica Industrial Development Agency (the "Agency") on June __, 2023 at _____ a.m. local time, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

I FURTHER CERTIFY that (i) the hearing was a public meeting open for the public to attend in person and public notice of the time, date and location of said hearing was duly given, (ii) the hearing in all respects was duly held, and (iii) members of the public had an opportunity to be heard.

IN WITNESS WHEREOF, I have hereunto set my hand as of June __, 2023.

Jack N. Spaeth, Assistant Secretary

EXHIBIT C

(To be copied on Agency letterhead and delivered to the Company when appropriate.)

June __, 2023

Timothy M. Lynn, Member
Lahinch Utica III LLC
449 South Salina Street, Suite 200
Syracuse, New York 13202

Re: *City of Utica Industrial Development Agency 2023 Lease-Leaseback Transaction
(Lahinch Utica III LLC Facility)*

Dear Mr. Lynn:

Pursuant to a resolution duly adopted on June 7, 2023, the City of Utica Industrial Development Agency (the "Agency") appointed Lahinch Utica III LLC, on behalf of itself and/or the principals of Lahinch Utica III LLC, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") the true and lawful agent of the Agency to enter into a transaction in which the Agency will assist in the acquisition, partial demolition, historic rehabilitation and renovation of an six-story historic commercial building measuring 70,150± square feet commonly known as the "Mayro Building" into a mixed-use building with 47 units of market rate residential units with common area amenities and retail/commercial space (collectively, the "Improvements") situated on a parcel of land measuring ____ ± acres in the aggregate located at 239 Genesee Street, City of Utica, Oneida County, New York (the "Land"), and the acquisition and installation of equipment in the Improvements (the "Equipment"), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica (the Land, the Improvements and the Equipment referred to collectively as the "Facility" and the partial demolition, renovation, historic rehabilitation and equipping of the Facility referred to collectively as the "Project").

It is the intent of the Agency that this agency appointment include, from the effective date of such appointment, authority to purchase, lease and otherwise use on behalf of the Agency all materials, equipment, goods, services and supplies to be incorporated into and made an integral part of the Facility and also include the following activities as they relate to the Project, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of the Facility: (i) all purchases,

leases, rentals and other uses of tools, machinery and equipment in connection with the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with the Project including all utility services and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such building, including all repairs and replacements of such property.

The agency appointment includes the power to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Company and to such other parties as the Company chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described.

In exercising this agency appointment, the Company, its agents, subagents, contractors and subcontractors, should give the supplier or vendor a copy of this letter to show that the Company, its agents, subagents, contractors and subcontractors are each acting as agent for the Agency. Construction contracts, purchase orders and other agreements relating to the project should be executed by the Company, or any sub-agent appointed by the Company, as agent of the Agency. Also, purchases must be billed or invoiced by the vendor to the Company, or any sub-agent appointed by the Company, as agent of the Agency (e.g. "Lahinch Utica III LLC as agent for the City of Utica Industrial Development Agency"). The supplier or vendor should identify the Facility as the **"Lahinch Utica III LLC Facility"** on each bill or invoice and indicate thereon that the Company, its agents, subagents, contractors and subcontractors acted as agent for the City of Utica Industrial Development Agency in making the purchase. You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Facility must execute a copy of the Contract in Lieu of Exemption Certificate attached hereto, and must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each Contract in Lieu of Exemption Certificate and completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Company which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of acquiring, renovating and equipping the Facility. **Failure to comply with these requirements may result in loss of sales tax exemptions for the Facility.**

You should be aware that the New York State General Municipal Law requires you to file with the New York State Department of Taxation and Finance Form ST-340 (Annual

Timothy M. Lynn
June __, 2023
Page 3

Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority) regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect to this Project. This statement must be filed on an annual basis for as long as the Company is claiming a sales tax exemption. **The penalty for failure to file such statement is the removal of your authority to act as an agent.**

The value of exemptions from sales and use taxes on materials and equipment currently authorized by the Agency shall not exceed \$788,741 in the aggregate. If the exemptions claimed by the Company exceed (a) \$100,000.00 for purchases made between June 7, 2023 and the date of the public hearing or (b) \$788,741 in the aggregate, it may subject the Company to recapture of the New York State portion of sales tax.

The aforesaid appointment of the Company as agent of the Agency to renovate, rehabilitate and equip the Facility shall expire on June , 2024. If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files.

Very truly yours,

CITY OF UTICA INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Jack N. Spaeth, Executive Director

ACCEPTED and AGREED

LAHINCH UTICA III LLC

By: _____
Timothy M. Lynn
Member

TO: All Contractors, Subcontractors,
Suppliers and Vendors, etc. of
Lahinch Utica III LLC

Attached please find a "Contract in Lieu of Exemption Certificate" (the "Contract") which will serve as documentation for not charging Lahinch Utica III LLC (the "Company") sales or use tax in connection with any purchase, lease, rental or other use of materials, equipment, goods, services or supplies at the facility to be owned or leased by the City of Utica Industrial Development Agency (the "Agency") and described in Addendum A to the aforesaid Contract (the "Facility").

Also attached is a letter signed by the Agency appointing the Company as its agent for the purpose of partially demolishing, renovating, rehabilitating and equipping the Facility. This letter authorizes the Company to delegate its authority as agent of the Agency to its agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company authorizes.

In accordance with the authority granted to the Company by the Agency, you are hereby appointed as agent of the Agency for the purpose of making purchases or leases of materials, equipment, goods, services and supplies with respect to the Facility. **Your appointment as agent of the Agency is contingent upon your completing the attached Form ST-60 and returning it to us and the Form ST-60 then being filed by the Agency with the New York State Department of Taxation and Finance.**

Very truly yours,

LAHINCH UTICA III LLC

By: _____

Name:

Title:

cc: City of Utica Industrial Development Agency

CONTRACT IN LIEU OF EXEMPTION CERTIFICATE

This Contract is entered into by and between **LAHINCH UTICA III LLC** (the "Company"), as agent for and on behalf of the City of Utica Industrial Development Agency, a public benefit corporation and a governmental agency of the State of New York (the "Agency") in connection with the renovation, rehabilitation, equipping and completion of the facility described in Addendum A hereto (the "Facility") and the contractor or the subcontractor more particularly described on page 2 hereof (the "Contractor").

Pursuant to the authority granted to the Company, as agent of the Agency, the Contractor is hereby appointed agent of said Agency for purposes of completing, executing or otherwise carrying out the obligations imposed under this Contract.

The Contractor acknowledges that the Agency has acquired or will acquire title to or a leasehold interest in the Facility and the Agency is a public benefit corporation and governmental entity of the State of New York. By reason of such status, Agency and its agents acting on its behalf are exempt from payment of all New York State and local sales and use taxes on the purchase or lease of all materials, equipment, goods, services and supplies incorporated into and made an integral component part of any structure, building or real property which becomes the property of Agency, and all equipment, machinery and other tangible personal property (including installation costs with respect thereto) which becomes the property of Agency or in which the Agency has a leasehold interest. In addition, Agency and its agents acting on its behalf are exempt from all sales and use taxes arising out of or connected with the following, as they relate to performance under this Contract: (i) purchases, leases, rentals and other uses of tools, machinery and equipment, and (ii) purchases, leases, rentals, uses or consumption of supplies, goods, materials and services of every kind and description; provided, however, that exemption from sales and use tax with respect to clauses (i) and (ii) above shall apply only if the Contractor is then acting as agent for Agency under the terms of this Contract.

Pursuant to these exemptions from sales and use taxes, the Contractor shall not include such taxes in its contract price, bid, or reimbursable costs, as the case may be. If the Contractor does not comply with the requirements for sales and use tax exemptions, as described above, then it shall be responsible for and pay any and all applicable New York State sales and use taxes, and no portion thereof shall be charged or billed to the Agency or the Company directly or indirectly, the intent of this Contract being that neither Agency nor the Company shall be liable for any of the sales or use taxes described above. This Contract may be accepted by the Contractor in lieu of an exemption certificate, and the Contractor shall retain a copy hereof to substantiate the sales and use tax exemption.

The aforesaid appointment of the Company as agent of the Agency to renovate, rehabilitate and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) June 7, 2024, provided, however, such

appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

The value of exemptions from sales and use taxes on materials and equipment currently authorized by the Agency shall not exceed \$788,741 in the aggregate. If the exemptions claimed by the Company exceed (a) \$100,000.00 for purchases made between June 7, 2023 and the date of the public hearing or (b) \$788,741 in the aggregate, it may subject the Company to recapture of the New York State portion of sales tax.

The Agency shall have the right to assign this Contract to the Company by written notice to the Contractor and without written consent of the Contractor, in which case Agency shall be relieved of all obligations hereunder. In the event of such assignment, all applicable sales and use taxes shall be added to the purchase price and paid to the Contractor pursuant to a change order. All of the above provisions with respect to exemptions for New York State sales and use taxes shall apply to all subcontractors and other parties in privity of contract with the Company, Agency or the Contractor pursuant to the terms of this Contract.

OWNER:

LAHINCH UTICA III LLC

[Insert name of Contractor or
Subcontractor]

as agent for and on behalf of the City of
Utica Industrial Development Agency

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

DATE: _____

DATE: _____

Address of Contractor or
Subcontractor:

cc: City of Utica Industrial Development Agency

ADDENDUM A

DESCRIPTION OF THE FACILITY

The acquisition, partial demolition, historic rehabilitation and renovation of an six-story historic commercial building measuring 70,150± square feet commonly known as the “Mayro Building” into a mixed-use building with 47 units of market rate residential units with common area amenities and retail/commercial space (collectively, the “Improvements”) situated on a parcel of land measuring ____± acres in the aggregate located at 239 Genesee Street, City of Utica, Oneida County, New York (the “Land”), and the acquisition and installation of equipment in the Improvements (the “Equipment”), all for the adaptive reuse of the Improvements to lease to commercial and/or retail and/or residential tenants in furtherance of the Downtown Revitalization Initiative, the Oneida County Vision2020 initiative and the City of Utica Housing Study, and to enhance economic development and retain employment in downtown Utica.