

RESOLUTION

As a result of the public health emergency created by COVID-19, the Federal, State and local bans on meetings or gatherings, and pursuant the Governor's Executive Order 202.1 issued on March 12, 2020 suspending the Open Meetings Law, as extended on September 2, 2021, the City of Syracuse Industrial Development Agency (the "**Agency**") held a meeting on the 21st day of June, 2022, at 8:00 a.m., local time, electronically which was made available via Webex at: <https://syrgov.webex.com/syrgov/j.php?MTID=m075e58e4503a8146ab384f7ae8c71a50> (or by accessing the link on the Agency's website) and using meeting number 2342 655 4699 and password mTRa2D9aCv7; or via telephone at (408) 418-9388 with access code: 2342 655 4699, in conjunction with the matter set forth below.

The meeting was called to order by the Chair and upon the roll being duly called, the following members were:

PRESENT VIA TELE/VIDEOCONFERENCE (in accordance with the Governor's Executive Order 202.1): Kathleen Murphy, Steven Thompson, Rickey T. Brown, Kenneth Kinsey, Dirk Sonneborn

THE FOLLOWING PERSONS WERE ALSO PRESENT VIA TELE/VIDEOCONFERENCE (in accordance with the Governor's Executive Order 202.1): **Staff Present:** Judith DeLaney, Susan Katzoff, Esq. and Lori McRobbie; **Others Present:** Timothy Lynn, Esq., Christopher Bianchi, Gary Thurston, Brian Sivin, Kevin McAuliffe, Esq., Hannah Ripkey, Milan Tyler, Esq., Greg Loh, Michael Collins, Ross Levine, Andrew Savoy, Philip Maguire, Brian Sivin, Andrew Savoy

The following resolution was offered by Dirk Sonneborn and seconded by Rickey T. Brown:

RESOLUTION APPROVING AN AGREEMENT WITH THE NATIONAL DEVELOPMENT COUNCIL FOR SUPPORT SERVICES TO THE AGENCY IN AN AMOUNT NOT TO EXCEED \$94,200 PER YEAR FOR TWO YEARS

WHEREAS, the policy of the State of New York (the "**State**") set forth in Title 1 of Article 18-A of the General Municipal Law of the State, as amended (the "**IDA Act**"), is to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies and to protect and promote the health of the inhabitants of the State and to increase trade through promoting the development of facilities to provide recreation for the citizens of the State and to attract tourists from other states; and

WHEREAS, City of Syracuse Industrial Development Agency (the "**Agency**") constitutes an industrial development agency established under the IDA Act and Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (together with the IDA Act, the "**Act**") and is thereby authorized and empowered to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, educational or cultural facilities, railroad facilities and certain horse racing facilities, thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to enter into contracts, to acquire, hold and dispose of personal property for its corporate purposes; with the consent of the municipality, to use agents, employees and facilities of the municipality and pay the municipality its agreed proportion of the compensation or costs therefor; to appoint officers, agents and employees and pay their compensation out of funds of the Agency; make contracts and leases; to use gifts, grants, loans or contributions for any of its corporate purposes; and to all things necessary or convenient to carry out its purposes and exercise the powers expressly given in the IDA Act; and

WHEREAS, the Agency is obligated under the Act to undertake certain review and analysis for each project undertaken by the Agency and the Agency has contracted with the National Development Council ("**NDC**") for several years to provide certain support services, including but not limited to, assistance with board and staff training and certain project review; and

WHEREAS, the NDC provides similar services to several industrial development agencies in the State and they are uniquely positioned to understand the statutory requirements imposed upon industrial development agencies with respect to undertaking projects and ongoing reporting compliance; and

WHEREAS, the Agency has been very pleased with the services provided to date by NDC. The Agency's current contract with NDC expires on June 30, 2022 and the Agency is desirous of renewing its contract with NDC for two years effective as of July 1, 2022. NDC has submitted a new proposal that would be effective as of July 1, 2022 and provide all of the same services and benefits to the Agency, as well as certain benefits relative to economic development in the City as a whole, for an amount not to exceed \$94,200 per year for two years (the "**New Contract**"). A draft of the New Contract is attached hereto at **Exhibit "A"**; and

WHEREAS, the execution and delivery of the New Contract is consistent with the Agency's procurement policy; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), the Agency is required to make a determination as to whether the "action" (as said

quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA). The Agency has classified the execution and delivery of the New Contract as a “Type II” action as that term is defined under SEQRA, and therefore no further review is required.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration.

Section 2. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living. It is among the powers of the Agency to enter contracts to carry out its corporate purposes.

Section 3. The Agency makes the following findings and determinations:

(a) the action authorized pursuant to this Resolution constitutes a Type II action under SEQRA and no further review is required;

(b) the Agency has the statutory authority to enter into the New Contract for the performance of the services by NDC and hereby authorizes same;

(c) the execution and delivery of the New Contract complies with the Agency's procurement policy; and

(d) the execution and delivery of the New Contract is in furtherance of the Agency's corporate purposes and supports economic development and the undertaking of new projects by the Agency in the City and helps promote economic development, recreational opportunities and prosperity of the inhabitants of the City and help attract, encourage and develop recreation, economically sound commerce and industry in the City as well as the general prosperity and economic welfare of the people of the City in furtherance of the purposes of the Act.

Section 4. No covenant, stipulation, obligation or agreement contained in this Resolution or any other document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. None of the members or officers of the Agency shall be liable or be subject to any personal liability or accountability by reason of the execution of any document referred to above;

Section 5. The Agency hereby authorizes the negotiation, execution and delivery of the New Contract by and between the Agency and NDC upon acceptable terms and conditions to

the Agency to perform the work, as generally set forth on **Exhibit "A"** attached hereto. The Chair, Vice Chair and/or Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to negotiate, execute and deliver the New Contract in accordance with the terms hereof substantially in the form as attached hereto at **Exhibit "A"**. The execution thereof by the Chair, Vice Chair and/or Executive Director shall constitute conclusive evidence of such approval;

Section 6. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the New Contract, this Resolution shall automatically become null, void and of no further force and effect with respect thereto.

Section 7. The Secretary and/or staff of the Agency are hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 9. This Resolution shall become effective immediately.

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

	<u>AYE</u>	<u>NAY</u>
Kathleen Murphy	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kenneth Kinsey	X	
Dirk Sonneborn	X	

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the "**Agency**") held on June 21, 2022, with the original thereof on file in the office of the Agency, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that: (i) all members of the Agency had due notice of such meeting; (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), as temporarily amended by Executive Order 202.1 issued on March 12, 2020 ("**EO 202.1**"), as amended and extended from time to time, such meeting was open to the general public and public notice of the time and how to participate in such meeting was duly given in accordance with such Section 104 and EO 202.1; (iii) the meeting was in all respects duly held; and (iv) there was a quorum present throughout.

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

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency on 6/30/2022 _____.

City of Syracuse Industrial Development Agency

DocuSigned by:

65E35E032BE24D9

Rickey T. Brown, Secretary

(S E A L)

EXHIBIT "A"
PROPOSED CONTRACT

AGREEMENT BY AND BETWEEN
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
AND
NATIONAL DEVELOPMENT COUNCIL

This Agreement is made and entered into as of the 1st day of July, 2022, by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, Syracuse, New York, a public benefit corporation whose address is City Hall, 201 E Washington Street, 6th floor Syracuse, New York 13202 (hereinafter called the "SIDA") and **NATIONAL DEVELOPMENT COUNCIL** (hereinafter referred to as "NDC" or the "Contractor"), a New York non-profit corporation, which is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code , whose address is 1111 Superior Avenue East, Suite 1114, Cleveland, OH 44114.

WITNESSETH THAT:

WHEREAS, the SIDA is desirous of obtaining the professional services of an advisor for itself and, as negotiated herein, as added value, certain services benefiting the City of Syracuse' ("the City") to develop and assist in the implementation of the SIDA and the City's various economic development programs;

WHEREAS, NDC is willing to provide, on such terms and conditions as are hereinafter provided, technical assistance to the SIDA and the City utilizing its expertise in community, economic and housing development activities.

NOW THEREFORE, in consideration of the above-mentioned premises and of the mutual covenants contained herein, the parties hereto agree as follows:

I. SCOPE OF SERVICES

The purpose of this Agreement is to set forth the terms upon which the NDC will provide to SIDA, or at SIDA's request, with assistance as described in Exhibit A attached hereto. NDC agrees to perform such services as are requested from time to time by the SIDA and to provide such services as it deems necessary to accomplish the goals requested. Exhibit A attached hereto fully describes the services to be offered to the SIDA for its benefit or for the benefit of economic development within the City by NDC. In performing the requested services, NDC shall consult with officers and employees of the SIDA, or, as directed by SIDA, the City and shall meet, as appropriate, with such representatives or other entities when necessary, including without limitation officials, directors and/or officers of the City, SIDA, State of New York and Federal officials and other organizations.

The person in charge of administering this Agreement on behalf of the SIDA shall be SIDA's Executive Director or other such person as the SIDA shall designate in writing.

The primary person responsible for the services to be rendered on behalf of NDC shall be Geoffrey Person, and secondary persons shall be Kevin Gremse and David Trevisani, Directors of NDC, or other qualified person as is designated in writing by NDC and accepted by the SIDA.

II. DURATION, TERMINATION

NDC agrees to commence work for the SIDA effective the first date written above and shall continue providing technical assistance for twenty-four (24) months. Either party may, at any time, terminate this Agreement with or without cause by sending written notice to the other party, in which event this Agreement shall be terminated effective 48 hours after receipt of such notice.

III. COMPENSATION

The SIDA shall compensate NDC for performance of services received hereunder in the amount of One Hundred and Eighty-Eight Thousand Four-Hundred dollars (\$188,400) payable in twenty-four (24) monthly payments of Seven-Thousand Eight Hundred and Fifty dollars (\$7,850.00) paid within thirty (30) days of invoice date each month.

The base fee amount includes all NDC's time, travel expenses, supplies, postage, telephone, and other similar expenses. As an independent contractor, NDC is responsible for all taxes and other benefits of the employees of NDC and nothing contained herein shall be interpreted as creating a relationship of servant, employee, partnership, or agency between the SIDA and the NDC. Payment by the SIDA for services rendered under this Agreement evidences the SIDA'S acceptance of such services in accordance with the terms of the Agreement.

IV. MISCELLANEOUS PROVISIONS

4.1 Ownership of Material and Documents. All final reports and other materials prepared by NDC for or at the request of SIDA shall be the property of SIDA, however all work papers and other source materials shall be the property of the NDC. NDC shall deliver such materials to the SIDA in accordance with the terms and conditions of this Agreement. SIDA shall not, without NDC's written consent, associate NDC's name with the report\product, if a subsequent change is made in such report\product after submission and receipt by the SIDA.

4.2 Right to Audit. NDC shall establish and maintain appropriate procedures which will assure the proper accounting of all funds paid to it under this Agreement. SIDA or any of their duly authorized representatives shall have access to any books, documents, papers and records of NDC and/or its subcontractors which are directly pertinent to a specific program for the purpose of making an audit, an examination, excerpts and transcriptions. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records and supporting details shall be retained for a period of at least three (3) years after the expiration of the term of this Agreement.

4.3 Confidentiality of Reports. NDC shall keep confidential all reports, information and data given to, prepared or assembled by NDC pursuant to NDC's performance hereunder and SIDA designates as confidential. Such information shall not be made available to any person, firm, corporation or entity without first obtaining the prior written consent of SIDA.

4.4 Equal Opportunity. NDC shall comply with all provisions of Title VI of the Civil Rights Act of 1964 and of the rules, regulations and relevant order of the Secretary of Labor regarding

discrimination. In the event a party is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state, or local law, this Agreement may be cancelled, terminated or suspended in whole or in part by the SIDA, and that party may be declared ineligible for further SIDA contracts.

4.5 Conflicts of Interest. No board member, officer or employee of SIDA or its designees or agents, and no other public official who exercises any functions or responsibilities with respect to any requested technical assistance, shall be permitted to financially benefit from this Agreement or have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with this Agreement.

4.6 Notices. All notices shall be sent by certified mail, hand-delivery or over night mail and in all events with a written acknowledgment of receipt to the address set forth at the beginning of this Agreement.

4.7 Release of News Information. No news release, including photographs, public announcements or confirmation of same, or any part of the subject matter of this Agreement or any phase of any program hereunder shall be made without prior written approval of the SIDA.

4.8 Compliance with Laws. NDC agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder. This Agreement shall be construed, interpreted and the rights of the parties determined, in accordance with the laws of the State of New York.

4.9 Assignment. Neither this Agreement nor any rights, duties or obligations described herein may be assigned by either party without the prior expressed written consent of the other party.

4.10 Severability. A determination that any part of this Agreement is invalid shall not invalidate or impair the force of the remainder of this Agreement.

4.11 Dispute Resolution. At the request of either party, any disputes or claims under this Agreement shall be submitted to arbitration in a manner provided under the Commercial Arbitration Rules of the American Arbitration Association then in effect, such arbitration is to be conducted in Syracuse, New York before three arbitrators chosen in accordance with the rules of the State where the SIDA or City is located.

4.12 Supplemental Provisions. Either party may require supplemental provisions which will govern the agreement between the parties by attaching hereto such supplemental provisions as **Exhibit "B"**. The cost of supplemental provisions is not included in the contract price quoted in III above. The SIDA will only reimburse the cost of supplemental provisions if NDC obtains written approval within thirty (30) days prior to the expenditure and supported by Resolution of the SIDA Board.

4.13 Acknowledgement. The SIDA expressly acknowledges that all opinions and advice (written or oral) given by the NDC to the SIDA in connection with the NDC's engagement are intended solely for the benefit and use of the SIDA or the City, as applicable, and the SIDA agrees that no such opinion or advice shall be used for any other purpose or reproduced, discriminated, quoted or referred to at any

time without the prior consent of NDC.

4.14 Disclaimer. SIDA has retained NDC for the purposes set forth in this Agreement and the parties acknowledge and agree that their respective rights and obligations are contractual in nature. Each party disclaims an intention to impose fiduciary agency rights or obligations on the other by virtue of the engagement hereunder.

Upon the request of SIDA, NDC may, but is not required to, participate in the development of the SIDA projects in such capacity as the parties may agree.

4.15 Entire Agreement. This Agreement contains the final agreement between the parties regarding the matters covered and supersedes any and all other agreement, either oral in writing, regarding the matters contained herein.

4.16 Disclaimer. The Client is a sophisticated business enterprise and has retained NDC for the purposes set forth in this Agreement and the parties acknowledge and agree that their respective rights and obligations are contractual in nature. Each party disclaims an intention to impose fiduciary agency rights or obligations on the other by virtue of the engagement hereunder.

Standard disclaimer regarding NDC's compliance with Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") and amended Section 15B of the Securities and Exchange Act of 1934 ("Exchange Act")

The National Development Council is not a Registered Municipal Advisor as defined in Dodd-Frank and the Exchange Act and therefore cannot provide advice to a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including structure, timing, terms or other similar matters concerning such financial products or issues.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

**City of Syracuse Industrial
Development Agency**

National Development Council:

By: _____

By: _____

Name: Judith DeLaney

Daniel Marsh III

Executive Director

President

**NDC TECHNICAL ASSISTANCE AGREEMENT
SCOPE OF SERVICES
EXHIBIT A**

To promote redevelopment within the City of Syracuse, the SIDA is undertaking or may undertake certain economic development projects. At SIDA's request, NDC will provide technical assistance to the SIDA, and when requested the City, in reviewing, structuring and financing such projects during project pre-development and project development phases.

The Scope of Services describes the assistance available under this Technical Assistance Agreement during the specified contract period. The SIDA and NDC, by mutual agreement, may revise this Scope of Services from time to time. The assistance within this Scope of Services includes:

- One. Identify eligible projects for a NMTC investment and facilitate same
- Two. Assist SIDA and the City in the implementation with infill and redevelopment activities.
- Three. Provide staff with technical assistance (TA) and training. TA will entail more frequent interaction with staff. Training can be conducted on and off site.
- Four. Continue to work with SIDA with a comprehensive analysis of, and recommendations for, and implementation of, parking assets.
- Five. Work with SIDA and the City to attract Opportunity Zone (OZ) investment to agreed upon high priority projects in the City.
- Six. Advise SIDA and City staff on the analysis and sale of underutilized structural and land assets.
 - A. At the SIDA's request, NDC will review and evaluate economic development projects being proposed in the City. This may include:
 1. Evaluating sponsor/developer experience and capacity
 2. Financial review and structuring of deals
 3. Review of appraisals, cost assumptions, capital budgets, operating statements, marketing data and other funding commitments
 4. Advising on tax credit equity sources, requirements and structuring
 5. Identifying other funding sources when required
 6. Assisting with development issues during pre-development and development
 7. Structuring loan documents and development agreements
 8. Advising on program regulations issues

- B. At SIDA's request provide technical support and/or financial analysis relative to property disposition by SIDA or the City of Syracuse.
- C. At the SIDA's request, NDC will provide technical support and/or financial analysis with respect to its economic and housing development program proposals.
- D. NDC will provide technical assistance and advocacy to SIDA in efforts to seek funding and/or leverage existing resources through governmental programs including, but not limited to,

Federal Resources

- 1. Community Development Block Grant (CDBG) program, and HUD Section 108 loans, including Economic Development Initiative (EDI) and Brownfields Economic Development Initiative (BEDI) grants.
- 2. U.S. Environmental Protection Agency (EPA) Brownfields Program, including Targeted Assessments, Supplemental Pilot Program, and Brownfields Revolving Loan Fund,
- 3. U.S. Small Business Administration 7(a), 504, and Microenterprise programs
- 4. New Markets Tax Credits
- 5. The American Rescue Plan Act (ARPA) and other subsequent federal funding bills aimed at post-Covid economic recovery during the term of the agreement

State of New York resources

- 1. Empire State Development (ESD)
- 2. New York Science Technology and Research (NYSTAR)
- 3. New York State Division of Housing and Community Renewal (DHCR)

Others

- 1. The Opportunity Zone Program
 - E. At the SIDA's election, provide four (4) scholarships to be used by City staff for attendance in NDC's "Economic Development Finance Professional Certification" training program or provide "in-house" staff training to SIDA and City staff.
 - F. NDC will review, as directed, established economic development and/or housing development programs, including but not limited to;
 - 1. Section 108 Loan Guarantee Program
 - 2. SEDCO Loan Program
-

3. CDBG and the HOME Investment Partnership Program

Such review will address the following items

1. Program goals
 2. Eligibility criteria
 3. Underwriting criteria
 4. Program documents
 5. Internal administration of application and approval processes
- G. Facilitate, as permissible, for participation in "NDC New Markets," a designated Community Development Entity (CDE), through which New Markets tax credits will flow to investors of qualified community development projects that benefit low and moderate income people in the City of Syracuse. Such participation in the CDE will result in access lower cost low term capital for qualified community development projects.
- H. NDC, alone and/or via authorized sub-contractors, will provide the SIDA, upon its request, with other related community and economic development services. These services may include but need not be limited to:
1. Establish SIDA's participation in NDC's 501(c) (3) Bond and Donation Program.
 2. Establish SIDA's participation in NDC's "Corporate Equity Fund," a syndicated investment pool that provides equity to eligible projects with housing and historic tax credits.
 3. Establish SIDA's or the City's participation in all other programs as developed and introduced by NDC during the contract term.
- I. At the request of the SIDA, and in furtherance of NDC Housing and Economic Development Corporation's (HEDC) charitable public purpose, NDC agrees to use the not-for-profit development services of its affiliate to undertake City sponsored development projects. Public Facility projects undertaken by HEDC will require the active participation of the City and will only be undertaken if HEDC's Board of Directors determines that the development of the project is financially feasible, "lessens the burden of government", and meets HEDC's "charitable public purpose."
- HEDC's activities will be undertaken as a separate program activity with fees for services rendered determined on a case-by-case basis. Development fees to the greatest extent possible will be included in the project's capital budget and financed as part of the project.
- Eligible project development fees shall include, but not be limited to, development risk fees, legal and accounting fees, asset management fees, and project management fees.
-