

# **RISK ASSESSMENT AND RISK MANAGEMENT LETTER**

**December 31, 2010**

## **Executive Summary**

The underlying premise of risk management is that every organizational entity exists to provide value for its beneficiaries, stakeholders, stockholders, or owners. All organizational entities have varying degrees of uncertainty to accept as it grows that value. Uncertainty presents both risk and opportunity, with the potential to erode or enhance value. Risk management enables the organizational entity to effectively deal with uncertainty and the associated risk and opportunity, thereby enhancing the capacity to build value.

Value is enhanced when planned for by setting objectives enabling a balance between growth and return on assets and related risks while efficiently and effectively utilizing organizational resources.

The assessment of probability of risk and the planning of the appropriate mitigation actions in order to limit risk can be further enhanced by the procurement of commercial liability insurance. The Agency has developed an insurance package with coverage for employee practices and public officials; bond for criminal; errors and omissions (professional and lender liability); general liability umbrella; multi-tenant facility properties contents and liability.

Risk management helps ensure effective reporting, regulatory compliance and assists in prevention of adverse public perception and any associated consequences. In summary, risk management provides additional opportunity for an organizational entity in avoidance of pitfalls and surprises enabling further enhancement of creating value.

Sincerely,

**Niagara County Industrial Development Agency ("NCIDA")  
And its Component Unit  
The Niagara County Development Corporation ("NCDC")**

**Henry M. Sloma, Chairperson**

**Samuel M. Ferraro, Executive Director & Treasurer**

## Assessment

1. Generation of annual revenues from a concentration of receivables creating a dependency on large projects from the traditional core industrial/manufacturing sector.
  - a. Risk Rating: Moderate
2. Recognizing annual expenses and effective cost containment.
  - a. Risk Rating: Low/Moderate
3. Identification of operational liabilities from external and internal activities.
  - a. Risk Rating: Moderate/High
4. Effective recognition of tangible and intangible assets with efficient utilization.
  - a. Risk Rating: Moderate
5. Economies of scale: Regional, Domestic, Global
  - a. Risk Rating: Moderate/High
6. Internal Controls:
  - a. Risk Rating: Low

## Management

1. Concentration of receivables is a common risk assessment relative to annual revenue recognition. Mitigation of risk can be found in the diversification of project type through transitioning from traditional core project activities of manufacturing, warehousing and wholesale distribution.

The Agency and its component unit, the Niagara County Development Corporation (“NCDC”), have diversified the core project base of economic development projects to include the below named:

- Continuing Core Retirement Communities
- Aged Person Projects
- Retail Projects
- Technology Based
- Commercial Services
- Medical Facilities
- Environmental/Alternative Energy (Green Industry)
- Increased Income Sources from Program Income, Administrative Fees, and Multi-tenant Facility Activities.

2. Defining expenses from operational and non-operational activities, as well as effective cost containment is critical to prudent fiscal management.

The risk rating is low/moderate due to the Agency’s development and implementation of a successful budget process inclusive of revenue and expenses tracking, periodic reporting and monitoring budget variances to actual revenue and expense line items.

3. Defining and recognizing operational liabilities are essential to risk management and preservation of Agency assets.

## Management Continued

Activities that merit recognition are those associated with the lease/bond portfolio, Revolving Loan Fund (“RLF”) portfolio, two multi-tenant facilities, development of Vantage International Pointe Park, as well as grant program administration, audit compliance issues under the Federal Sarbane/Oxley Act of 2002, the New York State Public Authorities Accountability Acts of 2006, and the Public Authorities Reform Act of 2009.

Mitigation of risk is identified in the following management activities:

- Continued implementation of project origination and review procedures as determined by Agency Counsel at the direction of the Board enabling Staff’s recommendations to the Board of Directors.
- Continued implementation of Revolving Loan Fund Management Plan(s) defining eligible lending activities and project costs as defined by the applicable capitalization source with terms and conditions of the commitment to lend as determined by a financial analysis and a loan review process enabling the appropriate recommendations for approval or declination to the NCDC Board of Directors.
- Facilities management has been implemented by common Lease Agreements with indemnification provisions, evidence of the appropriate commercial liability insurance, property maintenance and capital improvement programs as administered by experienced staff.

Management of Vantage International Pointe Park has been premised on the determination of the highest and best use of the real estate relative to established economic development criteria.

Facilitation of the aforementioned is by terms and conditions as put forth in a land purchase agreement inclusive of defining eligible land uses and development as further implemented in deed restrictions enabling the proper monitoring of development projects within the park.

There is a potential external risk for Fiscal 2011 identified as adverse New York State Legislation relative to the core activities, as well as the fiscal existence for all Industrial Development Agencies (“IDA”) within New York State. Said legislation risk assessment is moderately high with some mitigation possible through legal and legislative action for repeal of the IDA assessment (tax).

On or about February 4, 2009, the NYS Division of Budget (“DOB”) sent letters to all IDAs assessing IDAs with their share of the new tax levy that was added in the State’s 2009-2010 Budget. This tax was added without the benefit of hearings or debate and first became known weeks after the 2009-2010 State Budget was signed on April 7, 2009; as well as basing the tax computation on Annual Gross Revenues, inclusive of State and Federal “Pass through Grants,” which are not actual realized or operating revenues.

The New York State Economic Development Council and its member organizations banded together to fight the IDA tax through the formation of an Economic Development Fund that successfully overturned the IDA tax last year (2010) with litigation and overturned and retroactively repealed the IDA tax this year (2011) with a legislative initiative which is part of the Economic Development and Transportation Budget Bill for the 2011-2012 budget which is expected to be passed by April 1, 2011.

4. The effective and efficient use of an organization’s fixed (tangible) assets, as well as the skill sets of its employees (intangible) will result in an acceptable return on asset and increased revenue producing activities.

The Agency’s Return on Assets (ROA) has been improving over the past several fiscal periods as evidenced by over a ninety percent (90%) Multi-tenant Facilities (“MTF”) occupancy rate, thus resulting in excess revenues over expenses for the MTFs. Real estate sales within the Park have also been stable.

There has been an employee training program has been originated through the Niagara County Community College Corporate Training Division and is available to staff on an as-needed basis. This will result in improved skill sets.

## **Management Continued**

5. The cyclical nature of the economies of scale, whether regional, domestic, or global, directly affects the Agency's ability to generate and sustain cash flow.

The Agency has mitigated risk by increasing reserve positions to compensate for non-revenue producing periods.

Comparatively over the last four reporting periods there have been three periods of positive gross cash (funds) flow, as well as an operating cash flow by adjusting for Depreciation and Amortization, which do not result in outflows of cash, for fiscal years: (2007) \$247,000, (2008) \$281,000, (2010) \$141,000; and then a negative gross cash flow in fiscal 2009 of (-\$219,000) as reported on the Cash Flow Statement in Exhibit II of Management's Discussion and Analysis Letter in the FYE 2010 Annual Audit Report.

As a result of the cyclical nature of the Agency's revenue producing activities, the Agency has established "reserve funds" from prior fiscal periods' excess operating revenue for the purpose of funding or off setting operating losses, such as this last Fiscal Period of 2010.

6. Risk Assessment can be associated with internal controls identified in three different areas:

1. Cash Receipts and Accounts Receivable
2. Cash Disbursements and Accounts Payable
3. Payroll, as a Payable.

Risk Mitigation is found in the establishment of internal control procedures and the implementation of said procedures as described below:

### **Cash Receivable & Accounts Receivable Processing**

Handling of cash is restricted to a small amount of petty cash requiring a sign-off by two (2) individuals. Receipts (checks) are logged into a check register by the individual responsible for opening and distribution of the daily mail.

The checks, with the check register, are then given to the staff bookkeeper for posting to the General Ledger and preparation for deposit to the appropriate bank account.

The staff accountant then reviews the General Ledger postings and reconciles deposits to the bank statements.

### **Cash Disbursements and Accounts Payable**

Monthly payables are processed on a weekly basis. Approval of payables originates with the applicable staff member's approval of the statement, billing or invoice, as well as providing the evidence of prior authorization.

The Staff bookkeeper then posts invoices to the General Ledger, a Purchase Journal is prepared and reviewed by the Staff Accountant prior to submitting checks for authorized signatures.

Check disbursements are then reviewed and signed by two (2) authorized Board Members on a weekly basis.

There is a further review done by the Agency's Manager of Finance relative to the reconciliation of bank statements, general ledger and adjusting journal entries as prepared by the staff accountant.

## **Management Continued**

### **Payroll Processing**

The bi-weekly payroll is prepared by the Staff Accountant, then remitted to the payroll service for processing. Subsequent to return receipt from the service, two (2) Board Members review the checks prior to signing and distributing to staff.

### **Board/Committee Oversight**

Additional Board control is done on a monthly basis via staff reports to the Finance / Audit Committee for review and recommendation to the Board. The monthly reports are: cash disbursements, payable aging, budget variance, project income, and a balance sheet.

### **Annual Independent Auditor's Report**

The Agency and its component unit's annual financial statements are audited in accordance with standards applicable to Governmental Auditing Standards issued by the Comptroller General of the United States. Those standards require that the Audit is planned and performed to obtain reasonable assurance that said financial statements are free of material misstatement.

The audit plan includes examining, on test basis, evidence supporting the amounts and disclosures in the financial statements. The annual audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.