



# Memorandum

To: ECIDA Board of Directors  
Re: COVID 19 Pandemic Impact

April 28, 2021

## **Background**

On March 7, 2020, Governor Cuomo declared a disaster emergency in New York State due to the emergence and public health threat of COVID-19. As a result of the pandemic and ensuing public health crisis several shutdowns were instituted culminating in NY Pause on March 22, 2020 which closed all non-essential businesses in NYS. The impacts of the global pandemic have been truly historic resulting in a public health and economic crisis not seen in over 100 years. Throughout 2020 and into 2021, the pandemic has taken a terrible toll on our region resulting in a horrific loss of life and an unprecedented economic disruption.

Prior to the pandemic in February of 2020, unemployment in the Buffalo Niagara region was approximately 5%. By April of 2020 it had nearly quadrupled to 19.2%. The resulting economic impacts were unprecedented and far reaching. By the end of the first quarter of 2020, many businesses were struggling to survive and adapt to the new realities of a pandemic economy. Non-essential businesses were required to close. Global shutdowns impacted supply chains, and commodity shortages and disruptions were common. Although some sectors of the economy were less impacted, all businesses experienced disruptions.

By the beginning of the second quarter of 2020, nearly 2/3 of the RDC's loan portfolio was on some form of payment deferral. A general discussion of COVID-19 impacts on Agency assisted companies occurred at several board meetings, with board members expressing a desire that the Agency not further damage companies already adversely impacted by the pandemic by implementing the Agency's recapture policy. Board member consensus recommended that the Agency utilize the existing employment survey process to identify businesses that experienced adverse employment impacts due to the pandemic.

As the region went through the various reopening stages the economy began to slowly recover from the impacts of the pandemic. By December of 2020, the unemployment rate was 7.5% compared to 4.7% in December of 2019. As a result of the impact of the pandemic, many businesses have

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struggled and are still struggling to maintain or regain pre-pandemic employment levels. Maintaining and/or obtaining defined employment retention and job creation numbers are a part of the Agency's financial assistance compliance requirements. If an Agency incentivized company fails to meet and or maintain employment levels as set forth at the time of inducement, such companies would be subject to the Agency's recapture policy and process.

### **Recommendation**

The Agency's Financial Assistance Recapture Policy did not contemplate the severe adverse negative business and regional economic impacts that resulted from the COVID-19 global pandemic. To help stabilize Erie County businesses and our regional economy that has been and continues to be harmed by the COVID-19 global pandemic, it is recommended that the Agency consider adding to its financial assistance recapture policy by adopting a "Special COVID Waiver" with respect to the potential recapture of Agency financial assistance for the 2020 calendar year.

The Special COVID Waiver would waive Implementation of recapture procedures for companies that suffered employment losses or that were unable to meet required job creation goals due to documented COVID-19 impacts. Job retention/creation shortfalls will be verified utilizing the Agency's quarterly employment reporting procedures. Companies which did not maintain or meet employment goals would be contacted by Agency staff to document and determine that reasons for missing such job creation/retention requirements were related to COVID-19 impacts. Company specific and overall industry impacts would be taken into consideration and upon a determination by the Agency's President/CEO, in consultation with the Chair, that 2020 job retention/creation requirements were not met due to documented COVID-19 impacts, implementation of Agency recapture protocols would then be waived for the 2020 calendar year.

## **ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

### **RESOLUTION**

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, April 28, 2021 at 12:00 p.m.

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

#### **RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY") TEMPORARILY MODIFYING THE AGENCY'S POLICY FOR TERMINATION AND/OR MODIFICATION OF AGENCY FINANCIAL ASSISTANCE AND RECAPTURE OF AGENCY FINANCIAL ASSISTANCE PREVIOUSLY GRANTED**

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 as a public benefit corporation of the State 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 to prevent unemployment and economic deterioration; and

WHEREAS, the Agency established a Policy for Termination and/or Modification of Agency Financial Assistance and Recapture of Agency Financial Assistance Previously Granted in January 29, 2014, and amended and restated same on May 25, 2016 (the "Recapture Policy"); and

WHEREAS, the Recapture Policy permits the Agency, on a case by case basis, via resolution, to terminate, modify, and/or recapture Financial Assistance in the event a recipient of Agency Financial Assistance fails to meet certain material terms and conditions, including, amongst other items, job retention and/or job creation commitments; and

WHEREAS, in furtherance of the Agency's mission, its power and purposes, and in a manner consistent with the Agency's existing policies, including its Recapture Policy, the Agency desires to adopt a temporary modification of the Recapture Policy and related procedures by delegating to the President/Chief Executive Officer of the Agency, the authority, in consultation with the Chair of the Agency, to waive implementation of the Recapture Policy for beneficiaries of Financial Assistance that suffered employment losses and/or that failed to meet job creation goals due to documented COVID-19 impacts during the 2020 calendar year, as a ministerial action, without further action of the members of the Agency.

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

Section 1. The Agency hereby adopts this Resolution as a temporary modification of the Recapture Policy and related procedures by delegating to the President/Chief Executive Officer of the Agency, the authority, in consultation with the Chair of the Agency, to waive implementation of the Recapture Policy for beneficiaries of Financial Assistance that suffered employment losses and/or that failed to meet job creation goals due to documented COVID-19 impacts during the 2020 calendar year, as a ministerial action, without further action of the members of the Agency.

Section 2. This Resolution shall not preclude the Agency from implementing the Recapture Policy for beneficiaries of Financial Assistance in the event a failure to meet job retention and/or job creation goals is determined to be unrelated to COVID-19 impacts during the 2020 calendar year.

Section 3. The temporary modifications to the Recapture Policy adopted pursuant to this Resolution shall take effect as of January 1, 2021, and be applicable for the 2020 calendar year, and members of the Agency hereby ratify and confirm any actions taken by staff of the Agency prior to the adoption of this Resolution with respect to the subject matter hereof.

Dated: April 28, 2021





**ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**



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