

TOWN OF LANCASTER
INDUSTRIAL DEVELOPMENT AGENCY
21 Central Avenue
Lancaster, NY 14086
(716) 683-1610

web: lancasternyida.com
e-mail: lida@lancasterny.gov

AGENDA
REGULAR MEETING OF
LANCASTER INDUSTRIAL DEVELOPMENT AGENCY

TUESDAY, MARCH 13, 2018 AT 8:30 AM

HELD AT
LANCASTER TOWN HALL
21 CENTRAL AVENUE, LANCASTER, NY 14086

PLEDGE OF ALLEGIANCE: CHAIR COLEMAN

PUBLIC HEARING: NONE

REGULAR MEETING:

Call to order by Chair Coleman at

Roll Call: Present: Frank Fialkiewicz
 Alan Kurtzman
 Steven Hoffman
 Jesse Nikonowicz
 Kenneth O'Brien
 David Visone
 Chair Coleman

Excused:

Absent:

Also Present: Richard Grimm, III, General Counsel/Bond Counsel
 Robert Benzel, Chief Executive Officer
 David J. Brown, Chief Financial Officer
 Paul Leone, Consultant

REGULAR MEETING

Presentation of Minutes from February 13, 2018 meeting: Motion by Member _____
seconded by Member _____ and approved, corrected or denied.

Presentation of Financial Statement for period of February 13, 2018 to March 13, 2018: Motion by
Member _____, seconded by Member _____ and approved, corrected or
denied.

**PRESENTATION OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY FINANCIAL
STATEMENTS BY AUDITING FIRM OF DRESCHER & MALECKI LLP**

RESOLUTIONS:

1. RESOLUTION OF THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, BENDERSON PROPERTIES, INC. entered into a certain 2013 Project (the "Project") with the Town of Lancaster Industrial Development Agency (the "Agency") with respect to the acquisition or leasing and financing by the Agency of premises commonly known as 3615 Walden Avenue, in the Town of Lancaster, County of Erie, State of New York, ("Facility"); and

WHEREAS, pursuant to the Project, the Agency acquired a leasehold interest in the Facility pursuant to Lease to Agency, dated as of February 1, 2013 and leased the Facility back to BENDERSON PROPERTIES, INC. pursuant to Lease Agreement dated as of February 1, 2013 (collectively the "Lease Agreement"); and

WHEREAS, BENDERSON PROPERTIES, INC., conveyed and assigned its interests in the real property to 3615 WALDEN CENTRAL, LLC by Quit Claim Deed recorded on January 1, 2017 in the Erie County Clerk's Office in Liber 11307 of Deeds at Page 4615; and,

WHEREAS, in connection with the sale of the Facility to 3615 WALDEN CENTRAL, LLC, the Agency did not receive a request in advance by BENDERSON PROPERTIES, INC. for the Agency's consent to the assignment by BENDERSON PROPERTIES, INC. of its interests in the Lease Agreement to 3615 WALDEN CENTRAL, LLC and the assumption by 3615 WALDEN CENTRAL, LLC of all obligations of BENDERSON PROPERTIES, INC. thereunder; and

WHEREAS, due to the transfer to the unfamiliar party, the exemption was removed and the PILOT was lost for this year; and

WHEREAS, BENDERSON PROPERTIES, INC. will not pursue the lost PILOT for the one year and that the PILOT will continue in place and will expire on the date indicated in the original PILOT agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

- 1) The PILOT will continue in place and will expire on the date indicated in the original PILOT Agreement.
- 2) This resolution shall take effect immediately

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

MEMBER FIALKIEWICZ	VOTED
MEMBER HOFFMAN	VOTED
MEMBER KURTZMAN	VOTED
MEMBER NIKONOWICZ	VOTED
MEMBER O'BRIEN	VOTED
MEMBER VISONE	VOTED
CHAIR COLEMAN	VOTED

March 13, 2018

2. RESOLUTION OF THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") AUTHORIZING SALVATORE PROPERTIES, LLC (THE "LESSEE") TO REFURBISH AND EQUIP ITS GUEST ROOMS AND RESTAURANT LOCATED AT 6675 TRANSIT ROAD, TOWN OF LANCASTER, AND TO ACQUIRE AND INSTALL NON-MANUFACTURING EQUIPMENT, FURNISHINGS AND FIXTURES REQUIRED IN CONNECTION THEREWITH TO BE ACQUIRED BY THE AGENCY AND LEASED TO THE LESSEE, AND AUTHORIZE THE LESSEE TO RECEIVE BENEFITS INCLUDING MORTGAGE TAX ABATEMENT AND SALES TAX ABATEMENT.

WHEREAS, Salvatore Properties, LLC (the "Lessee" or "Applicant") has entered into negotiations with the officials of the Town of Lancaster Industrial Development Agency (the "Agency") with respect to the refurbishment and equipping of Lessee's guest rooms and restaurant at its existing facility located at 6675 Transit Road, Town of Lancaster, New York, and the refurbishment and installation of equipment, furnishings and fixtures by the Agency for lease to the Lessee to support such renovation (the "Project"); and

WHEREAS, the Applicant has submitted an Eligibility Questionnaire and other materials and information to the Agency (collectively hereinafter the "Eligibility Questionnaire") to initiate the accomplishment of the above; and

WHEREAS, the Eligibility Questionnaire sets forth certain information with respect to the Applicant, including the following: that the Applicant desires Agency assistance in connection with the refurbishment and installation of the equipment; that the Applicant presently employs approximately 80 full-time employees and 80 part time employees and it is anticipated that upon completion of the Project, the Applicant will employ 10 new full time employees and 10 new part time employees and that the availability of financing and/or other assistance by the Agency will facilitate the Applicant's ability to expand and upgrade Applicant's business within the Town of Lancaster; there will be no substantial adverse disruption of existing employment at facilities of a similar nature in the Town of Lancaster; the Applicant (through the Project) will continue to provide employment and substantial capital investment in the Town of Lancaster; and that Agency financing or other assistance is necessary to allow the Applicant to proceed with the Project in the Town of Lancaster; and

WHEREAS, the Agency does not require a public hearing on the Project pursuant to Section 859-A of the General Municipal Law so the assistance available by the Agency is limited to \$100,000 at this time; and

WHEREAS, the Agency desires to further encourage the Applicant with respect to the refurbishment and installation of the Project, if by so doing it is able to induce the Applicant to proceed with the Project in the Town of Lancaster to acquire the equipment, furnishings and fixtures required in connection therewith immediately; and

NOW, THEREFORE, THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby determines that the refurbishment and installation of the equipment, furnishings, and fixtures for the Project and the assistance thereof by the Agency pursuant to the New York State Industrial Development Agency Act (the "Act") will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further hereby determines, on the basis of the Eligibility Questionnaire and supplemental information furnished by the Applicant, as follows: (a) it would not have assisted the Project except to induce the Applicant to invest funds into the Project in the Town of Lancaster; (b) but for the availability of Agency assistance for the Project in the Town of

Lancaster, the Project would not be economically feasible; (c) there will be no substantial adverse disruption of existing employment or facilities of a similar nature to the Project in the Town of Lancaster; (d) the Applicant (through the Project) will provide substantial employment and substantial capital investment; (e) the Project as represented is reasonably necessary to advance the purposes of the Act, subject to verification and confirmation of such representations prior to the Agency entering an installment sale transaction; (f) that Agency financing or other assistance is necessary to encourage the Applicant to expand its investment in the Town of Lancaster; and (g) that the Project is an integral part of the Applicant's plans to upgrade and expand its business operations in the Town of Lancaster.

Section 2. The Agency hereby authorizes the Lessee to proceed with the Project as herein authorized. The assistance by the Agency shall be financed through a mortgage transaction with a lease and leaseback and to sales tax abatement on the purchase and installation of equipment, furnishings and fixtures required in connection therewith, with the estimated maximum cost to the Lessee of the Project not to exceed \$2,400,000.00.

Section 3. The Chairman, Vice Chairman, Treasurer and Secretary of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to cooperate with the Applicant to assist in the refurbishment of the Project.

Section 4. The Applicant is authorized to initiate the upgrading and expansion of its operations and the refurbishment and installation of equipment, furnishings and fixtures required in connection therewith. The Agency is hereby authorized to enter into such agreements with the Applicant as the Chairman, Vice Chairman, Secretary, Assistant Secretary or other authorized officer may deem necessary in order to accomplish the above.

Section 5. Any such action heretofore taken by the Applicant in initiating the refurbishment and installation of the Project is hereby ratified, confirmed and approved.

Section 6. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, officers, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project and the financing thereof.

Section 7. The provisions of this resolution shall continue to be effective until three years from the date hereof whereupon this resolution shall cease to be effective (except with respect to matters contained in Section 4 hereof) unless prior to the expiration of such period (a) the Agency shall by subsequent resolution extend the effective date of this resolution or (b) the Applicant shall continue to take affirmative steps to secure financing for the Project.

Section 8. The execution and delivery of an Agent Agreement and lease between the Agency and the Applicant and an Installment Sale Agreement between the Applicant and the Agency, each substantially in the form approved by the Agency for prior transactions or in form approved by the Chairman, Vice Chairman, Secretary or Assistant Secretary are hereby authorized. The Chairman, Vice Chairman, Secretary or Assistant Secretary or other officer of the Agency, are hereby authorized to execute and deliver an Agent Agreement and an Installment Sale Agreement. The Secretary and Assistant Secretary are hereby authorized to attest to the signatures on such agreements and affix the seal of the Agency, if required, on such agreements. The appropriate officers of the Agency are hereby authorized to execute, seal, acknowledge and deliver such other agreements and any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or

proper for carrying out this resolution. The execution and delivery of each such instrument shall be conclusive evidence of due authorization and approval.

Section 9. The Agency hereby determines, based upon information furnished to the Agency by the Applicant and such other information as the Agency has deemed necessary to make this determination, that the Project does not require the preparation of an environmental impact statement under the State Environmental Quality Review Act, being Article 8 of the New York State Environmental Conservation law ("SEQR"), as the contemplated actions are Type II actions that have been determined by SEQR not to have a significant adverse effect on the environment.

Section 10. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Applicant's purposes. The Applicant is satisfied that the Project is suitable and fit for Applicant's purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Applicant hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 11. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Applicant shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this resolution shall automatically become null and void and of no further force and effect, and the Agency shall have no liability to the Applicant hereunder or otherwise.

Section 12. This resolution is subject to compliance with all local building and zoning requirements.

Section 13. This resolution shall take effect immediately.

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

MEMBER FIALKIEWICZ	VOTED
MEMBER HOFFMAN	VOTED
MEMBER KURTZMAN	VOTED
MEMBER NIKONOWICZ	VOTED
MEMBER O'BRIEN	VOTED
MEMBER VISONE	VOTED
CHAIR COLEMAN	VOTED

March 13, 2018

3. RESOLUTION OF THE TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, Drescher & Malecki LLP, Certified Public Accountants has duly examined and audited the fiscal affairs of the Lancaster Industrial Development Agency for the year ended December 31, 2017.

NOW, THEREFORE, BE IT

RESOLVED, that the Board of Directors of the Lancaster Industrial Development Agency hereby accepts the December 31, 2017 audit by Drescher & Malecki LLP entitled "Basic Financial Statements, Required Supplementary Information, Supplementary Information and Other Information for the Years Ended December 31, 2017 and 2016 and Independent Auditors' Reports", and

BE IT FURTHER

RESOLVED, that the Board of Directors directs Mary Nowak to post the audit report to the LIDA website, and

BE IT FURTHER

RESOLVED, that as soon as practicable, the Board of Directors directs Mary Nowak to publish a legal notice in the Lancaster Bee, official newspaper of the LIDA, that the audited financial statements are available for inspection at the LIDA office located at 21 Central Avenue and are also available on the LIDA website.

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

MEMBER FIALKIEWICZ	VOTED
MEMBER HOFFMAN	VOTED
MEMBER KURTZMAN	VOTED
MEMBER NIKONOWICZ	VOTED
MEMBER O'BRIEN	VOTED
MEMBER VISONE	VOTED
CHAIR COLEMAN	VOTED

March 13, 2018

OLD BUSINESS:

CURRENT BUSINESS:

NEW BUSINESS:

NEXT LIDA MEETING – APRIL 10, 2018 at 8:30 AM –
Public Hearing – None

Motion to Adjourn: _____