

# **APPLICATION FOR TAX INCENTIVES**

**Town of Clarence,  
Erie County,  
Industrial Development Agency**

## ELIGIBILITY QUESTIONNAIRE

### Section I: Applicant Background Information

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

#### A) Applicant Information-entity receiving benefit:

Total Project Amount: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

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

Website: \_\_\_\_\_ E-mail: \_\_\_\_\_

Federal ID#: \_\_\_\_\_

State and Year of Incorporation/Organization: \_\_\_\_\_

List of stockholder, members, or partners of Applicant: \_\_\_\_\_

Will Real Estate Holding Company be utilized to own the Project property/facility? ☐ Yes or ☐ No

What is the name of the Real Estate Holding Company: \_\_\_\_\_

Federal ID#: \_\_\_\_\_

State and Year of Incorporation/Organization: \_\_\_\_\_

List of stockholder, members, or partners of Applicant: \_\_\_\_\_

#### B) Individual Completing Application:

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

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

E-Mail: \_\_\_\_\_

#### C) Company Contact (if different from individual completing application):

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

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

E-Mail: \_\_\_\_\_

**D) Company Counsel:**

Name of Attorney: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

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

E-mail: \_\_\_\_\_

**E) Identify the assistance being requested of the Agency:**

- |   |   |
|---|---|
| 1. Exemption from Sales Tax                         | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
| 2. Exemption from Mortgage Tax                      | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
| 3. Exemption from Real Property Tax                 | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
| 4. Assignment/Assumption of existing PILOT benefits | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
| 5. Tax Exempt Financing*                            | <input type="checkbox"/> Yes or <input type="checkbox"/> No |
- \*(typically for not-for-profits & small qualified manufacturers)

**F) Business Organization (check appropriate category):**

Corporation ☐ Partnership ☐

Public Corporation ☐ Joint Venture ☐

Sole Proprietorship ☐ Limited Liability Company ☐

Other (please specify) \_\_\_\_\_

Year Established: \_\_\_\_\_

State in which Organization is established: \_\_\_\_\_

**G) List all Stockholders, members, or partners with % of ownership greater than 20%:**

<u>Name</u>	<u>% of ownership</u>
_____	_____
_____	_____
_____	_____

**H) Applicant Business Description:**

Describe in detail company background, products, customers, goods and services: \_\_\_\_\_

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

Estimated % of sales within Erie County: \_\_\_\_\_

Estimated % of sales outside Erie County: \_\_\_\_\_

Estimated % of sales within New York State: \_\_\_\_\_

Estimated % of sales outside New York State, but within the US: \_\_\_\_\_

Estimated % of sales outside the U.S. \_\_\_\_\_

(\* Percentage to equal 100%)

**I) What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County. (You may be asked to provide supporting documentation of the estimated percentage of local purchases.)**

---

---

---

## ELIGIBILITY QUESTIONNAIRE

### Section II: Project Description & Details

**A) Location of proposed project facility:**

Municipality or Municipalities of current operations: \_\_\_\_\_

Will the Proposed Project be located within the Municipality, or within a Municipality identified above?

☐ Yes or ☐ No

If Yes, in which Municipality will the proposed project be located: \_\_\_\_\_

If No, in which Municipality will the proposed project be located: \_\_\_\_\_

Address of the proposed Project: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

SBL Number: \_\_\_\_\_

Town/City/Village: \_\_\_\_\_ School District: \_\_\_\_\_

Present Project Site Owner: \_\_\_\_\_

Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?

☐ Yes or ☐ No

If the Proposed Project is located in a different Municipality than the Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be

closed or be subject to reduced activity?

☐ Yes or ☐ No

If Yes, you will need to complete Section II (S) and Section IV of this Application.

What are the current real estate taxes on the proposed Project Site?

If amount of current taxes is not available, provide assessed value for each:

Land: \$ \_\_\_\_\_ Buildings(s): \$ \_\_\_\_\_

\*\* If available please include a copy of current tax bill.

Are Real Property Taxes current? ☐ Yes or ☐ No If no, please explain \_\_\_\_\_

Does the Applicant or any related entity currently hold fee title to the Project site? ☐ Yes or ☐ No

If No, indicate name of present owner of the Project Site: \_\_\_\_\_

Does Applicant or related entity have an option/contract to purchase the Project site? ☐ Yes or ☐ No

Describe the present use of the proposed Project site: \_\_\_\_\_

**B)** Please provide narrative of project and the purpose of the project (new build, renovations, and/or equipment purchases). Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)

---

---

---

---

Describe the reasons why the Agency's Financial Assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc. Your eligibility determination will be based in part on your answer (attach additional pages if necessary)

---

---

---

---

Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

☐ Yes or ☐ No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a

statement in the space provided below indicating why the Project should be undertaken by the Agency:

---

---

---

If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and County/City/Town/Village?

---

---

C) Will Project include leasing any equipment ☐ Yes or ☐ No

If Yes, please describe: \_\_\_\_\_

---

**D) Site Characteristics:**

Will the Project meet zoning/land use requirements at the proposed location? ☐ Yes or ☐ No

Describe the present zoning/land use: \_\_\_\_\_

Describe required zoning/land use, if different: \_\_\_\_\_

If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements:

---

Is the proposed project located on a site where the known or potential presence of contaminants is complicating the development/use of the property? If yes, please explain: \_\_\_\_\_

---

E) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? ☐ Yes or ☐ No If yes, please provide a copy.

F) Have any studies or assessments been undertaken with respect to the proposed project site that indicate the known or suspected presence of contamination that would complicate the site's development?

☐ Yes or ☐ No. If yes, please provide copies of the study

G) Provide any additional information or details:

---

---

**H) Select Project Type for all end users at project site (you may check more than one):**

\*\* Please check any and all end users as identified below.

\*\* Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, complete the Retail Questionnaire contained in

Section III of the Application.

Retail sales: ☐ Yes or ☐ No      Services: ☐ Yes or ☐ No

For purposes of this question, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Industrial	<input type="checkbox"/>	Back Office	<input type="checkbox"/>
Multi-Tenant	<input type="checkbox"/>	Civic Facility (not for profit)	<input type="checkbox"/>
Mixed Use	<input type="checkbox"/>	Equipment Purchase	<input type="checkbox"/>
Commercial	<input type="checkbox"/>	Retail	<input type="checkbox"/>
Acquisition of Existing Facility	<input type="checkbox"/>	Facility for Aging	<input type="checkbox"/>
Housing	<input type="checkbox"/>		

Other, please explain \_\_\_\_\_

SIC Code: \_\_\_\_\_ NAICS Code: \_\_\_\_\_

**I) Project Information:**

**Estimated costs in connection with project:**

Land and/or Building Acquisition: \$ \_\_\_\_\_  
\_\_\_\_\_ acres \_\_\_\_\_ square feet  
New Building Construction: \_\_\_\_\_ square feet \$ \_\_\_\_\_  
New Building Addition(s): \_\_\_\_\_ square feet \$ \_\_\_\_\_  
Infrastructure Work: \$ \_\_\_\_\_  
Reconstruction/Renovation: \_\_\_\_\_ square feet \$ \_\_\_\_\_  
Manufacturing Equipment: \$ \_\_\_\_\_  
Non-Manufacturing Equipment (furniture, fixtures, etc.): \$ \_\_\_\_\_  
Soft Costs: (professional services, etc.): \$ \_\_\_\_\_  
Other, Specify: \_\_\_\_\_ \$ \_\_\_\_\_

TOTAL Project Costs: \$ \_\_\_\_\_

Project refinancing; estimated amount:  
(for refinancing of existing industrial revenue bond debt only) \$ \_\_\_\_\_

**Sources of Funds for Project Costs:**

Bank Financing \$ \_\_\_\_\_  
Equity (excluding equity that is attributed to grants/tax credits) \$ \_\_\_\_\_

Tax Exempt Financing (if applicable) \$ \_\_\_\_\_

Taxable Bond Issuance (If applicable) \$ \_\_\_\_\_

Public Sources (include sum total of all state and federal Grants and tax credits) \$ \_\_\_\_\_

Identify each state and federal grant/credit: \$ \_\_\_\_\_

\_\_\_\_\_

Total Sources of Funds for Project Costs: \$ \_\_\_\_\_

Have any of the above costs been paid or incurred as of the date of this Application: ☐ Yes or ☐ No  
(CIDA benefits do not apply to expenses incurred prior to Board approval)

If Yes, describe particulars: \_\_\_\_\_

\_\_\_\_\_

**Mortgage Recording Tax Exemption Benefit:** Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent bridge financing) \$ \_\_\_\_\_

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage Amount as indicated above multiplied by 3/4 of 1% or .0075%): \$ \_\_\_\_\_

**Construction Cost Breakdown:**

Total Cost of Construction \$ \_\_\_\_\_  
(sum of 2, 3, 4, 5 and/or 7 in Question I above)

Cost for Materials \$ \_\_\_\_\_

% sourced in County/City/Town/Village \_\_\_\_\_%

% sourced in State (including County/City/Town/Village) \_\_\_\_\_%

Cost for Labor: \$ \_\_\_\_\_

**Sales and Use Tax:** Gross amount of Costs for goods and services that are subject to State and local Sales Tax and Use tax – said amount to benefit from the Agency's Sales and Use Tax exemption benefit:

\$ \_\_\_\_\_

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above)

\$ \_\_\_\_\_

\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the



estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.

**Real Property Tax Benefit:**

Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency's PILOT benefit:

**IDA PILOT Benefit:** Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in Section II(1) of the Application.

**Percentage of Project Costs financed from Public Sector sources:** Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above in Section II(1) of the Application.

**J) For proposed facility please indicate # of sq. ft for each of the uses outlined below:**

\*If company is paying for FFE for tenants, please include in cost breakdown

	Square Footage	Cost	% of Total Cost of Project
Manufacturing/Processing			
Warehouse			
Research & Development			
Commercial			
Retail (see section III)			
Office			
Specify Other			

**K) Utilities and services presently serving site. Provide name of utility provider:**

Gas: \_\_\_\_\_

Electric: \_\_\_\_\_ Power: \_\_\_\_\_

Water: \_\_\_\_\_ Size: \_\_\_\_\_

Sewer: \_\_\_\_\_ Size: \_\_\_\_\_

Other (Specify) \_\_\_\_\_

**L)** If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council? ☐ Yes or ☐ No.

**M)** If you answered yes to question above, what level of LEED certification do you anticipate receiving (Check applicable box) ☐ Standard ☐ Silver ☐ Gold ☐ Platinum

**N) What is your project timetable (Provide dates):**

1. Start date: acquisition or construction of facilities: \_\_\_\_\_
2. Completion of project facilities: \_\_\_\_\_
3. Project occupancy – estimated starting date of operations: \_\_\_\_\_
4. Have construction contracts been signed? ☐ Yes or ☐ No
5. Has Financing been finalized? ☐ Yes or ☐ No

**\*\*** If construction contracts have been signed, please provide copies of executed construction contracts and a complete project budget. The complete project budget should include all related construction costs totaling the amount of the new building construction, and/or new building addition(s), and/or renovation.

**O)** Have site plans been submitted to the appropriate planning department for approval? ☐ Yes or ☐ No

If Yes, please provide the Agency with a copy of the related State Environmental Quality Review Act ("SEQR") Environmental Assessment Form that may have been required to be submitted along with the site plan application to the appropriate planning department. Please provide the Agency with the status with respect to any required planning department approval:

---

---

Has the Project received site plan approval from the planning department? ☐ Yes or ☐ No

If Yes, please provide the Agency with a copy of the planning department approval along with the related SEQR determination.

**P)** Is project necessary to expand project employment? ☐ Yes or ☐ No

Is project necessary to retain existing employment? ☐ Yes or ☐ No

**Q) Employment Plan (specific to the proposed project location):**

	Current # of Jobs at proposed location or to be relocated at project location	IF FINANCIAL ASSISTANCE IS GRANTED-project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED-project the number of FTE and PTE jobs to be CREATED upon TWO Years after Project Completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon TWO years after project Completion**
Full time (FTE)				
Part Time (PTE)				
Total ***				

\*\* For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Marker Area, in the fourth column. The Labor Marker Area includes the County/City/Town/Village as well as the following Areas: \_\_\_\_\_

\_\_\_\_\_.

\*\*\* By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the Two Year time period following Project completion. Agency staff converts PTE jobs into FTE jobs by dividing the number of PTE jobs by two (2).

**Salary and Fringe Benefits for Jobs to be Retained and Created:**

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management		
Professional		
Administrative		
Production		
Other		

Employment at other locations in County/City/Town/Village: (provide address and number of employees at each location):

	Address	Address	Address
Full time			
Part Time			
Total			

**R)** Will any of the facilities described above be closed or subject to reduced activity? ☐ Yes or ☐ No

**\*\*** If any of the facilities described above are located within the State of New York, and you answered Yes to the question, above, you must complete Section IV of this Application.

**\*\*** Please note that the Agency may utilize the foregoing employment projections, among other items, to determine the Financial Assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

**S)** Is the project reasonably necessary to prevent the project occupant from moving out of New York State?

☐ Yes or ☐ No

If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation if available:

---



---

**T)** What competitive factors led you to inquire about sites outside of New York State?

---



---

**U)** Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies? ☐ Yes or ☐ No

If yes, please identify which agencies and what other Local, State and/or Federal assistance and the assistance sought and dollar amount that is anticipated to be received: \_\_\_\_\_

---

**V)** Will the Facility provide any onsite child care facilities ? ☐ Yes or ☐ No  
If Yes, please provide a summary of the child care facilities offered

---

### Section III: Retail Questionnaire

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

- A. Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

☐ Yes or ☐ No. If the answer is yes, please continue. If no, proceed to section V.

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? \_\_\_\_%. If the answer is less than 33% do not complete the remainder of the retail determination and proceed to section V.

If the answer to A is Yes AND the answer to Question B is greater than 33.33% indicate which of the following questions below apply to the project:

1. Will the project be operated by a not-for-profit corporation? ☐ Yes or ☐ No
2. Is the Project location or facility likely to attract a significant number of visitors from outside the economic development region (list specific County or ED region) in which the project will be located? ☐ Yes or ☐ No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

☐ Yes or ☐ No If yes, please provide a third party market analysis or other documentation supporting your response.

4. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? ☐ Yes or ☐ No  
If yes, explain\_\_\_\_\_

5. Is the project located in a Highly Distressed Area? ☐ Yes or ☐ No

#### Section IV: Inter-Municipal Move Determination

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency Financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

Will the Project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?

☐ Yes or ☐ No

Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?

☐ Yes or ☐ No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

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

Does the Project involve relocation or consolidation of a project occupant from another municipality?

Within New York State ☐ Yes or ☐ No

Within County/City/Town/Village ☐ Yes or ☐ No

If Yes to either question, please, explain: \_\_\_\_\_

---

**Section V: Estimate of real property Tax Abatement Benefits and Percentage of Project Costs financed from Public Sector sources**

\*\* Section V of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/ 1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000

\*Apply equalization rate to value

PILOT Year	Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

TOTAL							
-------	--	--	--	--	--	--	--

\*Estimates provided are based on current property tax rates and assessment values

Percentage of Project Costs financed from Public Sector Table Worksheet:

Total Project Cost	Estimated Value of PILOT	Estimated Value of Sales Tax Incentive	Estimated Value of Mortgage Tax Incentive	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)

Calculate %

(Est. PILOT + Est. sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: \_\_\_\_\_%

## Section VI: Environmental Questionnaire

### General Background Information

Address of Premises: \_\_\_\_\_

Name and Address of Owner of Premises: \_\_\_\_\_

Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.) \_\_\_\_\_

Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises: \_\_\_\_\_

Describe all known former uses of the Premises: \_\_\_\_\_

Does any person, firm or corporation other than the owner occupy the Premises or any part of it? \_\_\_\_\_

If yes, please identify them and describe their use of the property: \_\_\_\_\_

Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises? ☐ Yes or ☐ No

If yes, describe and attach any incident reports and the results of any investigations: \_\_\_\_\_

Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of:

a) any current federal, state or local enforcement actions ☐ Yes or ☐ No



b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months? ☐ Yes or ☐ No

If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances: \_\_\_\_\_

Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises? ☐ Yes or ☐ No

If yes, describe in detail: \_\_\_\_\_

### **Solid and Hazardous Wastes and Hazardous Substances**

Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances? ☐ Yes or ☐ No

If yes, provide the Premises' applicable EPA (or State) identification number: \_\_\_\_\_

Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes? ☐ Yes or ☐ No

If yes, please provide copies of the permits.

Identify the transporter of any hazardous and/or solid wastes to or from the Premises: \_\_\_\_\_

Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years: \_\_\_\_\_

Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days? ☐ Yes or ☐ No

If yes, please identify the substance, the quantity and describe how it is stored: \_\_\_\_\_

### **Discharge into Waterbodies**

Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges: \_\_\_\_\_

Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and stormwater. Attach all permits relating to the same. Also identify any septic tanks on site Is any waste discharged into or near surface water or groundwaters? \_\_\_\_\_

If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste: \_\_\_\_\_

### **Air Pollution**

Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises? ☐ Yes or ☐ No

If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source? \_\_\_\_\_

Are any of the air emission sources permitted? ☐ Yes or ☐ No

If yes, attach a copy of each permit.

### **Storage Tanks**

List and describe all above and underground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks.

Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks? ☐ Yes or ☐ No

If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved. \_\_\_\_\_

### **Polychlorinated Biphenyls ("PCB" or "PCB") And Asbestos**

Provide any records in your possession or known to you to exist concerning any on-site PCBs or PCB equipment, whether used or stored, and whether produced as a byproduct of the manufacturing process or otherwise. Have there been any PCB spills, discharges or other accidents at the Premises?

☐ Yes or ☐ No

If yes, relate all the circumstances: \_\_\_\_\_

Do the Premises have any asbestos containing materials? ☐ Yes or ☐ No

If yes, please identify the materials: \_\_\_\_\_

## Section VII: Adaptive Reuse Projects

Are you applying for tax incentives under the Adaptive Reuse Program? ☐ Yes or ☐ No

What is the age of the structure (in years)? \_\_\_\_\_

Has the structure been vacant or underutilized for a minimum of 3 years? (Underutilized is defined as a minimum of 50% of the rentable square footage of the structure being utilized for a use for which the structure was not designed or intended): \_\_\_\_\_

If vacant, number of years vacant: \_\_\_\_\_

If underutilized, number of years underutilized: \_\_\_\_\_

Describe the use of the building during the time it has been underutilized: \_\_\_\_\_

Is the structure currently generating insignificant income? (Insignificant income is defined as income that is 50% or less than the market rate income average for that property class) ☐ Yes or ☐ No

If yes, please provide dollar amount of income being generated, if any: \_\_\_\_\_

If apartments are planned in the facility, please indicate the following:

	Number of Units	Sq. Ft. Range Low to High	Rent Range Low to High
1 Bedroom	_____	_____	_____
2 Bedroom	_____	_____	_____
3 Bedroom	_____	_____	_____
Other	_____	_____	_____

Does the site have historical significance? ☐ Yes or ☐ No

Are you applying for either State/Federal Historical Tax Credit Programs? ☐ Yes or ☐ No

If yes, provide estimated value of tax credits

Briefly summarize the financial obstacles to development that this project faces without Clarence IDA or other public assistance, please provide the Clarence IDA with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without IDA and other tax credits included indicating below average return on investment rates compared to regional industry averages).

Briefly summarize the demonstrated support that you intend to receive from local government entities. Please provide Clarence IDA with documentation of this support in the form of signed letters from these entities. Please indicate other factors that you would like Clarence IDA to consider such as: structure or site presents significant public safety hazard and or environmental remediation costs, site or structure is located in a distressed census tract, structure presents significant costs associated with building code compliance, site has historical significance, site or structure is presently delinquent in property tax payments

## Section VIII: Senior Citizen Rental Housing Projects

Are you applying for tax incentives under the Senior Rental Housing policy? ☐ Yes or ☐ No

Has the project received written support from the city, town or village government in which it is located?

---

Describe the location of the project as it relates to the project's proximity to the town / village / city center or to a recognized hamlet \_\_\_\_\_

Is the project consistent with the applicable municipal master plan? ☐ Yes or ☐ No

If yes, please provide a narrative identifying the master plan (by name) and describing how the project aligns with the plan details: \_\_\_\_\_

Does the project advance efforts to create a walkable neighborhood and community in proximity to important local amenities and services? ☐ Yes or ☐ No

If yes, please provide a narrative describing the walkable nature of the project including access seniors would have to specific neighborhood amenities. \_\_\_\_\_

Has a market study shown that there is a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities? ☐ Yes or ☐ No

Is the project located in an area (defined as a 1-5 mile radius of the project site) where there are significant local resident populations that are at or below the median income level? ☐ Yes or ☐ No

If yes, please describe how you made this determination based upon census tract and other relevant third party data: \_\_\_\_\_

Does the project provide amenities that are attractive to seniors and differentiates the project from standard market rate housing? ☐ Yes or ☐ No

If yes, please describe these amenities (examples may include: community rooms, social / recreational activity areas, senior oriented fixtures and safety amenities, security systems, call systems, on site medical services): \_\_\_\_\_

Are there impediments that hinder the ability to conventionally finance this project and /or negatively impact the project's return on investment? ☐ Yes or ☐ No

If yes, please briefly summarize the financial obstacles to development that this project faces without IDA or other public assistance. Please provide the IDA with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without IDA and other tax credits included indicating below average return on investment rates compared to regional industry averages). \_\_\_\_\_

---

---

Will the project target (and maintain during the incentive period) a minimum 50% occupancy rate of senior citizens whose income is at or below 60-80% of the median income for Erie County?

☐ Yes or ☐ No

If yes, please describe provide a narrative citing key facts that substantiate this finding.

---

---

**TOWN OF CLARENCE INDUSTRIAL DEVELOPMENT AGENCY  
INDUCEMENT RESOLUTION POLICY**

It shall be the policy of the Town of Clarence Industrial Development Agency that any inducement resolution adopted by the Board of Directors shall remain in full force and effect for a period of one (1) year from the date of its adoption. Thereafter, the Board of Directors may, in its discretion and upon good cause shown, adopt a further resolution extending the period of inducement for one (1) additional year from the date of the expiration of the original inducement. An Agency Extension Fee in the amount of \$500.00 shall be charged to the applicant for each such extension granted. Such Extension Fee shall be in addition to any other Administrative Fee or other fees incurred with respect to the project. Any request for an extension of the period of inducement beyond the one (1) additional year extension contemplated herein shall be addressed by the Board of Directors on a case-by-case basis.

---

(Company Name)

---

(Owner/Partner/CEO)

Sworn to before me this

day of \_\_\_\_\_, 20 \_\_\_\_\_

---

Notary Public

---

(Sublessee Name)

---

(Owner/Partner/CEO)

Sworn to before me this

day of \_\_\_\_\_, 20 \_\_\_\_\_

---

**Attachment 1: CIDA Fee Schedule**

**TOWN OF CLARENCE INDUSTRIAL DEVELOPMENT AGENCY  
FEE SCHEDULE**

**Application Fee:** At the time of application for approval by the Agency of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00). If the request is for refinancing of an existing Project of the Agency where no public hearing is required, this Application Fee will be applied as an offset against all or a portion of the Agency Administrative Fee Due.

For an extension of an inducement, each extension of six months shall require payment of one quarter of the Agency Administrative Fee.

**Agency Administrative Fees:**

**1. New Projects**

The Agency Administrative Fee for new Projects shall be 1% of the dollar amount of the Project as determined by the Agency. One quarter of the Agency Administrative Fee or .25% must be received by the Agency prior to the issuance of a Sales Tax Letter by the Agency except for installment sale transactions when the entire Agency Administrative Fee of 1% is due at time of the issuance of the Sale Tax Letter. The balance of the Agency Administrative Fee or .75% shall be due on the closing of the transaction.

**2. Refinancing's**

The Agency Administrative Fee for refinancings shall be \$500 plus one percent (1%) of any new money being financed.

By way of illustration, if the Agency authorized a Project with a Project Cost of \$1,200,000, the initial Agency Administrative Fee payable would have been a total of \$12,000 with .25% or \$3,000 due at the time of the sales tax letter and \$9,000 payable at the closing. For purpose of illustration, we will assume that the Project was financed through bonds or a note and mortgage in the principal amount of \$1,000,000. At the end of five years, the Lessee comes to the Agency for assistance in refinancing the Project with a new borrowing of \$1,300,000. The Lessee will have to advise the Agency of the outstanding principal balance remaining on the bond or note. For purpose of illustration, we will assume that the principal balance has been reduced by \$100,000 leaving a remaining principal balance of \$900,000. The Lessee would have to pay an Agency Administrative Fee of 1% on the amount over the original \$1,200,000 authorized and for which the Agency Administrative Fee was paid or 1% of \$100,000 (\$1,000) plus an administrative fee of 1% on the difference between the \$1,000,000 originally borrowed and the remaining principal balance or 1% of \$100,000 (\$1,000) because that amount would also constitute new money. This would be in addition to the \$500 refinancing fee for a total Agency Administrative Fee of \$2,500.

### 3. Sublease Approvals

The Agency fee for approval of a new sublease for the entire Project shall be \$500.

### 4. Approval of Lease Assignment and Assumptions

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall be one quarter percent (.25%) of Agency Administrative Fee which would have been due if the Project was a new Project but reduced by the percentage of the benefit already received with respect to real property tax abatement.

By way of illustration, if it is assumed that the Agency provided a ten-year real property tax abatement as set forth below

Year	Tax Paid	Abatement
2013	10%	90%
2014	10%	90%
2015	10%	90%
2016	20%	80%
2017	20%	80%
2018	20%	80%
2019	30%	70%
2020	30%	70%
2021	30%	70%
2022	30%	70%

Total Abatement 7.9 years of abatement

If after year 2018, an application was received requesting that the Agency approve the assignment and assumption of the lease agreement, four years of abatement are remaining. If you add up the percentage of abatement for each year the total remaining abatement is 2.8 years of abatement. The fee would be 0.25% of the percentage remaining of the real property tax abatement ( $2.8 \div 7.9 = 0.354430380$  x 0.25% or 0.0025 times the original Project Cost). Assuming the original Project Cost was \$1,000,000, the fee at the time of the original Project would have been \$10,000. The fee for the assignment and assumption would be  $\$1,000,000 \times 0.0025 \times 0.354430380 = \$886.08$ .

### Additional Fees

Additional costs associated with meeting the Agency's current environmental policy are the responsibility of the Applicant.

If the Project Application is withdrawn or does not close, the Applicant is responsible for any costs, including Agency Counsel Fees, incurred by the Agency on behalf of the Project.

#### Agency Counsel Fees

<u>Bond/Mortgage/Lease Project Cost</u>	<u>Legal Fee</u>
to \$750,000	\$5,000*
\$750,001 to \$1,500,000	\$7,500

\$1,500,001 to \$3,000,000	\$10,000
\$3,000,001 to \$5,000,000	\$12,500
\$5,000,001 to \$10,000,000	\$15,000
above \$10,000,000	\$20,000 minimum with additional legal fees payable based upon the circumstances and work involved

\* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect for Agency Counsel for the additional time only.

Legal Fees for refinancings shall be based upon the dollar amount refinanced in accordance with the above schedule. In the case of minor amendments of the prior loan documents, Agency Counsel Fees shall be charged on a time basis at the hourly rate then in effect for Agency Counsel. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole reasonable discretion.

<u>Installment Sale Transactions</u>	<u>Legal Fee</u>
to \$750,000	\$3,000*
\$750,001 to \$1,500,000	\$5,000
\$1,500,001 to \$3,000,000	\$7,500
over \$3,000,000	\$10,000 minimum with additional legal fees payable based upon the circumstances and work involved

\* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect for Agency Counsel for the additional time only.

Legal Fees for Assignment and Assumptions shall be on a time basis.

In addition to counsel fees, disbursement of up to \$1,000 will be added to each closing. If additional transcripts above the normal amount are required (5 for lease only and 7 for bond or mortgage transactions), they will be billed to reflect the additional copy cost and the additional binding costs and may exceed the \$1,000 total.

**The above Fees Policies have been reviewed and accepted by the applicant**



## **Attachment 2: Local Labor Workforce Certification**

Project applicants (the “Company”), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Town of Clarence, Erie County, Industrial Development Agency (the “Agency”), will be required to utilize Local Labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the “Project”).

### Local Labor Defined

Local Labor is defined as individuals residing in Erie County, Niagara County, Chautauqua County, Cattaraugus County, Allegany County, Wyoming County, Genesee County, and Orleans County (collectively, the “Local Labor Area”).

### Local Labor Requirement

At least 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project must reside within the Local Labor Area. Companies do not have to be local companies as defined herein, but must employ local Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”) based on the following circumstances:

- (i) Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers;
- (ii) Specialized construction for which Local Labor Area Workers are not available;
- (iii) Documented lack of Workers meeting the Local Labor Area requirement. The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request; or
- (iv) Significant cost differentials in bids whereby use of Local Labor significantly increases the cost of the project. A cost differential of 25% is deemed significant.

### Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required

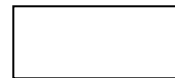
to file or cause to be filed a Local Labor Utilization Report (the “Report”) on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker, the city, town, or village and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following quarterly dates of January 1, April 1, July 1, and October 1 and each quarterly date thereafter through the construction completion date.

In addition, the Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and records of the Company and to perform spot checks of all Workers at the Project site to verify compliance with the Local Labor Requirement throughout the construction period.

### Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) Agency staff, upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice of said Local Labor Requirement violation (the “Notice of Violation”) shall be provided to the Company. The Company shall have 10 business days thereafter to either: (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement; (ii) submit the Local Labor Waiver Request as described above; or (iii) confirm in writing its inability to meet the Local Labor Requirement. If the Company does not respond to the Agency’s Notice of Violation, or if the Company confirms its inability to meet the Local Labor Requirement then the Agency shall immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project. If a Local Labor Waiver Request is submitted and the Agency declines to issue the requested waiver, then the Company shall have 10 business days after receipt of the notice of the waiver request denial to provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement. If the Agency does not receive such confirmation, the Agency shall then immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.

**The above Certification has been reviewed and accepted by the applicant**



Initial Here

**Attachment 3: CIDA Sublease Approval Form**

**TOWN OF CLARENCE INDUSTRIAL DEVELOPMENT AGENCY  
SUBLEASE APPROVAL FORM  
SUB-TENANT QUESTIONNAIRE – TO BE COMPLETED BY PROPOSED TENANT**

1. COMPANY NAME: \_\_\_\_\_
2. PRIMARY CONTACT: \_\_\_\_\_
3. TITLE: \_\_\_\_\_
4. COMPANY PRESIDENT / GENERAL MANAGER:  
NAME: \_\_\_\_\_ TITLE: \_\_\_\_\_
5. COMPANY SIC (NACIS) CODE: \_\_\_\_\_
6. BUSINESS DESCRIPTION (*Describe in detail company background, products, customers, goods and services*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. HISTORY OF COMPANY: \_\_\_\_\_  
\_\_\_\_\_
8. DOES THIS OCCUPANCY CONSTITUTE A RELOCATION? Yes \_\_\_\_\_ No \_\_\_\_\_
9. IF YES, WHERE IS COMPANY PRESENTLY RELOCATING FROM? (*City, State or Province, Country*)  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
  - a.) Is location to Clarence necessary to: (Check one or both if applicable)
    - Discourage your company from moving out of New York State? \_\_\_\_\_
    - To remain competitive within your industry? \_\_\_\_\_

(*If either or both are checked, please provide a specific, detailed explanation as attachment on company letterhead*)
  - b.) In regard to current location, does your company: Own: \_\_\_\_\_ Lease: \_\_\_\_\_
  - c.) If leased, when does the lease expire? \_\_\_\_\_

- d.) If owned, what will become of the facility? \_\_\_\_\_  
 \_\_\_\_\_
- e.) Have local economic development officials in the municipality where the company is currently located been contacted about alternative sites within that municipality?  
 YES \_\_\_\_\_ NO \_\_\_\_\_
- f.) If yes, what was the outcome? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- g.) If no, why not? \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
10. WILL THIS CLARENCE LOCATION BE YOUR COMPANY'S HEADQUARTERS?  
 YES \_\_\_\_\_ NO \_\_\_\_\_  
 If no, where is the Company's Headquarters located (City, State or Province, Country)?  
 CITY \_\_\_\_\_ STATE / PROVINCE \_\_\_\_\_
11. CURRENT NUMBER OF EMPLOYEES:  
 FULL TIME: \_\_\_\_\_ PART TIME: \_\_\_\_\_
12. ESTIMATED NUMBER OF FUTURE EMPLOYEES (WITHIN TWO (2) YEARS):  
 FULL TIME: \_\_\_\_\_ PART TIME: \_\_\_\_\_
13. NUMBER OF EMPLOYEES THAT LIVE IN:  
 CLARENCE \_\_\_\_\_ BUFFALO \_\_\_\_\_  
 OTHER ERIE COUNTY \_\_\_\_\_ OUTSIDE ERIE COUNTY \_\_\_\_\_  
 \_\_\_\_\_
14. APPROXIMATE PERCENTAGE OF PRODUCTS / SERVICES EXPORTED:  
 OUTSIDE ERIE COUNTY BUT WITHIN NEW YORK STATE \_\_\_\_\_  
 \_\_\_\_\_  
 WITHIN THE REST OF THE U.S. \_\_\_\_\_  
 CANADA \_\_\_\_\_ INTERNATIONAL \_\_\_\_\_

## Section IX: Representations, Certification and Indemnification

\*\* This Section of the Application can only be completed upon the Applicant receiving, and must be completed after the Applicant receives, IDA Staff confirmation that Section I through Section

V of the Application are complete.

\_\_\_\_\_  
Company) confirms and says that he/she is the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(title) of (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

\_\_\_\_\_  
Sublessee) confirms and says that he/she is the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(title) of (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C. Annual Sales Tax Filings: In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant. Copies of all filings shall be provided to the Agency.
- D. Employment Reports: The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default

under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency Board members, said report being an agenda item subject to the Open Meetings Law.

- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1 527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.
- G. Hold Harmless Provision: The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage

recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.

- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and the Agency's general counsel and/or the Agency's bond/transaction counsel, the same to be paid at the times indicated:
  - (i) a non-refundable \$\_\_\_\_\_ application and publication fee (the "Application Fee");
  - (ii) expense deposit for the Agency's Counsel Fee Deposit;
  - (iii) Unless otherwise agreed to by the Agency, an amount equal to \_\_\_\_\_percent (\_\_\_\_\_% ) of the total project costs.
  - (iv) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.
- J. If the Applicant fails to conclude or consummate the necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable proper or requested action, or withdraws, abandons, cancels, or neglects the Application, or if the Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.
- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as

limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.

- M. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.
- N. The Applicant acknowledges that it has been provided with a copy of the Agency's Policy for Termination of Agency Benefits and Recapture of Agency Benefits Previously Granted (the "Termination and Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Termination and Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Termination and Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
- O. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:
- § 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
- P. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- Q. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- R. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.
- S. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents that the statements



made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

(Company)

STATE OF NEW YORK  
COUNTY OF ERIE ) ss.:

\_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am \_\_\_\_\_ the (Corporate Officer) of \_\_\_\_\_  
(Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of  
perjury this      day of                      20

\_\_\_\_\_  
(Notary Public)

(Sublessee)

STATE OF NEW YORK  
COUNTY OF ERIE ) ss.:

\_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am \_\_\_\_\_ the (Corporate Officer) of \_\_\_\_\_  
(Sublessee) and that I am duly authorized on behalf of the Sublessee to bind the Sublessee.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of  
perjury this      day of                      20

\_\_\_\_\_  
(Notary Public)