

**Frank S. Venezia**  
*Chair*  
**Victoria Storrs**  
*Vice Chair*  
**Tim McCann**  
*Secretary*  
**Richard Kotlow**  
*Assistant Secretary*  
**Tim Maniccia**  
*Member*  
**David Kidera**  
*Member*  
**Catherine M. Hedgeman, Esq.**  
*Member*

**TOWN OF BETHLEHEM**  
*Albany County - New York*  
**INDUSTRIAL DEVELOPMENT AGENCY**

445 DELAWARE AVENUE  
DELMAR, NEW YORK 12054  
Telephone: (518) 439-4955  
Email: [info@bethlehemida.com](mailto:info@bethlehemida.com)  
[www.bethlehemida.com](http://www.bethlehemida.com)

**Regular Meeting Agenda**  
**Wednesday, August 26, 2020**  
**8:00 AM**  
**Town Hall Auditorium**

**Thomas P. Connolly**  
*Executive Director,*  
*Assistant Secretary and*  
*Agency Counsel*  
*518-573-2200*  
**Allen F. Maikels**  
*Treasurer, Chief Financial Officer*  
*and Contracting Officer*  
*518-487-4679*  
**Vacant**  
*Economic Development*  
*Coordinator*  
**Robin Nagengast**  
*Assistant to the Executive Director*  
*and Clerk*  
*Ext. 1164*

**Notice**

Due to the Novel Coronavirus (COVID-19) the Board will not be meeting in-person. The meeting is being held electronically via video conference and a transcript will be provided at a later date. Members of the public may view and listen to the meeting live by visiting the Town's Website/Meeting Portal. An Executive Order (202.1) issued by Governor Cuomo on 3/12/2020 suspended the Open Meetings Law.

**I. Call to Order/Roll Call/Quorum Determination**

**II. Minutes Approval**

Bethlehem Industrial Development Agency - Regular Meeting - Jul 22, 2020 8:00 AM

**III. Reports of Committees**

**IV. Communications**

1. Memo from NYS ESD Private Equity Bond Allocation Adjustment (Connolly)

**V. Old Business**

1. Planning Board Update (Leslie)
2. Report of ED Coordinator (Leslie)

**VI. New Business**

1. Financial Statements 7/31/20 (Maikels)
2. BIDA COVID-19 Grant Program (Connolly)
  - A. Assembly Bill 10294-A/Senate Bill 8181-A
  - B. Hodgson Summary A 10294/S 8181/Disaster Emergency Loan Program
  - C. ABO Policy Guidance 20-02/Disaster Emergency Loan Program
  - D. Resolution/Policy/Application/Agreement
3. Administrative Services Agreement/Resolution (Connolly)

Meeting of Wednesday, August 26, 2020

**VII. Future Meetings**

Regular Meeting - Friday, September 25, 2020 8:00a.m. Remote

**VIII. Adjournment**

Adjourn

**Frank S. Venezia**  
*Chair*  
**Victoria Storrs**  
*Vice Chair*  
**Tim McCann**  
*Secretary*  
**Richard Kotlow**  
*Assistant Secretary*  
**Tim Maniccia**  
*Member*  
**David Kidera**  
*Member*  
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*Member*

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**Regular Meeting Minutes**  
**Wednesday, July 22, 2020**  
**8:00 AM**  
**Town Hall Auditorium**

**Thomas P. Connolly**  
*Executive Director,  
 Assistant Secretary and  
 Agency Counsel*  
 518-573-2200  
**Allen F. Maikels**  
*Treasurer, Chief Financial Officer  
 and Contracting Officer*  
 518-487-4679  
**Vacant**  
*Economic Development  
 Coordinator*  
 Ext. 1189  
**Robin Nagengast**  
*Assistant to the Executive Director  
 and Clerk*  
 Ext. 1164

**I. Notice**

- **DUE TO THE NOVEL CORONAVIRUS (COVID-19) THE BOARD WILL NOT BE MEETING IN-PERSON. THE MEETING IS BEING HELD ELECTRONICALLY VIA VIDEO CONFERENCE AND A TRANSCRIPT WILL BE PROVIDED AT A LATER DATE. MEMBERS OF THE PUBLIC MAY VIEW AND LISTEN TO THE MEETING LIVE BY VISITING THE TOWN'S WEBSITE/MEETING PORTAL. AN EXECUTIVE ORDER (202.1) ISSUED BY GOVERNOR CUOMO ON 3/12/2020 SUSPENDED THE OPEN MEETINGS LAW**

**I. Call to Order/Roll Call/Quorum Determination**

A Regular Meeting of the Bethlehem Industrial Development Agency of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 8:00 AM with the presence of a quorum noted.

Attendee Name	Title	Status	Arrived
Frank S. Venezia	Board Member/Chairman	Absent	
Victoria Storrs	Board Member/Vice Chair	Present	
Tim McCann	Board Member/Secretary	Present	
Richard Kotlow	Board Member/Assistant Secretary	Present	
Tim Maniccia	Board Member	Present	
David Kidera	Board Member	Present	
Catherine Hedgeman	Board Member	Present	
Thomas P. Connolly	Executive Director/Agency Counsel	Present	
Joe Scott	Bond Counsel	Absent	
Allen F. Maikels	CFO and Contracting Officer	Present	
Robin Nagengast	Assistant to the Executive Director	Present	
Robert Leslie	Director of Planning	Present	
David VanLuven	Town Supervisor	Present	

**III. Minutes Approval**

Wednesday, June 24, 2020

Minutes Acceptance: Minutes of Jul 22, 2020 8:00 AM (Minutes Approval)

**RESULT:** ACCEPTED [UNANIMOUS]  
**MOVER:** David Kidera, Board Member  
**SECONDER:** Tim Maniccia, Board Member  
**AYES:** Storrs, McCann, Kotlow, Maniccia, Kidera, Hedgeman

**IV. Reports of Committees**

None.

**V. Communications**

None.

**VI. Old Business**

- **PLANNING BOARD UPDATE (LESLIE)**

Nothing to report since June meeting.

- **REPORT OF ED COORDINATOR (LESLIE)**

Nothing to report since June meeting.

**VII. New Business**

- **FINANCIAL STATEMENTS 6/30/20 (MAIKELS)**

Mr. Maikels provided the financials as of June 30, 2020; there were no questions from members.

- **BIDA COVID-19 GRANT PROGRAM (CONNOLLY)**

Drafts of the COVID-10 State Disaster Emergency Grant Program Policy, Application, and Agreement were discussed and suggested changes noted. The vote was tabled until the August 26 Regular Meeting.

- **A. HODGSON SUMMARY A 10294/S 8181/DISASTER EMERGENCY LOAN PROGRAM**

- **B. ABO POLICY GUIDANCE 20-02/DISASTER EMERGENCY LOAN PROGRAM**

- **C. POLICY/RESOLUTION**

**RESULT:** NO VOTE

Next: 8/26/2020 8:00 AM

- **D. APPLICATION/RESOLUTION**

**RESULT:** NO VOTE

Next: 8/26/2020 8:00 AM

- **E. GRANT AGREEMENT/RESOLUTION**

**RESULT: NO VOTE**

**Next: 8/26/2020 8:00 AM**

**VIII. Future Meetings**

- **REGULAR MEETING - WEDNESDAY, AUGUST 26, 2020 8:00 A.M. REMOTE**

**IX. Adjournment**

**Motion To: Adjourn**

**RESULT: ADJOURN [UNANIMOUS]**  
**MOVER:** Richard Kotlow, Board Member/Assistant Secretary  
**SECONDER:** David Kidera, Board Member  
**AYES:** Storrs, McCann, Kotlow, Maniccia, Kidera, Hedgeman

**Minutes Acceptance: Minutes of Jul 22, 2020 8:00 AM (Minutes Approval)**



**TO:** Industrial Development Agencies  
**FROM:** George LaPointe  
**DATE:** August 1, 2020  
**SUBJECT:** Allocation Adjustment Report

The Private Activity Bond Allocation Act of 2020 requires that each industrial development agency receiving an allocation of the State's private activity bond volume cap submit a report on the status of that allocation on or before September 1. For your convenience, a form for that purpose is available for download [here](https://esd.ny.gov/sites/default/files/8118-IDA-Allocation-Adjustment-Report.pdf).  
(<https://esd.ny.gov/sites/default/files/8118-IDA-Allocation-Adjustment-Report.pdf> )  
Please return this form (or notify ESD by e-mail to [george.lapointe@esd.ny.gov](mailto:george.lapointe@esd.ny.gov)) if you have issued or plan to issue bonds this year.

Under the law, any allocation that will not be used by the end of the calendar year must be returned to the Statewide Bond Reserve. On September 1, ESD will recapture any allocations previously made. In order to retain an allocation, you must provide us with documentation that there is a viable project for which the allocation will be used and that financing arrangements are sufficiently advanced to permit issuance of bonds by the end of the year. On or about September 15, we will send to each agency notification regarding its remaining allocation (if any) for the balance of the year and a listing of the projects for which it is ear-marked. Subsequent to September 15, please notify us immediately if any projects with allocations will be unable to close. This will enable us to reallocate that bonding authority to other projects that may need it.

As in the past, you may apply to carry forward any unused volume cap for specific projects qualifying under the federal Internal Revenue Code for which bonds will be issued within the next three years. (Note that small-issue industrial projects are not eligible for carryforward.) If you have a project for which you wish to request a carryforward allocation, please fill out the preliminary application (available online) and submit it to us by November 15.

Inquiries and correspondence should be directed to:

George A. LaPointe  
Empire State Development  
Albany, NY 12245  
(518) 292-5307  
[george.lapointe@esd.ny.gov](mailto:george.lapointe@esd.ny.gov)



BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY  
STATEMENT OF NET ASSETS  
July 31, 2020

<b>ASSETS</b>	<u>7/331/2020</u>
Current Assets	
Checking/Savings	
200.04 Cash-M&T Bank Agency Account	255,515.14
200.05 Cash-Trustco CD	<u>201,450.00</u>
Total Checking/Savings	456,965.14
Other Current Assets	
380 Fee Receivable	10,204.21
480 Prepaid Expense	<u>1,325.84</u>
Total Other Current Assets	11,530.05
Total Current Assets	<u>468,495.19</u>
<b>TOTAL ASSETS</b>	<u><u>468,495.19</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
601 Accrued Expenses	<u>35,116.39</u>
Total Current Liabilities	<u>35,116.39</u>
Total Liabilities	<u>35,116.39</u>
Equity	
924 Net Assets	
924.3 Net Assets-Unassigned	<u>433,378.80</u>
Total 924 Net Assets	433,378.80
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>468,495.19</u></u>

Attachment: Financials July 2020 (6308 : Financials)

BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY  
STATEMENT OF REVENUE AND EXPENSES  
July 31, 2020

ORDINARY INCOME/EXPENSE

Income

2116 FEE INCOME 17,743.35

2116.1 PSEG ENERGY REIMB 21,439.80

Total Income 39,183.15

Expenses

6460.1 Salaries and Wages 24,619.04

6460.4 Contractual Expenses 43,134.68

6460.8 Employee Benefits 5,444.52

Total Expenses 73,198.24

NET ORDINARY INCOME -34,015.09

Other Income/Expense

Other Income

2401 Interest Income 1,543.41

Total Other Income 1,543.41

NET INCOME -32,471.68



BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY  
 BUDGET VS ACTUAL  
 July 31,2020

Ordinary Income/Expense	Jul-20	YTD Budget	Variance	Annual Budget
Income				
2116 Fee Income	17,743.35	10,350.69	7,392.66	17,744.00
2106.1 PSEG Energy Reimb	21,439.80	21,583.35	-143.55	37,000.00
Total Income	39,183.15	31,934.04	7,249.11	54,744.00
Expenses				
6460.1 Salaries and Wages	24,619.04	24,284.00	335.04	24,284.00
6460.4 Contractual Expenses	43,134.68	43,808.35	-673.67	75,100.00
6460.8 Employee Benefits	5,444.52	4,733.75	710.77	8,115.00
Total Expenses	73,198.24	72,826.10	372.14	107,499.00
Net Ordinary Income	-34,015.09	-40,892.06	6,876.97	-52,755.00
Other Income/Expense				
Other Income				
2401 Interest Income	1,543.41	1,750.00	-206.59	3,000.00
Total Other Income	1,543.41	1,750.00	-206.59	3,000.00
Net Income	-32,471.68	-39,142.06	6,670.38	-49,755.00

**S 8181-A** MAY Same as [A 10294-A](#) Stirpe  
 ON FILE: 05/24/20 Public Authorities Law  
 TITLE....Establishes a state disaster emergency loan  
 program  
 04/13/20 REFERRED TO CORPORATIONS,  
 AUTHORITIES AND COMMISSIONS  
 05/24/20 AMEND (T) AND RECOMMIT TO  
 CORPORATIONS, AUTHORITIES AND  
 COMMISSIONS  
 05/24/20 PRINT NUMBER 8181A  
 05/26/20 REPORTED AND COMMITTED TO  
 RULES  
 05/27/20 ORDERED TO THIRD READING  
 CAL.646  
 05/27/20 PASSED SENATE  
 05/27/20 DELIVERED TO ASSEMBLY  
 05/27/20 referred to ways and means  
 05/27/20 substituted for a10294a  
 05/27/20 ordered to third reading rules cal.32  
 05/27/20 passed assembly  
 05/27/20 returned to senate

**A10294-A** Stirpe Same as [S 8181-A](#) MAY  
 General Municipal Law  
 TITLE....Establishes a state disaster emergency loan  
 program  
 04/15/20 referred to corporations, authorities and  
 commissions  
 04/24/20 reference changed to local governments  
 05/24/20 amend (t) and recommit to local  
 governments  
 05/24/20 print number 10294a  
 05/26/20 reported referred to ways and means  
 05/27/20 reported referred to rules  
 05/27/20 reported  
 05/27/20 rules report cal.32  
 05/27/20 substituted by s8181a  
**S08181 MAY AMEND=A**  
 04/13/20 REFERRED TO CORPORATIONS,  
 AUTHORITIES AND COMMISSIONS  
 05/24/20 AMEND (T) AND RECOMMIT TO  
 CORPORATIONS, AUTHORITIES AND  
 COMMISSIONS  
 05/24/20 PRINT NUMBER 8181A  
 05/26/20 REPORTED AND COMMITTED TO  
 RULES  
 05/27/20 ORDERED TO THIRD READING  
 CAL.646  
 05/27/20 PASSED SENATE  
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 05/27/20 ordered to third reading rules cal.32  
 05/27/20 passed assembly  
 05/27/20 returned to senate

Attachment: S 8181 A 10294 State Disaster Emergency Loan Program (6311 : COVID Bill)

STATE OF NEW YORK

8181--A

IN SENATE

April 13, 2020

Introduced by Sens. MAY, BIAGGI -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to establishing a state disaster emergency loan program; and providing for the repeal of such provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 16 and 17 of section 858 of the general municipal law, as added by chapter 1030 of the laws of 1969 and as renumbered 2 by chapter 356 of the laws of 1993, are amended to read as follows:

3 (16) To establish and re-establish its fiscal year; [and]

4 (17) To provide loans to small businesses or not-for-profit corporations as authorized in section eight hundred fifty-nine-c of this title; and

5 (18) To provide grants to small businesses and not-for-profit corporations, as defined in section eight hundred fifty-nine-c of this title, for the purpose of acquiring personal protective equipment or installing fixtures necessary to prevent the spread of novel coronavirus, COVID-19, during the period in which executive order two hundred two of two thousand twenty, as amended, is in effect. In order to be eligible for a grant pursuant to this subdivision, a small business or not-for-profit corporation must meet the requirements of paragraph a of subdivision three of section eight hundred fifty-nine-c of this title. No industrial development agency may provide a small business or not-for-profit corporation with more than ten thousand dollars pursuant to this subdivision; and

6 (19) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

7 § 2. The general municipal law is amended by adding a new section 8 859-c to read as follows:

9 § 859-c. State disaster emergency loan program. 1. For purposes of this section:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD16066-09-0

Attachment: S 8181 A 10294 State Disaster Emergency Loan Program (6311 : COVID Bill)

S. 8181--A

2

- 1 a. "grace period" means the sixty-day period after a state disaster  
2 emergency ends;
- 3 b. "eligible entity" means both a small business and a small not-for-  
4 profit corporation that:
- 5 (i) is physically located in the state; and  
6 (ii) was operational prior to the state disaster emergency.
- 7 c. "small business" means a business with not more than fifty employ-  
8 ees;
- 9 d. "small not-for-profit corporation" means a not-for-profit corpo-  
10 ration, formed pursuant to the not-for-profit corporation law with not  
11 more than fifty employees; and
- 12 e. "state disaster emergency" means the period in which executive  
13 order two hundred two of two thousand twenty, as amended, is in effect  
14 to address the outbreak of novel coronavirus, COVID-19.
- 15 2. Any industrial development agency (IDA) may administer a state  
16 disaster emergency loan program to provide loans from available revenue  
17 to eligible entities pursuant to this section, provided that no IDA may  
18 create more than one state disaster emergency loan program.
- 19 3. a. An IDA may make a loan to an eligible entity upon application  
20 from such entity through the state disaster emergency loan program,  
21 provided the IDA has determined that the applicant:
- 22 (i) was a financially viable entity prior to the state disaster emer-  
23 gency;
- 24 (ii) conducts business in the area served by the IDA; and  
25 (iii) has been negatively affected by the state disaster emergency.
- 26 b. An IDA shall consider the following, before approving the applica-  
27 tion of an eligible entity for a loan under the state disaster emergency  
28 loan program:
- 29 (i) creditworthiness of the applicant prior to the state disaster  
30 emergency;
- 31 (ii) the level of negative impact of the state disaster emergency on  
32 the operations and finances of the applicant;
- 33 (iii) applicant's proposed plan to use the funds received through this  
34 program;
- 35 (iv) applicant's ties to their community and the impact of their work  
36 in the area served by the IDA;
- 37 (v) applicant's assurance that efforts will be made to retain jobs  
38 during the state disaster emergency; and
- 39 (vi) other potential sources of funding available to the applicant.
- 40 c. An IDA shall give priority under the state disaster emergency loan  
41 program to applications from applicants serving highly distressed areas  
42 as defined pursuant to subdivision eighteen of section eight hundred  
43 fifty-four of this title.
- 44 d. No applicant shall be permitted to receive loans from more than one  
45 IDA.
- 46 e. Any IDAs that serve within the same municipalities shall coordinate  
47 the distribution of loans in the state disaster emergency loan program.
- 48 4. Prior to administering a state disaster emergency loan program, an  
49 IDA shall develop, and adopt by resolution, the terms and conditions of  
50 such loans, provided that:
- 51 a. The amount of any loan provided pursuant to this section shall not  
52 exceed twenty-five thousand dollars, provided that the total amount of  
53 all loans received by an eligible entity shall not exceed twenty-five  
54 thousand dollars;
- 55 b. The loan agreement shall not (i) require repayment during the grace  
56 period, or (ii) charge interest on the principal amount;

S. 8181--A

3

1 c. The loan agreement shall require that the eligible entity repay the  
2 loan in full not later than one year after the end of the grace period;  
3 and

4 d. The loan agreement shall not contain a fee or penalty for the  
5 prepayment or early payment of the loan.

6 5. The IDA shall offer credit counseling services or refer eligible  
7 entities to not-for-profit credit counselors.

8 6. a. Each IDA shall maintain records related to the state disaster  
9 emergency loan program, including a record of loans issued and of  
10 payments received, and include such information in the annual report  
11 required by section twenty-eight hundred of the public authorities law.

12 b. An IDA that establishes a state disaster emergency loan program  
13 pursuant to this section shall submit a report on the program including  
14 but not limited to the number and aggregate amount of loans given, loans  
15 fully repaid, any outstanding loans, defaults and bad debts, to the  
16 governor, the speaker of the assembly, and the temporary president of  
17 the senate one year after the state disaster emergency ends.

18 7. Any interest deferred or not charged related to a loan issued  
19 pursuant to this section shall be exempt from all state taxes that may  
20 be applicable to such interest amounts as they relate to an eligible  
21 entity. IDAs shall disclose to eligible entity borrowers in loan docu-  
22 ments that there may be federal tax consequences to the program loans.

23 8. No new loan applications pursuant to this section shall be accepted  
24 after the state disaster emergency ends.

25 § 3. This act shall take effect immediately and shall expire and be  
26 deemed repealed December 31, 2021.

Attachment: S 8181 A 10294 State Disaster Emergency Loan Program (6311 : COVID Bill)

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S8181A

**SPONSOR:** MAY

**TITLE OF BILL:**

An act to amend the general municipal law, in relation to establishing a state disaster emergency loan program; and providing for the repeal of such provisions upon the expiration thereof

**PURPOSE:**

To provide industrial development agencies (IDAs) with the flexibility to support small businesses and non-profits during public health emergencies.

**SUMMARY OF SPECIFIC PROVISIONS:**

Section 1 of the bill provides for grants and in-kind donations from Industrial Development Agencies (IDAs) to small businesses or not-for-profits for the purposes of purchasing personal protective equipment (PPE) and other fixtures needed to help prevent the spread of COVID-19.

Section 2 establishes the State disaster emergency loan program to allow IDAs to make loans to small businesses and not-for-profit organizations up to \$25,000 with certain considerations. IDAs who choose to administer a State disaster emergency loan program will have to maintain records related to the program, and report to the Governor, Speaker of the Assembly and Temporary President of the Senate one year following the end of the State disaster emergency declaration.

Section 3 establishes the effective date, and the expiration of the legislation on December 31; 2021.

**JUSTIFICATION:**

The current public health crisis is forcing small businesses and not-for-profit organizations across New York to slow down or shut down operations. This represents a significant threat to the viability of these businesses, who are significant employers and important pieces of their communities. Current restrictions limit the ability of local IDAs to provide loans to such small businesses and not-for-profit organizations to help ensure their short-term viability, especially until the Small Business Administration's funding in response to the crisis comes online. Granting IDAs a short-term authority to extend such moderate loans will help ensure New York's small businesses and not-for-profit organizations remain viable after this public health crisis and have more options in any future crises. Also, providing grants for Personal Protective Equipment (PPE) and installation of safety fixtures for these small businesses and not-for-profit organizations will allow safety for workers during the COVID-19 pandemic.

Attachment: S 8181 A 10294 State Disaster Emergency Loan Program (6311 : COVID Bill)

**PRIOR LEGISLATIVE HISTORY:**

New bill.

**FISCAL IMPLICATIONS:**

To be determined.

**EFFECTIVE DATE:**

Immediately.



## MEMORANDUM FROM



**To:** Clients and Friends of the Firm

**Date:** June 1, 2020

**Subject:** Assembly Bill 10294 – A/Senate Bill 8181-A/Establishes State Disaster Emergency Loan Fund

On May 27, 2020, legislation was adopted and sent to the Governor<sup>1</sup> authorizing IDAs to establish a “State Disaster Emergency Loan Program,” to make loans to small businesses or not-for-profit corporations, and to make grants supporting COVID-19 response actions.

Please note the following summary of the proposed legislation and list of issues to consider in connection with complying with the proposed legislation.

**Summary of Legislation**

<b>Background</b>	<p>Senate Bill 8181-A, which was substituted for Assembly Bill 10294-A (the “Proposed Legislation”) will amend Section 858 of the General Municipal Law (“GML”) by adding a new Section 859-c to the GML.</p> <p>The amendments to Section 858 of the GML will provide authorization for industrial development agencies (“IDAs”) to make certain grants and loans.</p> <p>The new Section 859-c will create a “State Disaster Emergency Loan Program”.</p> <p><b>As noted above, the Proposed Legislation has been passed by both the Assembly and the Senate, and has been forwarded to the Governor for his signature. The Proposed Legislation will <u>not</u> become law until the Governor takes action. Accordingly, the below summary is expressly subject to the condition that the Governor takes action to provide for the Proposed Legislation to become law.</b></p>
<b>Loans</b>	The Proposed Legislation authorizes IDAs to make loans to small businesses or not-for-profit corporations subject to the requirements contained in the State Disaster Emergency Loan Program.
<b>Grants</b>	The Proposed Legislation also authorizes IDAs to provide grants to small businesses and not-for-profit corporations.
<b>Definitions</b>	<p>“Eligible entity” means both small businesses and not-for-profit corporations that:</p> <ul style="list-style-type: none"> <li>• Are physically located in New York State; and</li> <li>• Were in operation prior to the State disaster emergency.</li> </ul> <p>“Grace period” means the 60-day period after a State disaster emergency ends.</p> <p>“Small business” means a business with not more 50 employees.</p>

<sup>1</sup> Assembly Bill 10294-A was passed by the Assembly. A companion bill, Senate Bill 8181-A was passed by the Senate, also on May 27, 2020. The legislation has been delivered to the Governor’s office for signing.

	<p>“Small not-for-profit corporation” means a not-for-profit corporation formed pursuant to the not-for-profit corporation law with not more than 50 employees.</p> <p>“State disaster emergency” means the period in which Executive Order 202 of 2020, as amended, is in effect to address the outbreak of COVID-19.</p>
<p><b>Requirements Regarding Grants</b></p>	<p>Grants may be provided for the following:</p> <ul style="list-style-type: none"> <li>• Acquiring personal protective equipment, or</li> <li>• Installing fixtures necessary to prevent the spread of COVID-19.</li> </ul> <p>Grants may be provided during the period that Executive Order 202 of 2020, as amended, is in effect.</p> <p>IDAs may not provide a small business or not-for-profit corporation with more than \$10,000 in grants pursuant to the Proposed Legislation.</p> <p>In order to be eligible for a grant, a small business or a not-for-profit corporation must meet the following requirements:</p> <ul style="list-style-type: none"> <li>• Was a financially viable entity prior to the State disaster emergency;</li> <li>• Conducts business in the area served by the IDA; and</li> <li>• Has been negatively affected by the State disaster emergency.</li> </ul>
<p><b>State Disaster Emergency Loan Program</b></p>	<p>IDAs may administer a State Disaster Emergency Loan Program to provide loans from available revenues to “eligible entities”. IDAs may not create more than one State Disaster Emergency Loan Program.</p>
<p><b>Requirements for Making a Loan</b></p>	<p>IDAs may make a loan to an eligible entity upon application from such entity through the State Disaster Emergency Loan Program, provided the IDAs have determined that the applicant:</p> <ul style="list-style-type: none"> <li>• Was a financially viable entity prior to the State disaster emergency; and</li> <li>• Conducts business in the area served by the IDA; and</li> <li>• Has been negatively affected by the State disaster emergency.</li> </ul> <p>IDAs may consider the following before approving the application of an eligible entity for a loan under the State Disaster Emergency Loan Program:</p> <ul style="list-style-type: none"> <li>• Creditworthiness of the applicant prior to the State disaster emergency</li> <li>• The level of negative impact of the State disaster emergency on the operations and finances of the applicant</li> <li>• Applicant’s proposed plan to use the funds received through the State Disaster Emergency Loan Program</li> <li>• Applicant’s ties to their community and the impact of their work in the area served by the IDA</li> </ul>

Attachment: Summary Legislation S 8181 A 10294 Hodgson Memo (6313 : COVID Hodgson)

	<ul style="list-style-type: none"> <li>Applicant's assurance that efforts will be made to retain jobs during the State disaster emergency</li> <li>Other potential sources of funding available to the applicant</li> </ul>
<b>Terms of Loan</b>	<p>Prior to the administering of a State Disaster Emergency Loan Program, an IDA shall develop and adopt by resolution, the terms and conditions of such loans, provided that:</p> <ul style="list-style-type: none"> <li>The amount of any loan shall not exceed \$25,000 (and provided further that the total amount of all loans received by an eligible entity shall not exceed \$25,000); and</li> <li>The loan agreement shall not (i) require repayment during the grace period, or (ii) charge interest on the principal amount; and</li> <li>The loan agreement shall require that the eligible entity repay the loan in full not later than one year after the end of the grace period; and</li> <li>The loan agreement shall not contain a fee or penalty for the prepayment or early payment of the loan.</li> </ul>
<b>Priority for Highly Distressed Areas</b>	IDAs shall give priority under the State Disaster Emergency Loan Program to applications from applicants servicing highly distressed areas (as defined in Section 854 of the GML).
<b>Only One Loan</b>	No applicant shall be permitted to receive more than one loan from more than one IDA.
<b>Coordination Among IDAs</b>	Any IDAs that serve within the same municipalities shall coordinate the distribution of loans in the State Disaster Emergency Loan Program.
<b>Credit Counseling</b>	IDAs shall offer credit counseling services or refer eligible entities to not-for-profit credit counselors.
<b>Recordkeeping</b>	<p>Each IDA shall maintain records related to the State Disaster Emergency Loan Program, including a record of loans issued and of payments received, and include such information in the annual PARIS filing.</p> <p>Each IDA that establishes a State Disaster Emergency Loan Program shall submit a report on the State Disaster Emergency Loan Program including, but not limited to, the number and aggregate amount of loans given, loans fully repaid, any outstanding loans, defaults and bad debts, to the following within one year after the State disaster emergency ends: the Governor, the Speaker of the Assembly and the Temporary President of the Senate.</p>
<b>Interest Deferral</b>	Any interest deferred or not charged relating to a loan issued under the State Disaster Emergency Loan Program shall be exempt from all state taxes that may be applicable to such interest amounts. IDAs shall disclose to eligible entity borrowers in loan documents that there may be federal tax consequences to the program loans.
<b>No New Applications After State Disaster Emergency Ends</b>	No new loan applications for loans under the State Disaster Emergency Loan Program shall be accepted after the State disaster emergency ends.
<b>Effective Date:</b>	The Proposed Legislation is effective immediately (once signed by the Governor) and shall expire and be deemed repealed on December 31, 2021.

Please note the following list of preliminary issues we have identified that IDAs need to consider and discuss with counsel in connection with the compliance with the Proposed Legislation.

	<b>Issue</b>	<b>Summary Discussion</b>
1.	Administration of Program	Under other sections of the GML, IDAs have the power to enter into contracts and to hire consultants. It would appear, therefore, that IDAs could contract with outside parties for assistance in undertaking the loan and grant programs outlined in the Proposed Legislation. Our view, however, would be that the IDA should be involved in the actual approval of the loan and/or the grant and not delegate that task to an outside consultant.
2.	Available revenues	The Proposed Legislation provides that IDAs may administer a State Disaster Emergency Loan Program from “available revenues”. Available revenues are not defined in the Proposed Legislation, but it would appear to include moneys generated by IDAs through the collection of administration fees.
3.	Definition of Personal Property and Fixtures	We would suggest using the typical definitions contained in federal tax law.
4.	Acquiring and installing	Note that the Proposed Legislation describes “acquiring” personal property and “installing” fixtures. Can grant moneys be used to acquire fixtures?
5.	Number of employees	The Proposed Legislation is not clear on how the number of employees is determined. Namely, FTEs? Include part-time employees?
6.	Interest on Loan	Although there is some ambiguity in the Proposed Legislation, it appears that the loan cannot accrue interest.
7.	Coordination with Other IDAs	In municipalities where there are overlapping IDAs, there will be need for coordination among the IDAs.
8.	Loan Documents	There will be need for careful drafting to ensure compliance with the grace period and maturity date provisions contained in the Proposed Legislation.
9.	Claw-back Provisions	The Proposed Legislation does not restrict the ability of IDAs to impose additional requirements on the making of loans and grants, including the imposition of claw-back agreements.
10.	Existing Loans	Any grant or loan made by an IDA under the Proposed Legislation is subject to existing loans and covenants of the project applicants.
11.	Fees and Expenses	The Proposed Legislation does not prohibit IDAs from charging fees and expenses, including attorneys’ fees. If such fees are to be paid out of the proceeds of the loan or grant, then the amount of the loan or grant must be reduced to reflect the loan and grant limit contained in the Proposed Legislation.
12.	Recordkeeping	Given the amount of regulatory oversight IDAs are subject to, it is very important that IDAs maintain careful and complete records of its grants and loans.

If you have any comments or questions on the Proposed Legislation, please do not hesitate to contact the following attorneys:

Terrence M. Gilbride	(716) 848-1236	<a href="mailto:tgilbrid@hodgsonruss.com">tgilbrid@hodgsonruss.com</a>
Daniel A. Spitzer	(716) 848-1420	<a href="mailto:dspitzer@hodgsonruss.com">dspitzer@hodgsonruss.com</a>
A. Joseph Scott, III	(518) 433-2419	<a href="mailto:ascott@hodgsonruss.com">ascott@hodgsonruss.com</a>
Charles W. Malcomb	(716) 848-1261	<a href="mailto:cmalcomb@hodgsonruss.com">cmalcomb@hodgsonruss.com</a>
Christopher C. Canada	(518) 736-2913	<a href="mailto:ccanada@hodgsonruss.com">ccanada@hodgsonruss.com</a>
Nadene E. Zeigler	(518) 433-2420	<a href="mailto:nzeigler@hodgsonruss.com">nzeigler@hodgsonruss.com</a>
Michael T. Logan	(518) 433-2409	<a href="mailto:mlogan@hodgsonruss.com">mlogan@hodgsonruss.com</a>

## Authorities Budget Office Policy Guidance



**No.** 20-02

**Date Issued:** June 18, 2020

**Supercedes:** New

**Subject:** Industrial Development Agency State Disaster Emergency Loan Program Reporting Guidelines

**Statutory Citation:** Article 18-A, Title 1, Sections 858 and 859-c of General Municipal Law (GML); Section 2800 of Public Authorities Law (PAL)

**Provision:** Pursuant to Chapter 109 of the Laws of 2020, Section 858 of GML allows for an Industrial Development Agency (IDA) to provide grants to small businesses or not-for-profits for the purposes of purchasing personal protective equipment (PPE) and other fixtures needed to help prevent the spread of COVID-19. Section 859-c establishes the State disaster emergency loan program to allow IDAs to make loans to small businesses and not-for-profits up to \$25,000. IDAs that administer a state disaster emergency loan program should maintain detailed records related to the program and report such information to the Authorities Budget Office (ABO) as required by Section 859-c (6)(a) of GML.

**Authorities Budget Office Policy Guidance:** The mission of the Authorities Budget Office is to make public authorities more accountable and transparent, and to act in the public interest consistent with their intended purpose. IDAs that choose to provide funding to eligible entities should only do so in accordance with this guidance. IDAs that do not follow this guidance when providing such funding are subject to the enforcement powers of the Authorities Budget Office (ABO) and other oversight agencies.

GML 859-c (6) requires each IDA to maintain certain records related to the state disaster emergency loan program, including a record of loans issued and of payments received. Such information would be required to be filed in the IDA's annual report pursuant to requirements in the public authorities law.

The following information is to be reported to the ABO within 90 days of the end of the respective IDA's fiscal year ([see attached form for instructions](#)):

- Name and address of each grant and loan recipient
- The amount of the grant provided
- The original amount of the loan
- Date the grant or loan was awarded
- Length of loan (repayment period)
- Amount of loan principal repaid as of the end of the fiscal year
- Specific use of grant or loan funds

The IDA shall be solely responsible for all reporting related to the grants and loans program described herein. In addition, IDAs should post all respective board adopted policies and approved grant and loan applications to the IDAs web site.

Other criteria the board shall consider include the following:

1. No IDA should issue debt to fund the creation of a state disaster emergency grant or loan fund.
2. IDA funding may only be provided to eligible entities by completing an application, which should be conspicuously posted on the IDA website.
  - a. An eligible entity should provide the IDA with its financials as of December 31, 2019.
  - b. Eligible loan uses should be memorialized in a written agreement between the IDA. Any agreement should provide for the recapture of funds loaned or granted in any instance where the funds used are not for authorized purposes.
  - c. An eligible entity should provide the IDA with a listing of all other loans and grants it has received or applied for a similar purpose.
3. The IDA board must review any application in a public meeting that is consistent with the provisions of Public Officers Law Article 7 and EO 202.1, et seq. and the board shall allow for public comment.
4. Minutes of these meetings are to be posted on the IDA's public web site as soon as is practicable or within 5 days of the meeting.

RESOLUTION APPROVING COVID-19 SMALL BUSINESS  
STATE DISASTER EMERGENCY GRANT PROGRAM

WHEREAS, Town of Bethlehem Industrial Development Agency (the "Agency") is a public benefit corporation authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 582 of the 1973 Laws of New York, as amended constituting Section 909-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to encourage economic growth in the Town of Bethlehem; and

WHEREAS, the Agency intends to implement New York State Chapter 109 of the Laws of 2020 amending section 858 of the General Municipal Law ("State Legislation") which allows the Agency to provide grants to small businesses or not-for-profits for the purpose of purchasing personal protective equipment ("PPE") and other fixtures ("Fixtures") necessary to prevent the spread of COVID-19;

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

Section 1. The Agency approves of Agency Policy for the COVID-19 Small Business State Disaster Emergency Grant Program which is attached hereto and directs that the Policy is to be posted on the Agency's website; and

Section 2. The Agency approves of the COVID-19 Small Business State Disaster Emergency Grant Program Application which is attached hereto and directs that the Application be posted on the Agency's website; and

Section 3. The Agency approves of the COVID-19 Small Business State Disaster Emergency Grant Program Agreement which is attached hereto and

Section 4. The Agency hereby authorizes the Chairman and the Executive Director and the Chief Executive Officer to take all steps necessary to implement this Resolution; and

Section 5. This Resolution shall take effect immediately.



**Frank S. Venezia**  
*Chair*

**Victoria Storrs**  
*Vice Chair*

**Tim McCann**  
*Secretary*

**Richard Kotlow**  
*Assistant Secretary*

**Tim Maniccia**  
*Member*

**David Kidera**  
*Member*

**Catherine M.  
Hedgeman, Esq.**  
*Member*

## TOWN OF BETHLEHEM

*Albany County - New York*

### INDUSTRIAL DEVELOPMENT AGENCY

445 DELAWARE AVENUE  
DELMAR, NEW YORK 12054  
Telephone: (518) 439-4955  
www.bethlehemida.com

**Thomas P. Connolly**  
*Executive Director,  
Assistant Secretary and  
Agency Counsel*  
518-573-2200

**Allen F. Maikels**  
*Treasurer, Chief Financial  
Officer and Contracting Officer*  
518-487-4679

**Vacant**  
*Economic Development  
Coordinator*  
Ext. 1189

**Robin Nagengast**  
*Assistant to the Executive  
Director and Clerk*  
Ext. 1164

### Town of Bethlehem Industrial Development Agency Policy for COVID-19 Small Business State Disaster Emergency Grant Program

The State of New York created a temporary program, beginning 3/7/2020 and ending 12/31/2021, which permits Industrial Development Agencies to make grants to small businesses and not-for-profits to help those entities weather the economic disaster created by the COVID-19 pandemic. The grants are to be used to reimburse the costs incurred for the PPE and fixtures necessary to prevent the spread of the disease as businesses reopen. The Bethlehem IDA wishes to extend the benefits of the small grant program to the Bethlehem business community.

The Town of Bethlehem Industrial Development Agency ("Agency") intends to implement New York State Chapter 109 of the Laws of 2020 amending section 858 of the General Municipal Law ("State Legislation") to allow the Agency to provide grants to small businesses or not-for-profits for the purpose of purchasing personal protective equipment ("PPE") and other fixtures ("Fixtures") necessary to prevent the spread of COVID-19. All information submitted is subject to the Freedom of Information Law.

The Agency's grant policy is as follows:

1. An "Eligible Entity" means both small business entities and not-for-profit corporations that:
  - a. Are physically located in the Town of Bethlehem ("Town");
  - b. Were in operation as of 3/7/2020;
  - c. Have not more than 50 full-time employees (FTEs) as of 3/7/2020 and as of the date of the application;
  - d. Conduct business within the Town;
  - e. Have been negatively affected by the State disaster emergency; and
  - f. Had been financially viable as of 3/7/2020 and as of date of application.
2. The Agency will allocate \$25,000 from its net assets to provide grants to reimburse the cost of purchases and installation of PPE and fixtures in the maximum amount of up to \$500 for an Eligible Entity.

3. The Agency must approve each application for a grant at a public meeting of the Agency at which public comment is permitted; the minutes of the meeting should be posted within 5 days of the meeting; the application will be posted on the Agency's website.
4. An Eligible Entity must purchase and install the PPE and Fixtures in the Eligible Entity and submit to the Agency proof, satisfactory to the Agency, of the purchase and/or installation of the PPE and Fixtures. The Agency will reimburse the Eligible Entity, pursuant to paragraph 2 above.
5. An Eligible Entity must provide to the Agency financial statements for the most recent fiscal year. Internally prepared financial statements will be accepted.
6. An Eligible Entity must provide the Agency with a listing of all other loans and grants it has received or applied for with a similar purpose.
7. The Agency and an Eligible Entity shall execute a written agreement ("Agreement") covering the terms and conditions of the grant.
8. The Agreement will provide that in the event that the Eligible Entity does not use the grant funds for an authorized purpose, the Agency will recapture the funds granted to the Eligible Entity.
9. The Agency will report the name and address of each grant recipient, the amount of a grant, the date the grant was awarded and the specific use of the grant funds, in the Agency's annual report to New York State Authorities Budget Office.
10. This grant program will terminate on 12/31/2021. Applications are considered on a first come basis and reviewed for completeness.
11. This policy shall be posted on the Agency's website.

**Frank S. Venezia**  
*Chair*

**Victoria Storrs**  
*Vice Chair*

**Tim McCann**  
*Secretary*

**Richard Kotlow**  
*Assistant Secretary*

**Tim Maniccia**  
*Member*

**David Kidera**  
*Member*

**Catherine M. Hedgeman, Esq.**  
*Member*

**TOWN OF BETHLEHEM**  
*Albany County - New York*  
**INDUSTRIAL DEVELOPMENT AGENCY**

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**Robin Nagengast**  
*Assistant to the Executive  
Director and Clerk*  
Ext. 1164

**COVID-19 Small Business State Disaster Emergency Grant Application**

Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Part I. Contact Information**

Name \_\_\_\_\_ Home Phone \_\_\_\_\_

Cell Phone \_\_\_\_\_ E-mail Address \_\_\_\_\_

Home Address \_\_\_\_\_

City and State \_\_\_\_\_ Zip code \_\_\_\_\_

**Part II. Business/Not-for-Profit Information (Applicant)**

Name of Applicant \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Address \_\_\_\_\_

City and State \_\_\_\_\_ Zip code \_\_\_\_\_

Web Site Address \_\_\_\_\_

E-mail Address \_\_\_\_\_

Employer Identification Number/Federal Tax ID/Social Security No.: \_\_\_\_\_

Number of Full Time Employees (FTEs): \_\_\_\_\_

Business start date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Type of Business Entity (check all that apply):**

- Sole Proprietor    Partnership    LLC    S-Corporation    C-Corporation
- National Chain    Independent Contractor for National Chain    Veteran Owned Business
- MWBE    Locally Owned Franchise    Not-for-Profit Corporation

Grant Amount Request, not to exceed \$500.00: \_\_\_\_\_

Purpose: Personal Protective Equipment \_\_\_\_\_ (attach receipt)

Fixtures necessary to prevent the spread of COVID-19 \_\_\_\_\_ (attach receipt)

List all other loans or grants received or applied for with a similar purpose:

\_\_\_\_\_  
\_\_\_\_\_

**Optional:** Did your business close during the pandemic? YES\_\_NO\_\_

Attachment: Application BIDA Grant Program V4 Final Draft (6269 : COVID Policy/Application/Agreement)

**Optional: If YES,**

What was the duration of the closure? \_\_\_\_\_

When did you reopen? Phase: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Average monthly spending on PPE items \$\_\_\_\_\_, fixtures \$\_\_\_\_\_

The Applicant has been negatively affected by the State Disaster Emergency YES\_\_NO\_\_

**Optional:** Describe how affected:

\_\_\_\_\_  
\_\_\_\_\_

**Part III. Declarations**

The authorized representative of the Applicant must certify in good faith to all of the below by initialing next to each one:

\_\_\_\_\_ The Applicant does not have more than 50 full time employees (FTEs) and didn't as of March 7, 2020.

\_\_\_\_\_ The Applicant was in operation as of March 7, 2020.

\_\_\_\_\_ The Applicant was financially viable as of March 7, 2020 and as of date of application.

\_\_\_\_\_ Issuance of the grant is conditioned on the Applicant and the Agency executing a written agreement covering the terms and conditions of the Grant.

\_\_\_\_\_ The funds will reimburse the Applicant for personal protective equipment or fixtures necessary to prevent the spread of COVID-19

\_\_\_\_\_ The Applicant is physically located within the Town of Bethlehem and conducts business within the Town.

\_\_\_\_\_ The Applicant commits to reporting the status of business operations, using a provided form, on 1/15/2021 and 1/15/2022.

\_\_\_\_\_ Financial statements for the most recent fiscal year are attached. Internally prepared financial statements will be accepted.

**I/we attest that to the best of my/our knowledge, the information contained in this application is correct and true. I/we am/are aware that the filing of a false instrument in connection with this application may constitute an attempt to defraud the Town of Bethlehem Industrial Development Agency and may be illegal under the laws of the State of New York.**

If Applicant is a sole proprietorship, partnership, or limited liability company, sign below:

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

If Applicant is a corporation, sign below:

Name/Title: \_\_\_\_\_

Corporate Name: \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Attachment: Application BIDA Grant Program V4 Final Draft (6269 : COVID Policy/Application/Agreement)

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Chair

**Victoria Storrs**  
Vice Chair

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## TOWN OF BETHLEHEM

Albany County - New York

### INDUSTRIAL DEVELOPMENT AGENCY

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#### Town of Bethlehem Industrial Development Agency COVID-19 Small Business State Disaster Emergency Grant Agreement

THIS AGREEMENT, entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ having its principal office at \_\_\_\_\_ (hereinafter "Company") and the Town of Bethlehem Industrial Development Agency having its principal office at 445 Delaware Avenue, Delmar, New York (hereinafter "Agency"), making and entering into same as the date of its execution by an authorized representative of the AGENCY.

WITNESSETH THAT:

WHEREAS, the Agency on \_\_\_\_\_ authorized the Agency to grant Agency funds to the Company for the purpose of providing to small businesses or not-for-profits funds for the purchase of personal protective equipment (hereinafter "PPE") and for the installation of fixtures (hereinafter "Fixtures") necessary to prevent the spread of COVID-19.

NOW, THEREFORE, the parties do agree as follows:

1. **Project Descriptions.** The Agency will grant funds to the Company which will use the funds for the reimbursement of PPE and Fixtures more fully described in the Company's application for funds during the period 3/7/2020 through 12/31/2021.
2. **Grant Amount.** The Agency agrees to grant up to \$500 for the project. Under no circumstances will the Agency be expected to provide more than \$500 to the Company.
3. **Grant Disbursement.** The Agency shall disburse its grant to the Company only after the AGENCY receives proof satisfactory to the Agency that the Company has purchased PPE and/or installed Fixtures.
4. **Hold Harmless Agreement.** The Company agrees to indemnify and defend the Agency and hold it harmless from any claim against it in any way arising out of the Agency's involvement with this project.
5. **Other Undertakings of the Company.**
  - a. The Company is an "Eligible Entity" as set forth in New York State Chapter 109 of the Laws of 2020 amending section 858 of the General Municipal Law.
  - b. The Company is a small business or not-for-profit corporation that did not have more than 50 full time employees (FTEs) as of 3/7/2020;
  - c. The Company is physically located in the Town of Bethlehem (hereinafter "Town");
  - d. The Company was in operation as of 3/7/2020.
  - e. The Company conducts business within the Town.

- f. The Company was financially viable as of 3/7/2020 and as of date of application..
  - g. The Company has been negatively affected by the State disaster emergency.
  - h. The Company must provide to the Agency financial statements for the most recent fiscal year. Internally prepared financial statements will be accepted.
  - i. The Company must provide the Agency with a listing of all other loans and grants it has received or applied for with a similar purpose.
  - j. The Company shall report to the Agency on 1/15/2021 and 1/15/2022, the name and address of the grant recipient, the amount of the grant, the date the grant was awarded, and the specific use of the grant funds.
  - k. In the event the Company does not use the grant funds for authorized purposes, the Agency will recapture the grant funds.
6. **Assignments.** The Company shall not assign or otherwise transfer any of its rights, duties or obligations under this agreement without the Agency’s advance written authorization.
  7. **Audit.** The Company agrees to participate actively, if requested, and without compensation in audits of the grant made by the New York State Comptroller or the New York State Authorities Budget Office.
  8. **No Waiver.** No failure on the part of the Agency to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Agency of any right hereunder preclude any other or future exercise thereof or the exercise of any other right.
  9. **Applicable Law.** This Agreement and the rights and obligations of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of New York.
  10. **Notice.** All notices permitted or required under this Agreement shall be in writing and shall be deemed to be given when delivered personally or deposited in the mails, postage prepaid, certified mail addressed to the Company at its address set forth above and addressed to the Agency at its address set for above. Either party may change its address by notice similarly given.
  11. **Records.** The Company agrees to keep and maintain books, records and other documents relating to the receipt and disbursements of monies advanced by the Agency; and any duly authorized representatives of the Agency, shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records and other documents of the Company until all issues arising from the grant agreement have been finally settled.
  12. **Public Information Disclosures.** The Company understands and agrees that some information furnished in connection with this application for a grant involves the use of public funds and as such may be public pursuant to the statutes of the State of New York.
  13. **Termination.** This Disaster Relief Emergency Grant Program will terminate on 12/31/2021.

IN WITNESS WHEREOF, the Company and the Agency have executed this Agreement as of the date first above written.

**Town of Bethlehem IDA**

**(Company Name)**

By:

By:

Frank S. Venezia, Chair

Name/Title:

Date:

Date:

2020  
ADMINISTRATIVE SERVICES CONTRACT

THIS AGREEMENT is made as of the 1<sup>st</sup> day of January, 2020, by and between the following parties:

**TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation organized and existing under the laws of the State of New York having a principal place of business located at 445 Delaware Avenue, Delmar, New York 12054, party of the first part (hereinafter referred to as the “Agency”); and

**TOWN OF BETHLEHEM, NEW YORK**, a municipal corporation of the State of New York having a principal place of business located at 445 Delaware Avenue, Delmar, New York 12054, party of the second part (hereinafter referred to as the “Municipality”).

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 582 of the 1973 Laws of New York, as amended, constituting Section 909-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research, recreation and civic facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act (A) to make by-laws for the management and regulation of its affairs and (B) to appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the Agency; and

WHEREAS, the Agency has employed an Chief Executive Officer/Executive Director (“Executive Director”) and Chief Financial Officer; and,

WHEREAS, pursuant to Section 858(6) of the Act, the Agency is authorized and empowered, with the consent of the Municipality, to use agents and employees of the Municipality, paying the Municipality its agreed proportion of the compensation or costs; and

WHEREAS, the Agency and the Municipality agree that the Municipality shall provide



certain services of the staff of the Municipality and of the Municipality’s Department of Economic Development and Planning (“Department”), to act as the staff of the Agency on a part-time basis in 2020; and

Whereas, the revenues of the Agency are variable, episodic and unpredictable, and

Whereas the Agency has adopted a policy requiring a fund balance of \$450,000.00 ("Fund Balance Policy"); and

WHEREAS, the Agency wishes to compensate the Municipality for the Services within the limitations of Agency revenue and Fund Balance Policy as set forth on Exhibit A;

NOW, THEREFORE, the parties hereto agree as follows:

SECTION I

DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY

SECTION 1.1. SERVICES. (i) The Municipality shall provide the services of the Department’s Director (“Director”) and Economic Development Coordinator (“Coordinator”) and the Administrative Assistant to the Supervisor of the Municipality (“Administrative Assistant”) to provide consulting services to the Agency on a part-time basis. The services of the Director shall be to report to the Agency at its regular and special meetings on projects under review by the Department, the Planning Board and Zoning Board of Appeals. The services of the of the Coordinator shall be to perform assignments for the Agency of about 13.125 hours per week and to report to the Agency at its regular and special meetings about projects assigned by the Agency and the Department relating to economic development in the Municipality. The services of the Administrative Assistant shall be to perform the duties of the Clerk of the Agency (maintaining the records of the Agency, following the Guidelines for IDA Meeting Notices and Minutes and acting as Records Access Officer) and to assist the Executive Director.

(ii) [Intentionally Omitted]

(iii) [Intentionally Omitted]

(iv) [Intentionally Omitted]

SECTION 1.2. TERM. The term of this Agreement shall be from January 1, 2020 through December 31, 2020. The services to be provided by the Municipality hereunder shall be provided only during the term of this Agreement.

SECTION 1.3. STAFF. To accomplish the foregoing services, the Municipality is empowered to use such additional staff of the Municipality as the Department and its Director shall deem necessary to accomplish the Municipality’s obligations under this Agreement.

SECTION 1.4. OFFICE SPACE. The Municipality shall provide, maintain and equip suitable office space

for the Agency.

## SECTION II

### DUTIES AND RESPONSIBILITIES OF THE AGENCY

SECTION 2.1 PAYMENTS. (A) Contribution. In full consideration for all the services performed by the Municipality in a manner satisfactory to the Agency, the Agency shall pay to the Municipality the amount set forth on Exhibit A annexed hereto and made a part hereof, and one-half of said amount shall be paid on June 15, 2020, and one-half shall be paid on December 15, 2020.

(B) Expenses. [Intentionally Omitted]

(C) Expense Budget. [Intentionally Omitted]

SECTION 2.2. RELEASE. The acceptance by the Municipality of the amount set forth in Section 2.1A hereof shall release the Agency from any and all claims, causes of action and liability to the Municipality, or to its legal representative; rising out of or relating to this Agreement.

SECTION 2.3. MEETINGS. The Agency shall notify the Municipality and the Department and its Director of all meetings of the governing body of the Agency.

## SECTION III

### CANCELLATION OF AGREEMENT

SECTION 3.1. RIGHT TO CANCEL. Either party shall have the right to cancel this agreement upon sixty (60) days written notice to the other party, for any of the following reasons:

(A) For Cause: Upon any breach, default, or other defect of performance or breach of any representation, warranty or covenant under this Agreement, the Municipality and/or the Agency may cancel this Agreement. In addition, any breach of responsibilities on the part of the Director, including but not limited to theft, pilfering, willful refusal to follow instructions of the Board of the Agency, dereliction of duties, inefficiency in performing his duties, or other acts of a like nature, all as determined by the Agency, the Agency may cancel this Agreement.

(B) Upon Cancellation: Upon either party exercising its right to cancel this Agreement pursuant to paragraph (A) above, the Agency shall pay the prorated amount of Contribution to the Municipality pursuant to this Agreement.

SECTION 3.2. PROCEDURE UPON CANCELLATION. Upon the cancellation of this Agreement, the

Municipality shall comply with the following cancellation procedures:

- (A) [Intentionally Omitted]
- (B) [Intentionally Omitted]

SECTION 3.3 OWNERSHIP OF DOCUMENTS. Upon expiration or cancellation of this Agreement, all finished and unfinished documents, data, studies and reports, and other property purchased by the Municipality with funds provided by the Agency pursuant to this Agreement, shall become the property of the Agency.

## SECTION IV

### RELATIONSHIP; INDEMNITY

SECTION 4.1. RELATIONSHIP. (A) The relationship of the Municipality to the Agency arising out of this Agreement shall be that of an independent contractor. The Municipality, in accordance with its status as an independent contractor, covenants and agrees that neither the Municipality, nor any of its officers or employees, will, by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the Agency including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

(B) All personnel of the Municipality shall be within the employ of the Municipality only, which alone shall be responsible for their work, their direction, and their compensation. Nothing in this Agreement shall impose any liability or duty on the Agency on account of any acts, omissions, liabilities or obligations of the Municipality or any person, firm, company, agency, association, corporation, or organization engaged by the Municipality as expert, consultant, independent contractor, specialist, trainee, employee, servant or agent, or for taxes of any nature including, but not limited to, unemployment insurance and worker's compensation, and the Municipality hereby agrees to indemnify and hold harmless the Agency against any such liabilities.

SECTION 4.2. INDEMNITY. The Agency shall not be liable for any debts, liens or encumbrances incurred by the Municipality or its officers and employees. The Municipality hereby agrees to indemnify and save harmless, the Agency against any and all claims, liability, loss, damages, costs or expenses which the Agency may hereafter incur, suffer or be required to by reason of any negligent or willful act or omission of the Municipality in the performance of this Agreement.

## SECTION V

### MISCELLANEOUS PROVISIONS

SECTION 5.1. REQUIRED APPROVALS. (A) The Supervisor of the Municipality has executed this Agreement pursuant to motion adopted by the Board of the Municipality, on \_\_\_\_\_, 2020. This Agreement shall be executed at least in duplicate, and, after execution thereof, at least one copy thereof shall be permanently filed by the Municipality in the office of its Clerk.

(B) The Chairman of the Agency has executed this Agreement pursuant to Resolution adopted by the members of the Agency on March 27, 2020. This Agreement shall be executed at least in duplicate, and, after execution thereof, at least one copy thereof shall be permanently filed by the Agency in the records of the Agency.

SECTION 5.2. NOTICES. (A) All notices and other communications hereunder shall be in writing and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

- (1) To the Agency:

Town of Bethlehem Industrial Development Agency  
445 Delaware Avenue  
Delmar, NY 12054  
Attention: Chair

- (2) To the Municipality:

Town of Bethlehem  
445 Delaware Avenue  
Delmar, NY 12054  
Attention: Supervisor

(B) The Agency and the Municipality may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.2. WAIVER. No waiver of any breach of any provision of this Agreement shall be binding unless the same shall be in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

SECTION 5.3. SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Agency or the Municipality to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Agreement.

SECTION 5.4. ENTIRE AGREEMENT; AMENDMENTS. The foregoing contains the entire Agreement of the Agency and the Municipality and no modification thereof shall be binding unless the same is in writing and signed by the respective parties. This Agreement may not be amended, changed, modified,

altered or terminated, except by an instrument in writing signed by the parties hereto.

**SECTION 5.5. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 5.6. APPLICABLE LAW.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of New York.

**SECTION 5.7. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.** The Table of Contents and the headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

**SECTION 5.8. BINDING EFFECT.** All covenants and agreements herein contained by or on behalf of the Agency and the Municipality shall bind and inure to the benefit of the respective successors and assigns of the Agency and the Municipality, whether so expressed or not.

**SECTION 5.9. ASSIGNMENT.** The Municipality is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this Agreement, or of its power to execute this Agreement, to any other person or corporation, without the prior written consent of the Agency.

**SECTION 5.10. LIMITATION OF LIABILITY.** The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York and the State of New York shall not be liable thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the general funds of the Agency. Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Municipality; and (B) if compliance with such request is reasonably expected to result in the incurrence by any member, officer, agent or employee of the Agency of any liability, fees, expenses or other costs, such person shall have received from the Municipality security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

APPROVED AS TO FORM:

TOWN OF BETHLEHEM INDUSTRIAL DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
Agency Counsel

BY: \_\_\_\_\_  
Chair

APPROVED AS TO FORM:

TOWN OF BETHLEHEM

BY: \_\_\_\_\_  
Municipality Attorney

BY: \_\_\_\_\_  
Supervisor

Attachment: Administrative Services Contract 2020 v5 3-13-2020 (M1706232x7F824) (6309 : Services Agreement)

STATE OF NEW YORK )  
 )  
COUNTY OF ALBANY )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2020 before me, the undersigned, a notary public in and for said state, personally appeared Frank S. Venezia personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
 )  
COUNTY OF ALBANY )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2020 before me, the undersigned, a notary public in and for said state, personally appeared David VanLuven, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Attachment: Administrative Services Contract 2020 v5 3-13-2020 (M1706232x7F824) (6309 : Services Agreement)



Town of Bethlehem and Town of Bethlehem IDA  
2020 Administrative  
Services Contract  
Exhibit A

Position Allocation:	Budgeted Salary	Est. Hours per Week	Percent Allocation	Dollars Allocable to IDA
<u>Salaries</u>				
Director of Div. Econ Dev & Planning (Leslie)	120,537	6.00	16.0%	19,286
Administrative Aide (Nagengast)	62,847	4.00	11.4%	7,183
Economic Dev. Coordinator (Staubach)	74,395	18.75 <sup>a</sup>	35.0% <sup>b</sup>	26,038
<u>Fringes</u>				
Director Div. Econ Dev & Planning	32,510		16.0%	5,202
Administrative Aide	16,628		11.4%	1,900
Economic Dev. Coordinator	21,683		35.0% <sup>b</sup>	7,589
				67,198
<u>Other</u>				
Payroll, PILOT Billing & Tracking				16,000
Total Estimated Costs Incurred by the Town, for the benefit of the IDA				<u>81,198</u>
Agreed upon amount for Services for 2020 (not to exceed amount)				50,000

The Municipality will supply meeting space, video streaming/agenda service, website and other support as needed.

<sup>a</sup>1/2 Time  
<sup>b</sup>70% of 1/2 time

Attachment: Administrative Services Contract 2020 v5 3-13-2020 (M1706232x7F824) (6309 : Services Agreement)