

ANIZDA Board Meeting

Agenda

August 5, 2020

5:00 pm

This is a virtual meeting due to COVID-19. Instructions on how to view the virtual meeting and provide public written comment can be found at <https://allentownniz.com/virtual>.

1. Call to Order – Chairperson
2. Approval of July 1, 2020 meeting minutes
3. Public Comment on all matters to be acted upon
4. Old Business
5. New Business
 - A. Public Improvement Project Line of Credit – Resolution R2020-225
 - B. Reappointment of Four Score LLC as Allocation Accountant to perform compliance, reporting, outreach, allocation, and consulting services – Resolution R2020-226
6. Executive Directors Report

Adjournment

**ALLENTOWN NEIGHBORHOOD IMPROVEMENT ZONE
DEVELOPMENT AUTHORITY**

RESOLUTION NO. R-2020-225

WHEREAS, the Allentown Neighborhood Improvement Zone Development Authority (the "Authority") is a public instrumentality of the Commonwealth of Pennsylvania and a body politic and corporate, and is authorized and empowered by the provisions of the Economic Development Financing Law of the Commonwealth of Pennsylvania, 73 P.S. 371 *et seq.*, as amended (the "Act") as an industrial development authority to acquire, hold, construct, improve, maintain, own, finance and lease projects and, among other things, to make loans to project applicants or project users and to provide alternative types of financing, including, but not limited to, standby loan commitments, guarantees, letters of credit and grants; and

WHEREAS, Article XIX-B of Pennsylvania's Fiscal Code, 72 P.S. Section 8901-B *et seq.* (the "NIZ Act") authorizes a contracting authority such as the Authority to create a Neighborhood Improvement Zone (defined below); and

WHEREAS, the City of Allentown, Lehigh County, Pennsylvania (the "City") qualifies as a "city" under the NIZ Act; and

WHEREAS, pursuant to a resolution adopted by the Authority on August 30, 2012, the Authority designated a neighborhood improvement zone within the City (the "NIZ"); and

WHEREAS, the Authority, based upon facts presented, has found that the development of the aforesaid NIZ will promote the public purposes of both the Act and the NIZ Act and be in the best interest of the people of the City ; and

WHEREAS, the Authority has the power to finance a project for development and improvement within the NIZ in accordance with the Act and the NIZ Act; and

WHEREAS the Authority anticipates that excess NIZ Tax Revenues will continue to be generated from within the NIZ over and above the amount that is contractually committed to the Commonwealth of Pennsylvania; and

WHEREAS the Authority desires to utilize a portion of the excess for development and improvement within the NIZ, in addition to construction of the Arena complex and projects by private Developers, and

WHEREAS the Authority desires to implement criteria and take steps to fulfill the purposes of the Act and the NIZ Act,

NOW, THEREFORE, BE IT RESOLVED by the Authority, as follows that:

- A. 1. In place of a Credit Facility approved by Resolution R2017-130, which expires on August 31, 2020, the Authority hereby approves entering into a new credit facility (the "Credit Facility") to finance public development and improvements approved by the Authority in accordance with the Process Guidelines for Public Improvement Investments in the City of Allentown Neighborhood Improvement Zone, and certain costs incidental thereto, with the debt service to be paid with excess NIZ Tax Revenues over and above that which is contractually committed to the Commonwealth of Pennsylvania; and
2. The Credit Facility shall be a private placement, as a revolving line of credit loan in an amount not to exceed \$10,000,000.00 and may have such other terms and conditions consistent with the Act, the NIZ Act and the terms and conditions in the proposal letter dated July 29, 2020 ("Summary"), from Peoples Security Bank & Trust (the "Bank"), attached hereto as Exhibit "A"; and
3. The Authority hereby authorizes the Executive Director of the Authority to act on behalf of the Authority with regard to fulfilling the Authority's obligations and rights hereunder, to negotiate loan documents from the Bank, substantially in accordance with the terms reflected in the Summary and to take any and all such actions necessary in the opinion of the Executive Director, with advice of counsel, to implement the Credit Facility and consummate the transactions contemplated herein, and
4. The Credit Facility shall be issued pursuant to loan documents, indentures or other agreements relating to the terms of the Credit Facility and custody and disbursement of proceeds, between the Authority and the Bank setting forth provisions set forth in the Summary, subsequent commitment letter, if any, and/or other customary lending provisions acceptable to the Authority (collectively, the "Loan Documents"); and
5. The Authority hereby authorizes the acceptance, execution and delivery of:
(i) a commitment letter from the Bank to be consistent with the Summary; (ii) issuance of the Credit Facility subject to the recital paragraphs of this Resolution; and (iii) all related Loan Documents;

- B. The Whereas clauses above are incorporated as part of this Resolution.
- C. The Chairperson or Vice Chairperson, Executive Director and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to execute and attest, where deemed necessary, respectively, any related agreement and documents, and other documents to amend or correct any documents, and to take any and all such actions necessary, in the opinion of the Executive Director with the advice of counsel, to implement fulfillment of the purposes of this Resolution and to consummate the transactions contemplated herein.
- D. The liability of the Authority under any and all of the documents relating to and executed to implement fulfillment of the purposes of this Resolution shall not constitute the general obligation of the Authority, and where appropriate, the documents, shall provide for other parties, to indemnify and hold harmless the Authority, and each member, officer, and employee of the Authority, from and against any and all claims, losses, damages or liabilities, joint and several, to which the Authority or any member, officer or employee of the Authority may become subject, insofar as such loss, claim, damage, or liability, or action in respect thereof, arises out of implementation of the purposes of this Resolution, or is based upon any other alleged act or omission in connection with any document related thereto.
- E. All actions previously taken in furtherance of the purposes of this Resolution are hereby ratified. The officers of the Authority are hereby authorized to take such further actions to carry out the purposes of this Resolution.
- F. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption.

END OF RESOLUTION

CERTIFICATION

I, Pedro L Torres, Jr., Secretary of the Neighborhood Improvement Zone Development Authority, do hereby certify that the foregoing is a true and correct copy of the Resolution R-2020-225 of the Board of Directors of the Authority passed at a duly convened meeting of said Board on the 5th day of August, 2020. Authority members present and voting were as follows:

<u>Vote</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Seymour Traub, Esq.			
Nelson A. Diaz			
Gregory N. Dudkin			
David Mickenberg			
Tiffany Polek			
Adrian Shanker			
John Stanley, Esq.			
Pedro L. Torres, Jr.			
Vacant			

IN WITNESS WHEREOF, I hereunto set my hand and seal on this 5th day of August, 2020.

Secretary



July 29, 2020

Allentown Neighborhood Improvement Zone Development Authority
 Attention: Executive Director, Steve Bamford
 5 N. Front Street
 Allentown, PA 18102

RE: Public Improvement Investment Line of Credit

Dear Mr. Bamford,

The following proposal is for discussion purposes only for the above referenced property. This proposal does not represent a commitment to lend from Peoples Security Bank and Trust Company (hereafter "PSBT" or "Bank"), and should not be construed as such. A formal commitment would specify all of the various terms and conditions of the financing, some of which may differ from those below. Such a commitment could only be issued following a thorough analysis of the credit and collateral aspects of the transaction. However, the following terms and conditions will be considered for approval:

Borrower: Allentown Neighborhood Improvement Zone Development Authority

Note: It is acknowledge that this loan will be a pass-through and not a "direct" obligation of the Borrower. That said, documentation to allow the security interest as outlined herein and a general agreement to advance and repay the facility will need to be carefully crafted. Additional discussion with legal counsel will be necessary to fully detail this up upon acceptance of this term sheet.

Guarantee: Full guarantee of City Center Investment Corporation not using NIZ tax revenues..

Amount: \$10,000,000

Purpose: The revolving line of credit shall be used to fund public improvements approved by Borrower such as, but not limited to, public transportation facilities, public parking facilities, parks, green spaces and streetscape projects within the Neighborhood Improvement Zone

Interest Rate: 1 Month LIBOR + 2.75% with a Floor of 3.25%

Term: A term of 7-years [from the current maturity]
 Bank and Borrower can mutually agree to an additional 3-year extension of the credit facility after the initial 7-year period; either party at that time can agree to terminate the credit facility.

Repayment: Interest and principal payable annually in June

Annually (upon receipt and after allocation of the Neighborhood Improvement Zone (NIZ) revenue) the Borrower will make a principal repayment in an amount not less than \$2,000,000 (the "Annual Payment). If the o/s balance is less than \$2,000,000 at that time the Borrower shall make a principal repayment enough to reduce the outstanding balance to \$0.



Commitment Fee: None

Other Fees: Out-of-pocket expenses incurred by the Bank, including but not limited to Legal, tax monitoring fee, and other Bank searches.

Collateral: Secured interest in the Borrower's Project Fund currently held at PSB&T

Prepayment: The line of credit can be repaid at any time without penalty

Covenants:

1. Borrower will not enter into additional credit public improvement facilities without prior written consent of PSB&T. [Excluding pass through credit facilities for third party developers and Guaranties of Allocation]
2. To make the Annual Payment, Borrower will be required to report excess revenues annually of no less than \$24,000,000.00. If NIZ revenues are not sufficient to meet this covenant to make the Annual Payment, Guarantor can post a \$2,000,000 cash payment reserve with Bank until the next report period. At that report period, Borrower will agree to make a "catch up" payment equal to \$4,000,000 or a lesser payment which brings the credit facility balance to \$0.
3. Standard affirmative and restrictive covenants as typical for a credit facility of this nature

Participation: PSB&T will continue to participate up to \$5,000,000 of the credit facility with ESSA Bank & Trust

Deposits: Borrower will maintain its operating and savings/reserve accounts with PSB&T.

Reporting: Annual audited financial statement for ANIZDA
Such financial statements/reports as reasonably requested by Bank

Bank Counsel: Colin Keefe, Esquire (Fitzpatrick Lentz & Bubba)

Thank you for the opportunity to provide financing on your project. Please feel free to contact me at (484)-280-1372 if you have questions.

Sincerely,

A handwritten signature in purple ink, appearing to read "Chris Gefroh" with a stylized flourish at the end.

Christopher M Gefroh
Vice President
Peoples Security Bank and Trust Company



AGREED AND ACCEPTED

BORROWER:

By: Steve Bamford
Title: Executive Director

GUARANTOR:

By: J.B. Reilly
Title: President, City Center Investment Corporation

ALLENTOWN NEIGHBORHOOD IMPROVEMENT ZONE
DEVELOPMENT AUTHORITY

RESOLUTION NO. R-2020-226

BE IT RESOLVED, that the Allentown Neighborhood Improvement Zone Development Authority (the "Authority") hereby authorizes its Executive Director, with advice from the Authority Chairperson and counsel, on behalf of the Authority, to extend, negotiate, secure and enter into an Agreement (the "Agreement") with FourScore LLC ("FourScore") incorporating the terms of the proposal set forth as Exhibit A attached hereto,

- (i) to provide services required as the Allocation Accountant for the Authority
- (ii) to perform the full complement of compliance, reporting, outreach, allocation and consulting services function required under the NIZ Act as it may be amended from time to time,
- (iii) on condition that Deana Zosky, CPA, remains a licensed CPA and continues to be fully engaged as the principal performing the services for Four Score

for a period of three (3) years commencing as of Nov. 1, 2020, at a fixed compensation of Two Hundred Sixteen Thousand and 00/100 (\$216,000.00) per year with allowance for additional compensation (a) for additional services to the Authority as set forth in the Agreement and (b) for Authority requests to assist prospective Developers in NIZ tax modeling and other related services, with the Developer reimbursing ANIZDA for the additional services provided to the Developer.

END OF RESOLUTION

CERTIFICATION

I, Pedro L Torres, Jr., Secretary of the Allentown Neighborhood Improvement Zone Development Authority, do hereby certify that the foregoing is a true and correct copy of the Resolution R-2020-226 of the Board of Directors of the Authority passed at a duly convened meeting of said Board on the 5th day of August, 2020. Authority members present and voting were as follows:

<u>Vote</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Seymour Traub, Esq.			
Nelson A. Diaz			
Gregory N. Dudkin			
David Mickenberg			
Tiffany Polek			
Adrian Shanker			
John Stanley, Esq.			
Pedro L. Torres, Jr.			
Vacant			

IN WITNESS WHEREOF, I hereunto set my hand and seal on this 5th day of August, 2020.

Secretary

Exhibit A

FourScore LLC

**Prepared for: The Allentown Neighborhood Improvement
Zone Development Authority**

Prepared by: FourScore LLC

July 1, 2020

INTRODUCTION

The Allentown Neighborhood Improvement Zone Development Authority (the Authority) would like continued assistance with their Neighborhood Improvement Zone (NIZ) implementation and related compliance and other processes to ensure a successful program.

Below is our proposal to continue to provide those services along with other services that may be needed by the Authority. Four Score LLC has been a key strategic partner with the Authority and is grateful for the opportunity to be considered for this important role.

CONSULTING SERVICES

The Authority would like to have the following scope of services provided by Four Score LLC. Scope includes:

1. Provide client with a full complement of compliance, reporting, and outreach services to ensure efficient and effective execution of the NIZ including:
 - Management of the monthly and annual Master Business Listing in collaboration with the Authority.
 - Assistance in creating processes to adhere to NIZ guidelines and legislation (including legislative changes) and materials that the Authority can provide to community for explanation of the NIZ and its community benefits.
 - Assistance in calculation of baseline and other legislative calculation requirements.
 - Creation and maintenance of reporting packet and other reporting and compliance materials to ensure maximization of reporting.
 - Collaboration with taxing and other government bodies to ensure reporting guidance aligned with certification process.

- Provide technical expertise and reporting support to Qualified Businesses and Contractors to ensure maximization of compliance.
- Review of reporting and certification processes at state and review of reporting process locally.
- Review of certification of local NIZ revenues due annually by working with City on behalf of the Authority, and tax collector representatives locally to ensure a fair local certification.
- Allocation services as per the existing Allocation Instructions, including review of all existing and new projects and their respective agreements, and allocation according to agreements. This will include a quality control review of the Allocation work papers by a separate individual sufficiently knowledgeable about the NIZ process to ensure there is a thorough review of Allocation results in addition to review in depth with the Authority Executive Director and Solicitor.
- Other services needed regarding bond or financial reporting related to reporting and certification for bond disclosure and other purposes.
- Educational and other seminars and meetings to explain the NIZ processes and community benefits to the public as directed by the Authority.

Other Services that the Authority may wish to have and/or provide to prospective project owners, developers, banks, other outside parties, are listed below as part of what may be the services needed. These services would be provided directly through the Authority as directed by the Authority and would be billed on a time and materials basis at \$225 per hour exclusive of any out-of-pocket expenses. These scope of services may include:

2. Four Score LLC to provide NIZ scenario modeling based on pro forma assumptions provided by project owner (requested through Authority) for each of the ownership, tenant, and contractor entities included in the project application scope (modeling is performed at the entity level to mirror the taxing body certification process including baseline calculations). Project owner understands that estimates are based on project owner assumptions and the prevailing guidance available today and understands that FourScore LLC does not provide assurance that local or state taxing bodies may not differ from estimates given the degree of uncertainty in the NIZ process. Parties understand that the use of FourScore LLC's copyrighted financial model does not transfer any rights or ownership of this model to the parties.
3. Licensing of FourScore LLC's copyrighted financial model to project owners, banks, or third parties (pricing and terms to be dictated by separate licensing agreement).
4. Review of Authority Project applications as directed by the Authority as it relates to review of relevant tax returns and payments to ascertain accuracy of financial estimates provided with application or as it relates to project look back (actual versus estimated).
5. Any other services related to the Allentown NIZ as directed and needed by the Authority.

FEE AND TERMS OF PAYMENT

Proposal price for the scope of services listed under item 1 is \$216,000 beginning November 6, 2020 for three years payable in equal installments of \$18,000.00 per month and due upon receipt.

Proposal price for the scope of services item 2-5 will be billed at an hourly billing rate of \$225 per hour. Proposal Price related to licensing as per item 3 is determined based on licensing agreement between the parties.

Invoices for scope of service items 2-5 will be provided to the client on a monthly basis and are due upon receipt. Hourly rate will be billed in 15 minute increments. Detailed time sheets will be provided to the client upon request.

Any out of the area travel required as a result of client scope of services will be billed at actual cost for meals, lodging, mileage, etc. with receipts available upon request.

INDEMNIFICATION

FourScore LLC shall indemnify and hold harmless (including actual reasonable attorney fees) the Authority from any and all damages, expenses or liability resulting from or arising out of, any negligence or misconduct on FourScore LLC's part, arising from this agreement, or any breach or default of this Agreement to the extent caused or occasioned by the acts of FourScore LLC. The Authority shall indemnify and hold harmless (including actual reasonable attorney fees) FourScore LLC from any and all damages, expenses or liability resulting from or arising out of, any negligence or misconduct on the Authority's part, arising from this agreement, or any breach or default of this Agreement to the extent caused or occasioned by the acts of the Authority.

CONTAINMENT OF THE ENTIRE AGREEMENT

This Agreement is an independent document and supersedes any and all other Agreements, either oral or in writing, between the parties hereto.

FOR

FourScore LLC

Deana Zosky, President

July 1, 2020

FOR

The Authority

Steve Bamford, ANIZDA Executive Director

July 1, 2020