

**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
AMENDATORY INDUCEMENT RESOLUTION**

**TIME RELEASE PROPERTIES, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATE(S),
SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS
BEHALF**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, February 24, 2021 at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

AMENDATORY INDUCEMENT RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE EXECUTION AND DELIVERY OF A REVISED SALES TAX EXEMPTION PACKAGE AND RELATED DOCUMENTS WITH RESPECT TO THE TIME RELEASE PROPERTIES, LLC PROJECT (AS MORE FULLY DESCRIBED BELOW)

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

WHEREAS, TIME RELEASE PROPERTIES, LLC, AND/OR INDIVIDUAL(S) OR AFFILIATES, SUBSIDIARY(IES), OR ENTITY(IES) FORMED OR TO BE FORMED ON ITS BEHALF (the “Company”) has submitted an application to the Agency (the “Original Application”) requesting the Agency’s assistance with a certain project (the “Project”) consisting of: (i) a 26+/- acre portion of land located at 2303 Hamburg Turnpike, City of Lackawanna, Erie County, New York (the “Land”) known as Parcels II-9 and II-10 in the Bethlehem Redevelopment Area Light Industrial District; (ii) the construction of a 290,000+/- SF light industrial building comprised of 190,000+/- SF of manufacturing/processing space, 90,000+/- SF of warehouse space, and 8,000+/- SF of office space, and the installation of certain infrastructure improvements on the Land (collectively, the “Improvements”) to be utilized by Time Release Sciences, Inc. (the “Tenant”), and (iii) the acquisition and installation by the Company of certain items of machinery, equipment and other tangible personal property (the “Equipment”; and, collectively with the Land and the Improvements, the “Facility”); and; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on July 23, 2019 at 10:00 a.m. at the City of Lackawanna City Hall, 714 Ridge Road (Council Chambers), Lackawanna, New York 14218, the Agency held a public hearing with respect to the Original Project and the proposed financial assistance, as described below, being contemplated by the

Agency (the “Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; and

WHEREAS, by resolution adopted on August 28, 2019 (the "Initial Resolution"), the Agency issued a Negative Declaration, pursuant to and in accordance with applicable provisions of the State Environmental Quality Review Act and regulations promulgated thereunder (“SEQR”), and authorized financial assistance to the Company with respect to the Original Application in the form of (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility, (b) a mortgage recording tax exemption benefit for the financing related to the Project, and (c) a partial abatement from real property taxes benefit through a ten (10) year term PILOT Agreement for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption benefit, the mortgage recording tax exemption benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

WHEREAS, based upon representations and warranties made by the Company in the Original Application, the Agency, within the terms of the Initial Resolution, authorized and approved the Company, as its agent, to make purchases of goods and services relating to the Project that would otherwise be subject to New York State and local sales and use tax in an amount up to \$5,293,333, which results in New York State and local sales and use tax exemption benefits not to exceed \$463,167.00, and required the Company to evidence that the total investment actually made with respect to the Project, at the time of Project completion, equals or exceeds \$22,700,000.00 (which represented the product of 85% multiplied by \$19,295,000.00 (being the total project cost as stated in the Original Application for financial assistance at that point in time); and

WHEREAS, on January 26, 2021, the Agency received an amended application (the “Amended Application”) from the Company requesting additional Financial Assistance, due to extraordinary costs and delays resulting from and associated with the COVID-19 global pandemic related to the construction and equipping of the Project, to make purchases of goods and services relating to the Project, in a new total amount, that would otherwise be subject to New York State and local sales and use tax in an amount up to \$9,936,000.00, which results in New York State and local sales and use tax exemption benefits in an amount not to exceed \$869,400.00 for the Project (the “Amended Sales Tax Exemption Benefit”); and

WHEREAS, pursuant to General Municipal Law Section 859-a, on February 16, 2021 at 9:00 a.m. at the Erie County Industrial Development Agency, 95 Perry Street, Suite 403, Buffalo, New York 14203, the Agency held a public hearing with respect to Amended Sales Tax Exemption Benefit and the proposed financial assistance, as described below, being contemplated by the Agency (the “Second Public Hearing”) whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views.

WHEREAS, the Agency desires to amend the Initial Resolution and approve this Amendatory Resolution with respect to the Project to permit the Amended Sales Tax Exemption Benefit.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to SEQR, the Agency hereby finds and determines that pursuant to Sections 617.5(c)(29) and (31), of the SEQR Regulations, the Project, as amended by said increased expenditures and related increased sales and use tax exemption benefits, is as “Type II action” as said quoted term is defined in the SEQR Regulations, and therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the SEQR Regulations with respect to the Project related approvals to render Financial Assistance as described herein.

Section 2. All recitals, findings and determinations of the Agency contained in the Initial Resolution are hereby reaffirmed, ratified, restated and incorporated herein by reference as if set forth herein in their entirety, except as modified by this Resolution.

Section 3. Based upon the representations and warranties made by the Company in its application with respect to the Amended Project, subject to the terms and conditions as described herein, and Agency board member review, discussion and consideration of same, the Agency hereby finds, determines and hereby amends the second full paragraph in Section 3 of the Initial Resolution in its entirety to read as follows:

With respect to the foregoing, and based upon the representations and warranties made by the Company in its Amended Application for Financial Assistance, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an estimated amount up to \$9,936,000.00, which may result in New York State and local sales and use tax exemption benefits not to exceed \$869,400.00. The Agency may consider any requests by the Company for increases to the amount of sales and use tax exemption benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 4. Section 3(i) of the Initial Resolution is hereby replaced in its entirety to read as follows:

- (i) Investment Commitment - the total investment actually made with respect to the Project at the time of Project completion equals or exceeds \$25,925,000, which represents the product of 85% multiplied by \$30,500,000 (representing the total project cost as stated in the Company’s Amended Application for financial assistance).

Section 5. The Chair, the Vice Chair, the President/Chief Executive Officer, the Executive Vice President, the Chief Financial Officer/Treasurer and/or the Assistant Treasurer, are hereby authorized, on behalf of the Agency, to negotiate and execute an amended Agent and Financial Assistance Agreement by and between the Agency and the Company, an amended NYS Form ST-60, "IDA Appointment of Project Operator or Agent", a bill of sale (the "Bill of Sale") and any and all other related documents.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 7. All actions heretofore undertaken by the Agency and the Company as agent of the Agency are ratified and approved and the Agency and the Company, as agent of the Agency, are hereby authorized to continue to undertake the Project.

Section 8. These Resolutions shall take effect immediately.

Dated: February 24, 2021