

RESOLUTION 2021 -19

A RESOLUTION OF THE TOWN COUNCIL OF THE MUNICIPALITY OF KINGSTON, LUZERNE COUNTY, PENNSYLVANIA A HOME RULE MUNICIPALITY, APPROVING A HOST AGREEMENT BETWEEN GREATER WILKES BARRE INDUSTRIAL FUND, INC. AND THE MUNICIPALITY OF KINGSTON RELATING TO THE REDEVELOPMENT ASSISTANCE CAPITAL PROGRAM GRANT OF THE COMMONWEALTH OF PENNSYLVANIA FOR THE FRIEDMAN CENTER PROJECT WITHIN THE MUNICIPALITY OF KINGSTON

WHEREAS, the Commonwealth of Pennsylvania Office of Budget through the Redevelopment Assistance Capital Grant Program, with the Greater Wilkes Barre Industrial Fund serving as the Grantee and the Jewish Community Alliance serving as the Sub-Grantee, funded the Friedman Center Project located at 613 S.J. Strauss Lane in the Municipality of Kingston; and,

WHEREAS, the Grant Agreement of the project requires the Greater Wilkes-Barre Industrial Fund, Inc to execute a Cooperation Agreement with a taxing body, and

WHEREAS, Greater Wilkes Barre Industrial Fund, Inc is seeking to pursue a Host Agreement with the Municipality of Kingston whereby Kingston would reimburse the Commonwealth for the Commonwealth's share of any expenditures related to the project found to be ineligible under the Grant Program; and,

WHEREAS, the Agreement required the Greater Wilkes Barre Industrial Fund, Inc to thereupon reimburse host for all expenses incurred in fulfilling Kingston's obligations under the Resolution for any expenditures sought from Kingston by the Commonwealth based on any ineligibility under the terms of the Grant, and,

WHEREAS, the Municipality of Kingston would also have the right to proceed in any legal manner directly against the Greater Wilkes Barre Industrial Fund, Inc for recovery of the amounts reimbursed by Kingston to the Commonwealth for ineligible expenses related to the project; and,

WHEREAS, the proposed Agreement holds the Municipality of Kingston harmless from any losses, damages and expenses arising from or related to the project or the Grant thereby avoiding any monetary responsibility for the Municipality of Kingston

NOW THEREFORE, BE IT RESOLVED that the Town Council of the Municipality of Kingston, in lawful session hereby approves the Host Agreement attached to this Resolution and empowers the Mayor or Administrator and Municipal Secretary to execute the Agreement on behalf of the Municipality of Kingston.

ADOPTED at a regular meeting of the Town Council of the Municipality of Kingston, Luzerne County, Pennsylvania held the 3rd day of May, 2021.


FOR THE TOWN COUNCIL

BY: 
Robert Thompson, President

ATTEST


Julie Norton, Secretary

APPROVED:


Paul J. Roberts, Jr., Mayor

Date: May 3, 2021

HOST AGREEMENT

THIS HOST AGREEMENT made and entered into on the _____ day of _____ 2021, by and between GREATER WILKES BARRE INDUSTRIAL FUND, Inc, a not-for profit organized in the Commonwealth of Pennsylvania with offices at 7 South Main Street Wilkes Barre, Pennsylvania, 18701 (“IF”) and the MUNICIPALITY OF KINGSTON, a Municipality of Luzerne County, with offices at 500 Wyoming Avenue, Kingston, Pennsylvania 18704 (“Kingston”) with respect to a certain Redevelopment Assistance Capital Grant from the Commonwealth of Pennsylvania to the Greater Wilkes-Barre Industrial Fund.

WITNESSETH THAT:

WHEREAS, IF has been designated as the recipient of a Commonwealth Redevelopment Assistance Capital Program grant, Contract No. ME 300-1977 (the “Grant”) of the Commonwealth of Pennsylvania for the Friedman Center Project, Kingston, Pennsylvania (the “Project”); and

WHEREAS, the Friedman Center RACP Project involves the fit-out of the existing Friedman Center to accommodate three tenant spaces totaling approximately 11,000 square feet and the performance of minor site improvements; and

WHEREAS, The JEWISH COMMUNITY ALLIANCE a not for profit organized in the Commonwealth of Pennsylvania with offices at 613 S.J. Strass Lane, Kingston, Pennsylvania, 18702 (“JCA”) has been designated as a sub-grantee under special condition #3 of the “Grant”

WHEREAS, the Office of the Budget of the Commonwealth of Pennsylvania (the “Commonwealth”) requires that the host municipality, in this instance, the Municipality of Kingston, provide a commitment that it will reimburse the Commonwealth for the

Commonwealth's share of any expenditures related to the Project found to be ineligible under the Grant program; and

WHEREAS, Kingston has deemed it to be beneficial to JCA, Kingston and the Commonwealth to complete the Project and has passed Resolution 2021-19 (the "Resolution") attached herein as "Exhibit A", whereby Kingston will reimburse the Commonwealth for the Commonwealth's share of any expenditures related to the Project found to be ineligible under the Grant Program by the Commonwealth, if any; and

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, IF and Kingston mutually agree as follows:

1. Reimbursement. IF shall pay for or reimburse Kingston for all expenses incurred in fulfilling Kingston's obligations under the Resolution. IF shall, upon demand, advance, immediately, funds to Kingston to cover any amounts that are determined by the Commonwealth to be ineligible under the terms of the Grant.

2. Right to Proceed to Recovery. Kingston shall have the right to proceed in any legal manner directly against IF for recovery of the amounts reimbursed by Kingston to the Commonwealth for ineligible expenses related to the Project, and Kingston shall also be entitled to recover from IF the full cost of any such proceeding.

3. Handling of Project-Related Notices from the Commonwealth. IF shall promptly provide Kingston with copies of all notices and correspondence received either directly or through the Greater Wilkes-Barre Industrial Fund, from the Commonwealth which may relate to Kingston's obligations under the Resolution.

4. Indemnification. IF shall indemnify Kingston and hold Kingston Executive Mayor and members of the legislative council harmless from and against all losses, damages and expenses, including, without limitation, interest, penalties, audit expenses, reimbursements, refunds, investigation costs, costs of defense, and reasonable attorney's fees, and all liabilities of every nature whatsoever, associated with, arising from or related to the Project or the Grant.

4.1 It is the express intention of the parties that, as between Kingston and IF, all responsibility for performing the obligations of Grantee under the Grant in a proper and timely manner shall be borne by IF.

4.2 This indemnification is intended to be as broad and inclusive as may be permitted by the laws of the Commonwealth.

4.3 IF acknowledges that Kingston has enacted the Resolution as an accommodation to IF.

4.4 IF's obligations under this Agreement shall survive the completion of the Project.

5. Amendments and Waivers. This Agreement may not be changed or amended in any manner whatsoever except by written agreement of Kingston and IF.

6. Severability. If any portion of this Agreement is held invalid, it is agreed that the balance, notwithstanding, shall continue in full force and effect.

7. Enforceability and Assignment. This Agreement shall be binding upon the parties and their respective successors and assigns.

8. Governing Law. This Agreement shall be construed in accordance with the laws of the Commonwealth.

9. Entire Agreement. This Agreement represents the entire agreement between Kingston and IF with respect to the subject matter of this Agreement.

10. Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made, and received only when delivered (personally, by courier service such as Federal Express, or by other messenger) or when deposited in the United States mails, registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

If to Kingston:

Municipality of Kingston
500 Wyoming Avenue
Kingston, PA 18704

Harry P. Mattern, Esq.
777 Wyoming Ave
Kingston, PA 18704

If to IF:

Greater Wilkes Barre Industrial Fund
PO Box 759
Wilkes Barre, PA 18703

Thomas J. MacNeely, Esquire
Cross Creek Pointe
1065 Highway 315, Suite 200
Wilkes-Barre, PA 18702

11. Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

12. Paragraph Headings. The paragraph headings in this Agreement are for convenience only; they form no part of this Agreement and shall not affect its interpretation.

13. Gender and Number. Words used herein, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural and any other gender, masculine, feminine or neuter, as the context indicates appropriate.

IN WITNESS WHEREOF, and intending to be legally bound hereby, IF and Kingston have duly executed this Agreement the day and year first above written.

ATTEST:

GREATER WILKES BARRE
INDUSTRIAL FUND, INC

By: _____

ATTEST:

MUNICIPALITY OF KINGSTON

Julie Yotton

By:  _____