

MINUTES
COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY
June 6, 2016
IDA OFFICE BUILDING
44 W. BRIDGE ST.
OSWEGO, NEW YORK

PRESENT: Canale, Rush, Schick, Sorbello and Toth

Absent/Excused: Kunzwiler

Also Present: Kevin C. Caraccioli, David S. Dano, Susan Katzoff, L. Michael Treadwell and Matt Wells

Chair Rush called the meeting to order at 9:00 a.m. at the offices of the County of Oswego IDA in Oswego, NY.

APPROVAL OF MINUTES

On a motion by Mr. Sorbello, seconded by Mr. Canale, the minutes of the April 27, 2016 and May 10, 2016 meetings were approved.

TREASURER'S REPORT

On a motion by Mr. Sorbello, seconded by Mr. Schick, the Financial Statements for the period ended February 29, 2016 were approved.

NOTICE OF MEETING

Meeting notices were posted at the Oswego County Building, the IDA Office Building and on the IDA website. A notice was published in The Palladium Times on May 20, 2016.

Central New York Raceway Park, Inc.

Mr. Treadwell reported that naming rights to the road course has been awarded to EDF Energy Services.

Upstate Energy Jobs Coalition

Mr. Canale and Mr. Caraccioli provided an update on the Clean Energy Standard noting that the hearing process by the PSC has been concluded and felt that the level of participation was excellent. It was also noted that a new petition is being circulated to collect additional support and sign-ons for the CES.

NYS IDA Legislation

Ms. Katzoff provided an overview of new policies that have been approved by the State and must be adopted by IDAs by the effective date of June 15, 2016. Following a review of the policies in draft form, on a motion by Mr. Toth, seconded by Mr. Schick, a resolution was approved authorizing the approving of actions required by new IDA Legislation. A copy of the Resolution is attached and made an official part of the minutes.

Also attached and made an official part of the minutes are draft copies of the following policies and agreements that were reviewed including the new application: Project Approval Policy; Project Agreement; Annual Assessment Policy; Suspension, Discontinuation and Recapture of Benefits Policy; and Application for Financial Assistance. Legal counsels and the CEO were authorized to make edits and put the drafts into a final form and post on the Agency's website.

Sunoco, Inc. (R&M)

Following an overview by Mr. Wells regarding the merger, on a motion by Mr. Sorbello, seconded by Mr. Canale, a resolution was approved authorizing the assignment and assumption of certain documents and authorizing transfer of the project facility in accordance with the terms of a lease agreement entered between the Agency and the Company in March 2016 and authorizing the execution of certain documents in connection therewith. A copy of the Approving Resolution is attached and made an official part of the minutes.

Executive Session

Chair Rush and Mr. Caraccioli reported that due to matters involving the financial history of a business/organization and individuals and pending contractual matters, on a motion by Mr. Sorbello, seconded by Mr. Canale, it was approved to go into Executive Session at 10:44 a.m.

On a motion by Mr. Toth, seconded by Mr. Schick, the Executive Session ended at 12:10 p.m.

Oswego Lodging Group, LLC

Mr. Treadwell reported that the company has amended its Application for Financial Assistance to request consideration for a PILOT Deviation under the Hotel Policy.

Budget Reports – Revenue and Expenses

Following a review, on a motion by Mr. Canale, seconded by Mr. Schick, the following Budget Reports were approved and authorized to be submitted to the State and posted on the website:

- Actual (8/1/14 – 7/31/15)
- Estimated (8/1/15 – 7/31/16)
- Projected (8/1/16 – 7/31/17)

A copy of the Budget Reports are attached and made an official part of the minutes.

OOO Administrative Services Agreement

Following a discussion, on a motion by Mr. Schick, seconded by Mr. Sorbello, authorization was approved to amend and extend the Administrative Services Agreement for 2017 at \$280,000.

Huhtamaki

Following a discussion, on a motion by Mr. Toth, seconded by Mr. Canale, the LOC collateral for the Agency's HUD EDF Loan #411 was approved to be reduced to the loan's current balance of \$55,168 and authorization was granted to notify Huhtamaki.

Delinquent Loan Report

Mr. Dano reviewed the report for the period ended May 31, 2016. Authorization was approved for counsel to send stronger letters to Design Concepts & Enterprises and Oswego County Podiatry.

Miller WWTP

Following a discussion, on a motion by Mr. Toth, seconded by Mr. Sorbello, authorization was approved to continue the development of a strategy to allow the WWTP to be put back into use to enhance economic development potential.

Manufacturing Prospect

Following a review of an incentive strategy to attract a new manufacturer to Oswego County, on a motion by Mr. Canale, seconded by Mr. Schick, the confidential incentive proposal was approved.

Next Meeting

June 30, 2016 at 10:30 a.m. was scheduled.

Adjournment

On a motion by Mr. Toth, seconded by Mr. Sorbello, the meeting was adjourned at 12:20 p.m.

Respectfully Submitted,

H. Leonard Schick
Secretary

RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on June 6, 2016, at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

PRESENT: Nick Canale, Jr., Carolyn A. Rush, H. Leonard Schick, Morris Sorbello and Gary T. Toth

ABSENT: Donald H. Kunzwiler

ALSO PRESENT: Kevin C. Caraccioli, David S. Dano, Susan Katzoff, L. Michael Treadwell and Matt Wells

The following resolution was duly offered and seconded:

RESOLUTION APPROVING ACTIONS REQUIRED BY NEW IDA LEGISLATION.

WHEREAS, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, Chapter 563 of the Laws of 2015 of the State of New York (the “*New IDA Legislation*”) amended the Act to increase the accountability and improve the efficiency and transparency of the operations of industrial development agencies and authorities by requiring standard application forms for requests for financial assistance, uniform criteria for the evaluation and selection for each category of projects for which financial assistance is provided and uniform project agreements; and

WHEREAS, the Agency’s application for financial assistance (the “*Application*”) has been amended to comply with the requirements of the New IDA Legislation; and

WHEREAS, the Agency wishes to define Labor Market Area, as used in its Application, in accordance with the New IDA Legislation as set forth herein; and

WHEREAS, the Agency has revised its existing Recapture Policy (the “*Recapture Policy*”) to ensure compliance with the New IDA Legislation; and

WHEREAS, the Agency has prepared an annual assessment policy (the “*Annual Assessment Policy*”), a project approval policy (the “*Project Approval Policy*”) and a project agreement (the “*Project Agreement*” and together with the Project Approval Policy, the Annual Assessment Policy and the Recapture Policy, collectively, the “*New IDA Legislation Policies*”) to address requirements of the New IDA Legislation; and

WHEREAS, the members of the Agency desire to review and approve the Application and the New IDA Legislation Policies, substantially in the forms presented to this meeting;

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

Section 1. The Agency hereby defines Labor Market Area as used in its Application to consist of the following: Onondaga, Oswego, Oneida, Madison, Cayuga and Jefferson Counties (collectively, the “*Labor Market Area*”).

Section 2. The Agency hereby approves and adopts the Application and the New IDA Legislation Policies in substantially the forms presented at this meeting, with such amendments or modifications as the Chairman, the Vice Chairman and/or the Chief Executive Officer (each an “*Authorized Officer*”) deems appropriate under the circumstances.

Section 3. The Chief Executive Officer of the Agency is hereby directed to post copies of the Application and the New IDA Legislation Policies on the Agency’s website.

Section 4. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

| | <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> | <u>Recuse</u> |
|---------------------|------------|------------|----------------|---------------|---------------|
| Nick Canale, Jr. | X | | | | |
| Donald H. Kunzwiler | | | | X | |
| Carolyn A. Rush | X | | | | |
| H. Leonard Schick | X | | | | |
| Morris Sorbello | X | | | | |
| Gary T. Toth | X | | | | |

The Resolution was thereupon declared adopted.

STATE OF NEW YORK)

COUNTY OF OSWEGO) ss.:

I, the undersigned, Chief Executive Officer of the County of Oswego Industrial Development Agency, **DO HEREBY CERTIFY** that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the “**Agency**”) held on June 6, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency on June 6, 2016.

L. Michael Treadwell,
Chief Executive Officer

(SEAL)

COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY

PROJECT APPROVAL POLICY

I. STATEMENT OF PURPOSE

The County of Oswego Industrial Development Agency (“**Agency**”) has adopted this Project Approval Policy (the “**Policy**”) in accordance with Section 859-a(5) of the New York State General Municipal Law. This Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”) and Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “**Act**”), and any other applicable law.

II. PROJECT APPROVAL

All of the following must occur prior to the adoption of a resolution approving the grant of financial assistance for a project seeking financial assistance (each, a “**Proposed Project**”):

a. Assessment

The members shall assess all material information included in connection with the application for financial assistance (the “**Application**”) submitted by or on behalf of the company seeking such financial assistance (the “**Company**”) in order to afford a reasonable basis for the decision by the Agency to provide financial assistance for a Proposed Project (the “**Assessment**”). As part of their assessment of a Proposed Project, the members shall consider the selection criteria for the relevant category of projects as set forth in **Exhibit “A”** attached hereto.

b. Cost-Benefit Analysis

The members shall prepare or cause to be prepared a written cost-benefit analysis (the “**Cost-Benefit Analysis**”) identifying:

1. the extent to which a Proposed Project will create or retain permanent, private sector jobs;
2. the estimated value of any tax exemptions to be provided;
3. the amount of private sector investment generated or likely to be generated by the Proposed Project;
4. the likelihood of the Proposed Project being completed in a timely fashion;
5. the extent to which the Proposed Project will provide additional sources of revenue for municipalities and school districts; and

6. other public benefits that might occur as a result of the Proposed Project.

The members shall consider the Cost-Benefit Analysis as part of the Assessment.

c. Company Confirmation of Compliance

The Agency must receive from the Company a written statement that, as of the date of the Application, the Proposed Project is in substantial compliance with all provisions of General Municipal Law Article 18-A, including but not limited to Sections 859-a and 862(1).

d. Notification

If a Proposed Project involves the removal or abandonment of a facility or plant within New York State, the Agency shall notify the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located. If applicable, such notice shall be sent [within ____ days of][following] the adoption of a [Public Hearing Resolution][Inducement Resolution].

Adopted: _____

EXHIBIT A

SELECTION CRITERIA BY PROJECT TYPE

Manufacturing, Warehouse, Distribution

1. Wage rates (as compared to median wage for area)
2. Regional wealth creation (% sales/customers within municipality)
3. Regional purchases (% of overall purchases)
4. Research and development activities
5. Investments in energy efficiency
6. Location, land use, including use of brownfields or locally designated development areas
7. Use of LEED/renewable resources
8. Retention/flight risk

Agricultural, Food Processing

1. Wage rates (as compared to median wage for area)
2. Regional wealth creation (% sales/customers outside area)
3. Regional purchases (% of overall purchases)
4. Research and development activities
5. Investments in energy efficiency
6. Location, land use factors, proximity to local agricultural production
7. Use of LEED/renewable resources
8. Retention/flight risk

Adaptive Reuse, Community Development

1. Location within distressed census tract
2. Age of structure
3. Elimination of slum and blight
4. Building or facility vacancy
5. Redevelopment supports local community development plan
6. Environmental or safety issues
7. Use of LEED/renewable resources
8. Building or site has historic designation
9. Site or structure has delinquent property or other local taxes
10. Project developer's return on investment
11. Ability to obtain conventional financing

Tourism

1. Market study (documenting demand and impact on existing tourism and businesses)
2. Regional wealth creation
3. Proximity to and/or support of regional tourism attractions/facilities
4. Support of local official(s), convention visitors bureau
5. Regional purchases, support of local vendors
6. Use of LEED/renewable resources
7. Generation of additional local revenues (such as hotel bed taxes)

Retail

1. Meets all requirements of General Municipal Law Section 862
2. Market study documenting need
3. Goods or services not readily available
4. Impact on existing businesses
5. Regional wealth creation
6. Location within highly distressed census tract
7. Location in urban or town center
8. Elimination of slum and blight
9. Alignment with local planning and development efforts

High Tech

1. Wage rates (as compared to median wage for area)
2. Regional wealth creation (% sales/customers outside area)
3. Regional purchases (% of purchases from local vendors)
4. Research and development activities
5. Investments in energy efficiency
6. Support of local business
7. Retention/flight risk
8. Use of LEED/renewable resources

Back Office, Data, Call Centers

9. Wage rates (as compared to median wage for area)
10. Regional wealth creation (% sales/customers outside area)
11. Regional purchases (% of purchases from local vendors)
12. Support of local business
13. Retention/flight risk
14. Use of LEED/renewable resources

Senior Housing

1. Market study (documenting unmet need and impact on existing housing facilities)
2. Location within a highly distressed census tract
3. Alignment with local planning and development efforts
4. Urban, town/village center location
5. Local official(s) support
6. Located in areas that provide support for below median income seniors
7. Location promotes walkable community areas
8. Project developer's return on investment
9. Ability to obtain conventional financing
10. Provision of senior-specific amenities (community rooms, health services, etc.)
11. Income level of potential residents (at or below median income)

Affordable Housing

1. Market study (documenting unmet need and impact on existing housing facilities)
2. Location within a highly distressed census tract
3. Alignment with local planning and development efforts

4. Urban, town/village center location
5. Local official(s) support
6. Located in areas that provide support for below median income individuals
7. Location promotes walkable community areas
8. Project developer's return on investment
9. Ability to obtain conventional financing
10. Income level of potential residents (at or below median income)

Commercial Housing

1. Market study (documenting unmet need and impact on existing housing facilities)
2. Location within a highly distressed census tract
3. Alignment with local planning and development efforts
4. Location within urban or town/village center
5. Support from local official(s) and the community
6. Location within areas that have inadequate housing supply
7. Promotion of transit-oriented or walkable community areas
8. Project developer's return on investment
9. Ability to obtain conventional financing

Student Housing

1. Market study (documenting unmet need and impact on existing housing facilities)
2. Location within a highly distressed census tract
3. Alignment with local planning and development efforts
4. Location within urban or town/village center
5. Support from local official(s) and the community
6. Location within areas that have inadequate housing supply
7. Promotion of transit-oriented or walkable community areas
8. Project developer's return on investment
9. Ability to obtain conventional financing

Energy Production

1. wage rates (above median wage for area)
2. in region purchases (% of overall purchases, local construction jobs/suppliers)
3. advances renewable energy production/transmission goals
4. provides capacity or transmission to meet local demand or shortage

Miscellaneous Projects

1. Location within a highly distressed census tract
2. Alignment with local planning and development efforts
3. Location within urban or town/village center
4. Support from local official(s) and the community
5. Promotion of transit-oriented or walkable community areas

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the “*Project Agreement*”), made as of _____, by and between the **COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a public benefit corporation organized and existing under the laws of the State, having an office at 44 West Bridge Street, Oswego, New York 13126 (the “*Agency*”), and _____, a _____ duly organized, validly existing and in good standing under the laws of the State of _____, with offices at _____ (the “*Company*”).

WITNESSETH:

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “*State*”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 234 of the Laws of 1973 of the State of New York, as amended (collectively, with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company submitted an application (the “*Application*”) to the Agency requesting the Agency’s assistance with respect to a certain project (the “*Project*”) consisting of: [INSERT PROJECT DESCRIPTION]; and

WHEREAS, by resolution of its members adopted on _____ (the “*Resolution*”), the Agency has conferred on the Company in connection with the Project certain financial assistance consisting of: [(a) an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Project Facility or used in the acquisition,

construction or equipping of the Project Facility;] [(b) an exemption from mortgage recording tax;] and [(c) an abatement from real property taxes through a [____]-year payment in lieu of taxes agreement with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project] (collectively, the sales and use tax exemption benefit, the mortgage recording tax benefit, and the abatement from real property taxes benefit, are hereinafter collectively referred to as the “*Financial Assistance*”); and

WHEREAS, it has been estimated and confirmed by the Company that the Company has included within its Application for Financial Assistance that: (i) the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$_____, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$_____, (ii) the mortgage recording tax exemption amount shall be approximately \$_____, and (iii) real property tax abatement benefits to be provided to the Company over the ___-year benefit period of the anticipated payment in lieu of taxes agreement are estimated to be approximately \$_____; and

WHEREAS, the Company proposes to lease the Land and Facility to the Agency, and the Agency desires to lease the Land and Facility from the Company pursuant to the terms of a certain Company Lease Agreement dated as of _____ (the “*Company Lease*”), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale from the Company; and

WHEREAS, the Agency proposes to sublease the Project Facility to the Company, and the Company desires to lease the Project Facility from the Agency, upon the terms and conditions set forth in a certain Agency Lease Agreement dated as of _____ (the “*Agency Lease*”); and

[**WHEREAS**, in order to define the obligations of the Company regarding payments in lieu of taxes for the Project Facility, the Agency and the Company will enter into a Payment in Lieu of Tax Agreement, dated as of [_____] (the “*PILOT Agreement*”), by and between the Agency and the Company; and]

WHEREAS, by its Resolution, the Agency authorized the Company to act as its agent for the purposes of undertaking the Project and the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of this Project Agreement and compliance with the terms set forth herein and in the Resolution; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency’s sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate, equip and complete the Project Facility and to undertake the Project, the Agency and the Company will enter into this Project Agreement; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in the PILOT

Agreement and this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement;

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

ARTICLE I PURPOSE OF PROJECT

Section 1.01 Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Company Lease, Agency Lease, PILOT Agreement and this Project Agreement in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the County of Oswego and to otherwise accomplish the public purpose of the Act.

ARTICLE II REAL PROPERTY TAX EXEMPTION

Section 2.01. PILOT Agreement. [Attached hereto and made a part hereof is Exhibit A, which contain an executed copy of the PILOT Agreement entered into by and between the Company and the Agency.][A PILOT Agreement is currently under negotiations between the Agency and the Company. If and when a PILOT Agreement is entered into by and between the Agency and the Company, the parties hereto agree to amend and restate this Project Agreement to reflect the PILOT Agreement.][Intentionally omitted.]

ARTICLE III SALES AND USE TAX EXEMPTION

Section 3.01. Scope of Agency. The Company hereby agrees to limit its activities as agents for the Agency under the authority of the Resolution to acquisition, reconstruction and installation of the Project Facility. The right of the Company to act as agent of the Agency shall expire on _____, unless extended by a resolution adopted by the members of the Agency. The value of the sales and use tax exemption benefits shall not exceed the amounts described in the Application and as set forth in Section 3.03(b) hereof unless approved by a resolution adopted by the members of the Agency. All contracts entered into by the Company as agent for the Agency shall include the following language:

“This contract is being entered into by _____ (the “*Agent*”), as agent for and on behalf of the County of Oswego Industrial Development Agency (the “*Agency*”), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at _____ (the “*Premises*”). The machinery, equipment and building materials to be incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the acquisition thereof is effected in accordance with the terms and conditions set forth in the Project Agreement dated as of _____ by and between the Agency and the Company (the “*Project Agreement*”); and the Agent hereby represents that this contract is in compliance with the terms of the Project Agreement. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

Section 3.02. Appointment of Sub-Agents. Subject to the terms and conditions of this Project Agreement and pursuant to the Resolution, the Agency hereby delegates to the Company the authority to appoint sub-agents of the Agency in connection with the Project, which may be agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and such other parties as the Company chooses (each, a “*Sub-Agent*”). The appointment of each such Sub-Agent will be effective only upon: (1) the execution by the Sub-Agent and the Company of the Sub-Agent Appointment Agreement attached hereto as Exhibit B, the terms and provisions of which are incorporated herein, and (2) the receipt by the Agency of a completed Form ST-60 in accordance with Section 3.03(e) below.

Section 3.03. Representations and Covenants of the Company.

(a) The Company hereby incorporates and restates its representations, covenants and warranties made in the [Agency Lease][Application].

(b) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to State and local sales and use taxes are estimated in the amount up to \$_____, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$_____.

(c) The Company further covenants and agrees to complete “IDA Appointment of Project Operator or Agent For Sales Tax Purposes” (Form ST-60) for itself and each Sub-Agent and to provide said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(d) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance an “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Company and its Sub-

Agents have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency, but in no event later than March 31 of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of (1) the Company's authority to act as agents for the Agency, and (2) the authority of any sub-agent of the Agency appointed by the Company pursuant to Section 2 hereof to act as agent for the Agency.

(e) The Company further acknowledges and agrees that all purchases made in furtherance of the Project by the Company and any Sub-Agent shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123, a copy of which is attached hereto as Exhibit C), and it shall be the responsibility of the Company and the Sub-Agent, as the case may be, (and not the Agency) to complete Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill of invoice should state, "I, [NAME OF AGENT], certify that I am a duly appointed agent of the County of Oswego Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Project Agreement with the County of Oswego Industrial Development Agency." The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: _____; IDA Project No.: _____.

(f) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

Section 3.04. Hold Harmless Provisions.

(a) The Company hereby releases the Agency and its members, officers, agents (other than the Company) and employees from, agree that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agree to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to, (1) liability for loss or damage to property or bodily injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Project Facility, (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities or claims arising

as a result of the Agency's obligations under this Project Agreement or the enforcement of or defense of validity of any provision of this Project Agreement, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Sections 1 and 2 hereof, and (4) all causes of action and reasonable attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the gross negligence or intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents (other than the Company) or employees by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(c) To effectuate the provisions of this Section 3.04, the Company agrees to provide for and insure, in the liability policies required by Section 3.05 of this Project Agreement, its liabilities assumed pursuant to this Section 3.04.

(d) Notwithstanding any other provisions of this Project Agreement, the obligations of the Company pursuant to this Section 3.04 shall remain in full force and effect after the termination of this Project Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

Section 3.05. Insurance Required.

(a) The Company agrees that it shall maintain all insurance required under the Agency Lease [insert insurance requirements here where this is a temporary sales tax appointment].

(b) The Company agrees that it shall cause its general contractor for the Project to maintain, effective as of the date hereof and until the expiration or termination of the Agency Lease, insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, with the Agency named on each such policy as an additional insured.

**ARTICLE IV
COMMITMENTS AND REPORTING**

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the following commitments beginning in the first year in which Financial Assistance is so claimed, and continuing [through the term of the PILOT Agreement] [for ___ years] [for ___ years following the Project’s completion date]:

(a) The total investment actually made with respect to the Project at the Project’s completion date shall equal or exceed \$_____ (which represents the product of [___]%, multiplied by \$_____, being the total project cost as stated in the Company’s application for Financial Assistance (the “**Investment Commitment**”).

(b) At least _____ (___) full time equivalent (“**FTE**”) employees were located at the Project Facility at the date of the Application for Financial Assistance (the “**Baseline FTE**”) and that the Company shall maintain and create FTE employment at the Project Facility equal to _____ (___) FTE employees (representing the sum of _____ (___) Baseline FTE plus [___]%, multiplied by _____ (___) (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Application for Financial Assistance) (the “**Employment Commitment**”); and

(c) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project (the “**Reporting Commitment**”).

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit D contains a form of annual certification that the Company must complete and submit to the Agency on an annual basis. The Agency reserves the right to modify such form to require additional information that the Agency must have in order to comply with its reporting requirements under the Act.

ARTICLE V
SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF
FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Company Lease, the Agency Lease, [the PILOT Agreement,] and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act.

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it is subject to recapture of all State sales and use tax exemption benefits if:

- (1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the State sales and use tax exemption benefits; or
- (2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or
- (3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or
- (4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project document between the Company and the Agency.

Each of the foregoing four events are hereinafter referred to as a “State-Mandated Recapture Event”. The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State-Mandated Recapture Event has occurred.

(b) In addition to Section 5.01(a), in accordance with the policies of the Agency and the Resolution, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance:

- (1) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency; and/or such exemptions were for property or services not authorized by the Agency (“**Local Sales Tax Benefit Violation**”);
- (2) the Company, upon completion of the Project, fails to reach and maintain its Employment Commitment (“**Job Deficit**”);

(3) the total investment actually made with respect to the Project at the Project's completion date fails to meet the Investment Commitment ("**Investment Deficit**");

(4) the Company fails to meet its Reporting Commitment ("**Reporting Failure**"); or

(5) there otherwise occurs any event of default under any Project Document (each, an "**Event of Default**") or a material violation of the terms and conditions of any Project Document (a "**Material Violation**").

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency's attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a "**Noncompliance Event**") has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Project Document in accordance with the terms of the Project Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance, and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- Whether the Company has proceeded in good faith.
- Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency's rights were not exercised.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the County of Oswego.
- The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend,

discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the “*Determination*”). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency’s sole discretion).

(c) If a State-Mandated Recapture Event occurs or the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the State sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency: County of Oswego Industrial Development Agency
44 West Bridge Street
Oswego, New York 13126
Attn: Chief Executive Officer

With a copy to: Barclay Damon, LLP
One Park Place
300 South State Street
Syracuse, New York 13202
Attn: Susan Katzoff, Esq.

If to the Company: _____

With a copy to: _____

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when received or delivery of same is refused by the recipient or personally delivered in the manner provided in this Section.

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Oswego County, New York.

Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be the longer of: (1) the term of the Agency Lease; or (2) [five] years following the Project’s completion date. The Project will remain “active” for purposes of Section 874(12) of General Municipal Law and the Agency’s Annual Assessment Policy during the term of this Project Agreement.

Section 6.08. Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
L. Michael Treadwell
Chief Executive Officer

[COMPANY]

By: _____
Name:
Title:

STATE OF NEW YORK)
COUNTY OF) ss.:

_____, being first duly sworn, deposes and says:

1. That I am the _____ of _____ and that I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

(Signature of Officer)

Subscribed and affirmed to me
under penalties of perjury
this ___ day of _____, 20__.

(Notary Public)

EXHIBIT A

[If applicable, attach executed PILOT Agreement]

EXHIBIT B

FORM OF SUB-AGENT APPOINTMENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "**Agreement**"), dated as of _____, 20__, is by and between _____, a _____ of the State of New York, having an office for the transaction of business at _____ (the "**Company**"), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the "**Sub-Agent**").

W I T N E S S E T H:

WHEREAS, the County of Oswego Industrial Development Agency (the "**Agency**") was created by Chapter 234 of the Laws of 1973 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "**Act**") as a body corporate and politic and as a public benefit corporation of the State of New York (the "**State**"); and

WHEREAS, by resolution of its members adopted on _____ (the "**Resolution**"), the Agency authorized the Company to act as its agent for the purposes of undertaking a project for the benefit of the Company (the "**Project**") consisting of: _____; and

WHEREAS, by the Resolution, the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of a project agreement by and between the Company and the Agency and compliance with the terms set forth therein;

WHEREAS, the Company and the Agency entered into a Project Agreement by and between the Company and the Agency dated as of _____ (the "**Project Agreement**");

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Company hereby appoints the Sub-Agent as an agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. to make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the

documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance's "Annual Report of Sales and Use Tax Exemptions" (Form ST-340).

b. to be bound by and comply with the terms and conditions of the Agency's policies, the Resolution, the Project Agreement and Section 875(3) of the Act as if such section were fully set forth herein. Without limiting the scope of the foregoing, the Sub-Agent acknowledges and agrees to be bound by the Agency's Suspension, Discontinuation and Recapture of Benefits Policy (the "Recapture Policy"), a copy of which is attached hereto as **Schedule "A"**.

c. that all purchases made by the Sub-Agent in connection with the Project shall be made using Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate), a copy of which is attached hereto as **Schedule "B"**). It shall be the responsibility of the Sub-Agent to complete Form ST-123. The failure to furnish a completed Form ST-123 with each purchase will result in loss of the exemption for that purchase.

d. that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill of invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the Oswego County Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following Agency project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: [FILL IN THE NAME OF THE PROJECT, THE STREET ADDRESS OF THE PROJECT SITE, AND IDA PROJECT NUMBER].

e. that the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

f. that as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility.

g. that the Sub-Agent must timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project on an annual basis.

h. that the failure to comply with the foregoing will result in the loss of the exemption.

i. that if the Sub-Agent is the general contractor for the Project, then at all times following the execution of this Agreement, and during the term thereof, the Sub-Agent shall maintain or cause to be maintained the insurance policies set forth on Schedule "C" attached hereto with an insurance company licensed in the State that has an A.M. Best rating of not less than A-

j. that every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflicts-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Sub-Agent irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

3. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and may result in the loss of the Company's State and local sales and use tax exemption with respect to the Project and the Recapture of the Recapture Amount at the sole discretion of the Agency. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

4. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations

under any provisions of the Project Agreement or of any other agreement entered into by the Company in connection with the Project.

5. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

6. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c), 2(f), 2(g), 2(j) and 3 shall survive the termination of this Agreement.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

[NAME OF COMPANY]

By: _____
Name:
Title:

[NAME OF SUB-AGENT]

By: _____
Name:
Title:

SCHEDULE A TO SUB-AGENT APPOINTMENT AGREEMENT

SUSPENSION, DISCONTINUATION AND RECAPTURE OF BENEFITS POLICY

SCHEDULE B TO SUB-AGENT APPOINTMENT AGREEMENT

FORM ST-123

SCHEDULE C TO SUB-AGENT APPOINTMENT AGREEMENT

INSURANCE REQUIREMENTS

“All Risk” (excluding terrorism coverage if unavailable at commercially reasonable rates as determined by the Sub-Agent) builder’s risk insurance, including collapse coverage and coverage for material in storage and while in transit, for one hundred percent (100%) of the insurable replacement value of the Project on a replacement cost basis on all materials, equipment and supplies which are to become a permanent part of the Project, while awaiting erection and until completion; (ii) worker’s compensation insurance including employer’s liability to provide statutory benefits as required by applicable Legal Requirements; (iii) commercial general liability insurance for hazard of operation, independent contractors, products and completed operations, such liability insurance to include broad form property damage and afford coverage for explosion, collapse and underground hazards and personal injury liability insurance, and contractual liability coverage for the Sub-Agent’s indemnification obligations hereunder, all with limits of not less than Five Million Dollars (\$5,000,000) per occurrence on an “occurrence” basis and Ten Million Dollars (\$10,000,000) in the aggregate; and (iv) comprehensive automobile liability covering owned, non-owned and hired vehicles used in connection with the construction of the Project with limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage. The Sub-Agent shall deliver to the Agency any policies (or certificates thereof) with respect to insurance required hereunder prior to the commencement of construction or related work on the Project, and shall deliver renewal policies (or certificates thereof) at least thirty (30) days before the expiration date of any policy maintained in connection with the Project. All policies evidencing such insurance except the Workers’ Compensation policy shall name the Sub-Agent as insured and the Agency as an additional insured, as its interests may appear, and all policies shall provide that the coverage with respect to the Agency be primary and non-contributory and require at least thirty (30) days’ prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof; and (B) to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

EXHIBIT C
FORM ST-123

C-1

EXHIBIT D

FORM OF ANNUAL REPORTING QUESTIONNAIRE

[INSERT FORM OF REPORTING QUESTIONNAIRE ONCE FINALIZED]

COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY

ANNUAL ASSESSMENT POLICY

I. STATEMENT OF PURPOSE

The County of Oswego Industrial Development Agency (the “**Agency**”) has adopted this Annual Assessment Policy (the “**Policy**”) in accordance with Section 874(12) of the New York State General Municipal Law. This Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”) and Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “**Act**”), and any other applicable law.

II. ANNUAL ASSESSMENT

The Agency shall annually assess the progress of each project for which bonds or notes remain outstanding or straight-lease transactions have not terminated or which continue to receive financial assistance or are otherwise active (each, an “**Active Project**”) toward its achievement of the investment, job retention or creation or other objectives of the Active Project indicated in the Active Project’s application for financial assistance or otherwise considered by the Agency in its approval of the Active Project.

To perform its assessments, the Agency shall at least annually solicit information from each Active Project’s representatives regarding investment, job retention or creation or other objectives of each Active Project and such additional information as the Agency may find helpful in its assessment or which is required for the Agency to meet its reporting requirements under the Act (collectively, the “**Annual Project Information**”). The Annual Project Information shall consist of information for the period of January 1 through December 31, except that the period for the first year of an Active Project shall be the date of closing through December 31. As part of its collection of Annual Project Information, Agency members and/or staff may perform random or annual site visits of Active Projects. Agency staff shall review the Annual Project Information of each Active Project for completeness and, if necessary, thereafter communicate with an Active Project’s representatives to obtain any necessary information not initially provided in the Annual Project Information. If the Annual Project Information demonstrates that an Active Project has not met its goals, Agency staff shall meet with such Active Project’s representatives to assess the Active Project’s performance and its ability to fulfill the original goals (a “**Project Evaluation Meeting**”).

Using the Annual Project Information and the findings from the Project Evaluation Meeting, if any, a written assessment (an “**Assessment**”) shall be completed for each Active Project by any member, officer or employee of the Agency or any committee of the Agency. An Assessment for each Active Project shall be provided annually to each member of the Agency. Each such Assessment shall be completed no later than March 31 in order for the Agency to comply with its annual reporting requirements under the Act and the New York State Public Authorities Law.

The Agency may establish such other procedures as may be necessary to effectuate the purpose and goals of this Policy and the Act.

Adopted: _____

COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY

SUSPENSION, DISCONTINUATION AND RECAPTURE OF BENEFITS POLICY

I. STATEMENT OF PURPOSE

The County of Oswego Industrial Development Agency (the “*Agency*”) has adopted this Suspension, Discontinuation and Recapture of Benefits Policy (the “*Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “*Enabling Act*”) and Chapter 234 of 1973 of the Laws of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- To which the project was not entitled;
- In excess of the amounts authorized by the Agency;
- For property or services not authorized by the Agency; and/or
- For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

Each of the foregoing four events are hereinafter referred to as a “*State-Mandated Recapture Event*”. The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State-Mandated Recapture Event has occurred.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing mandatory recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include any penalties and interest imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and determine State sales and use taxes due from the company under article twenty-eight

of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance (other than the State portion of sales and use tax exemptions), the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “***Local Sales Tax Benefit Violation***”);
- the company, upon completion of the project, fails to reach and maintain at least [___] percent of its employment requirements for job creation and/or retention (“***Job Deficit***”);
- the total investment actually made with respect to the project at the project’s completion date is less than [___] percent of its investment requirement (“***Investment Deficit***”);
- the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“***Reporting Failure***”); or

- there otherwise occurs any event of default under any project document (each, an “*Event of Default*”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- Whether the company has proceeded in good faith.
- Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the County of Oswego.
- The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event upon which the Determination was based. The company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination

in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "***Project Agreement***") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) [five] years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: _____

County of Oswego Industrial Development Agency

**44 W. Bridge St.
Oswego, NY 13126
(315) 343-1545**

Application for Financial Assistance

2016

Application for Financial Assistance

This Application is required for Bond Financing and/or Straight Lease Transactions. Please answer all questions either by filling in blanks or by attachment. Please file application in duplicate. Information provided herein will not be made public by the Agency prior to the passage of an Official Action Resolution, but may be subject to disclosure under the New York Freedom of Information Act. The entity completing this application shall be referred to herein as either the "Company" or the "Applicant".

A. COMPANY INFORMATION

1. **Company Legal Name:** _____
Address: _____
City, State, Zip: _____
Telephone: _____ **Fax:** _____
Contact Person: _____ **Title:** _____
E-mail Address: _____
Website Address: _____

2. **Employer I.D. Number:** _____
DUNS Number: _____

3. **Legal Counsel:** _____
Address: _____
Telephone: _____ **Fax:** _____
E-Mail Address: _____

4. **Accountant:** _____
Address: _____
Telephone: _____ **Fax:** _____
E-Mail Address: _____

5. **Business Form:**

| | | | | | |
|----------------------|--|--------------------|--|--------|--|
| Private Corporation: | | Year Incorporated: | | State: | |
| Public Corporation: | | Year Incorporated: | | State: | |
| Partnership: | | Year Formed: | | State: | |
| Sole Proprietorship: | | Year Established: | | State: | |
| LLC: | | Year Formed: | | State: | |
| LLP: | | Year Formed: | | State: | |

6. **Type of Business: (Describe products produced, services provided, etc.)**

N.A.I.C.S. Code: _____

7. Principal Stockholders or partners, if any (owners of 5% or more equity in Company):

| Name | Percent Owned |
|-------|---------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

8. If any of the above persons or a group of them owns more than a 50% interest in the Company, list all other organizations which are related to the Company by virtue of such persons having more than a 50% interest in such organizations:

9. Is the Company related to any other organization by reason of more than 50% common ownership? If so, indicate name of related organization and relationship.

10. List parent corporation, sister corporations and subsidiaries, if any.

11. Has the Company (or any related corporation or person) been involved in or benefitted by any prior economic development financing in the municipality in which this Project is located whether by this Agency or another issuer (“municipality” herein means city, town or village, or, if the Project is not in any incorporated city/town/village, to the unincorporated areas of the county in which it is located). If so, explain in full.

12. Has the Company (or any related corporation or person) made a public offering or private placement of its stock within the last year? If so, please provide Offering Statement used.

B. PROJECT DESCRIPTION

1. Project Site (Land)

(a) Indicate approximate size (*in acres or square feet*) of Project Site:

(b) Are there buildings now on the Project site?

Yes _____ No _____

(c) Indicate the present use of the Project site:

(d) Indicate the relationship to present user of Project:

2. Does the Project involve acquisition of an existing building or building?

Yes _____ No _____

If yes, indicate number and size of building(s):

3. Does the Project consist of the construction of a new building or buildings?

Yes _____ No _____

If yes, indicate number and size of building(s):

4. Does the Project consist of additions and/or renovations to existing buildings?

Yes _____ No _____

If yes, indicate nature of expansion and/or renovation:

5. What will the building or buildings to be acquired, constructed or expanded be used for by the Company? (Please provide a brief narrative description of the project including why the Company is undertaking the project and why the Agency is requesting financial assistance from the Agency. In addition, please include a description of products to be manufactured, assembled or processed and services to be rendered, as applicable.)

5a. Indicate the type of Project:

- | | |
|---|---|
| <input type="checkbox"/> New Construction | <input type="checkbox"/> Commercial |
| <input type="checkbox"/> Expansion of Existing Facility | <input type="checkbox"/> Warehouse/Distribution |
| <input type="checkbox"/> Manufacturing | <input type="checkbox"/> Residential/Mixed-Use |
| <input type="checkbox"/> Other: | |

5b. Will the Project contain retail facilities? Yes No

If Yes, will the cost of the retail facilities exceed one-third of the total project costs?
 Yes No

5c. Is the Project located in a distressed Census Tract? Yes No

5d. Is the Project site designated as an Empire Zone? Yes No

6. If any space in the Project is to be leased to third parties, indicate total square footage of the Project, amount to be leased to each tenant, and proposed use by each tenant.

7. List principal items or categories of equipment to be acquired as part of the Project:

8. Has construction work on this Project begun: Yes _____ No _____

If yes, complete the following:

- | | | | |
|----------------------------|-----------|----------|------------------|
| (a) Site clearance | Yes _____ | No _____ | _____ % Complete |
| (b) Foundation | Yes _____ | No _____ | _____ % Complete |
| (c) Footings | Yes _____ | No _____ | _____ % Complete |
| (d) Steel | Yes _____ | No _____ | _____ % Complete |
| (e) Masonry work | Yes _____ | No _____ | _____ % Complete |
| (f) Other (describe below) | Yes _____ | No _____ | _____ % Complete |

9. Describe (Pollution Abatement Project Only, if applicable):

(a) Type of pollution to be abated:

(b) Existing orders of environmental agencies:

(c) Description of method of abatement and construction to be financed:

(d) Major equipment to be acquired:

10. Location of Project:

(a) Are there other plants or facilities of the Company (or a related company or person) within New York State?

(b) If there are other plants or facilities within New York State, is it expected that any of these other plants or facilities will close or be subject to reduced activity?

Yes _____ No _____

If yes, explain in detail on a separate sheet of paper.

(c) If the answer to 10(b) is Yes, please indicate whether the Project is reasonably necessary for the Company to maintain its competitive position in its industry. If so, please explain in detail on a separate sheet of paper.

(d) Has the Company thought about moving to another state?

Yes _____ No _____ If yes, explain in detail.

(e) Will the Project meet zoning requirements at proposed location?

11. Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

12. Does Company or any related corporation or person have a lease on the Project site?

Yes _____ No _____ If yes, attach a copy of the lease.

13. Does the Company now own the Project site?

Yes _____ No _____ If yes, indicate the following:

(a) Date of purchase: _____

(b) Purchase price: _____

(c) Balance of existing mortgage: _____

(d) Holder of mortgage: _____

14. If the Company is not now the Owner of the Project site, does the Company or any related person or corporation have an option to purchase the site and any buildings on the site?

Yes _____ No _____ If yes, indicate the following:

- (a) Date signed: _____
- (b) Purchase price: _____
- (c) Settlement date: _____

15. Has the Company or any related person or corporation entered into a contract to purchase the site?

Yes _____ No _____ If yes, indicate the following:

- (a) Date signed: _____
- (b) Purchase price: _____
- (c) Settlement date: _____

16. If the Company is not the owner of Project site, does the Company now lease the site or any building on the site?

Yes _____ No _____ If yes, describe the lease terms:

17. Is there a relationship legally or by virtue of common control or ownership between the Company (and/or its shareholders) and the seller of the Project (and/or its shareholders)?

Yes _____ No _____ If yes, describe this relationship:

C. MEASURE OF ECONOMIC DEVELOPMENT BENEFITS OF PROPOSED PROJECT

1. If Company presently operates in Agency's jurisdiction (Oswego County, NY), give current employment (include contract employees).

Full Time Employees _____ Part-Time Employees _____

2. Estimate total Company employment in Agency's jurisdiction after completion of the Project (include contract employees):

| | Employees First Year | Employees Second Year | Employees Third Year |
|-----------|-------------------------|--------------------------|-------------------------|
| Full Time | _____ | _____ | _____ |
| Part-Time | _____ | _____ | _____ |

3. Annual payroll in Agency's jurisdiction (including contract employees):

Present annual payroll: \$ _____
Expected annual payroll the first year after completion of the Project: \$ _____
Second year after completion: \$ _____
Third Year after completion: \$ _____

4. What, if any, is the dollar amount of your current annual sales? \$ _____

What will be your projected sales after the first year of Project completion? \$ _____
after the second year of Project completion? \$ _____
after the third year of Project completion? \$ _____

5. Existing jobs (jobs retained) _____

Jobs created (new) _____

Projected timeframe for the creation of new jobs _____

Please complete the Projected Employment Plan (Appendix A)

D. PROJECT COSTS/REQUESTED BENEFITS

1. Give an accurate estimate of cost of all items:

| <u>Description</u> | <u>Amount</u> |
|------------------------|---------------|
| Land Acquisition | \$ _____ |
| New Construction | \$ _____ |
| Building Renovations | \$ _____ |
| Site Work | \$ _____ |
| Legal Fees | \$ _____ |
| Engineering Fees | \$ _____ |
| Financing Costs | \$ _____ |
| Machinery & Equipment | \$ _____ |
| Furniture and Fixtures | \$ _____ |
| Working Capital | \$ _____ |
| Recording Fees | \$ _____ |

Other (Specify): \$ _____

TOTAL \$ _____

2. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application?

Yes No

If yes, give particulars on separate sheet.

3. Amount of project costs to be financed with bonds (if any):

\$ _____ Term _____

4. Are costs of working capital, moving expenses, work in process, or stock in trade included in the proposed uses of the bond proceeds (if applicable)?
-

5. Will any of the bond proceeds (if applicable) to be borrowed through the Agency be used to repay or refinance an existing mortgage or outstanding loan?

Yes _____ No _____ If yes, explain:

6. What portion, if any, of the cost of the Project is to be financed from funds of the Company other than from the proposed bond issue?
-

7. Amount of capital the Company has invested in the Project to date:

\$ _____

Amount of capital the Company anticipates investing in the Project through completion: \$ _____

Percentage of the Project to be financed from public sector sources: \$ _____

Percentage of Project to be financed from private sector sources: \$ _____

8. Estimated value of each type of exemption sought (indicate N/A if not being requested):

Mortgage amount \$ _____

Mortgage recording tax exemption \$ _____

Is there or will there be a mortgage or other financing for this project? _Yes _No

Name of Lender: _____

Approximate amount of financing: _____

Is the applicant expecting to be appointed as agent of the Agency for purposes of abating NYS and local Sales and Use Tax Yes No.

If yes:

Estimated project costs subject to NYS and Local sales and use taxes \$ _____
 Estimated Sales and use tax exemption \$ _____
 (based on State (4%) and Local (4%))

New York State regulations require the Agency recapture State benefits that exceed the amount listed in this application.

Is the applicant requesting a payment in lieu of taxes agreement? Yes No.

If yes:

- A. What is the term of the proposed PILOT: _____ years
- B. Upon acceptance of this application, the Agency staff will create a PILOT schedule and indicate the estimated amount of the PILOT benefit based upon anticipated tax rates and assessed valuation and attach such information hereto at Appendix "E". AT SUCH TIME, the applicant will be required to certify that it accepts the proposed PILOT schedule and requests such benefit to be granted by the Agency.

[Complete Question 9 Only if the Proposed Financing Requires a Tax-Exempt Private Activity Bond Financing in Excess of \$1 Million]

9. List capital expenditures with respect to other facilities of the Company or any related corporation or person, if the facilities are located in the same municipality:

| | <u>Past 3 Years</u> | <u>Next 3 Years</u> | <u>Total</u> |
|------------------------------|---------------------|---------------------|--------------|
| Land | _____ | _____ | _____ |
| Buildings | _____ | _____ | _____ |
| Equipment | _____ | _____ | _____ |
| Engineering | _____ | _____ | _____ |
| Architecture | _____ | _____ | _____ |
| Research and Development | _____ | _____ | _____ |
| Interest during Construction | _____ | _____ | _____ |
| Other (please explain) | _____ | _____ | _____ |

10. Has the Company made any arrangements for the marketing or the purchase of the bond or bonds (if applicable)?

E. PROJECT CONSTRUCTION SCHEDULE

1. What is the proposed date for commencement of construction or acquisition of the Project? _____
2. Give an accurate estimate of the time schedule to complete the Project and when the first use of Project is expected to occur (use additional sheets if necessary).

3. At what time or times and in what amount or amounts is it estimated that funds will be required?

| <u>Estimated Date (month/year)</u> | <u>Estimated Amount</u> |
|------------------------------------|-------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

4. CONSTRUCTION EMPLOYMENT

Number of construction jobs to be created: _____

F. REPRESENTATIONS: The Company certifies and affirms to the Agency as follows:

1. The Company is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
2. Is there a likelihood that the Company, but for the contemplated financial assistance from the Agency, would be unable to undertake the project? ___ Yes ___ No

If no, please explain why the Agency should undertake the project: _____

3. The Company understands and agrees that the submission of knowingly false or misleading statements or information in this Application, and any exhibits or schedules attached hereto, may lead to the immediate termination of any financial assistance and the reimbursement by the applicant of an amount equal to all or part of any tax exemptions claimed by reason of the Agency's involvement in the Project.
4. The Company understands that the Company must identify in writing to the Agency any information it deems proprietary and seeks to have redacted from public review in accordance with Article 6 of the Public Officers Law.
5. The Company confirms and hereby acknowledges that as of the date of this Application, the Company and the Project are 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.

6. The Company acknowledges and affirms that in accordance with Section 862(1) of the Act, projects which 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 the abandonment of one or more plants or facilities of the project occupant within the State are ineligible for financial assistance from the Agency unless otherwise approved by the Agency as reasonably necessary to preserve the competitive position of the project in its respective industry or to discourage the project occupant from removing such other plant or facility to a location outside the State.
7. The Company certifies that it has read all of the Agency's policies and agrees to comply with same, including but not limited to the Agency's Recapture Policy.

G. ENVIRONMENTAL ASSESSMENT FORM

1. **Please complete Part 1 – Project and Sponsor Information on the “Short Environmental Assessment Form” which is provided as Appendix B. You may be required to complete the “Long Form” in order to comply with the New York State Environmental Review Act (SEQRA).**

H. ATTACH THE FOLLOWING FINANCIAL INFORMATION OF THE COMPANY (APPLICANT):

- 1. Financial statements for last two fiscal years (unless included in Company's Annual Reports).**
- 2. Company's Annual Reports (or Form 10-K's) for the two most recent fiscal years.**
- 3. Quarterly reports (Form 10-Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any).**
- 4. In addition, please attach the financial information described above in items 1, 2 and 3 of any expected Guarantor of the proposed bond issue if different than the Company.**

I. FEE REQUIREMENTS

The Agency requires the following fees to be paid by the Applicant:

- 1. Application Fee of \$500 to be submitted with the completed application.**
- 2. Administrative Fee based upon the following Schedule A:**

| | |
|---|--|
| Schedule A | |
| County of Oswego IDA Administrative Fees | |
| Relative to Bonding and Straight Lease Transactions | |
| Where IDA Exemptions are Provided | |
| Project Financing: | .0075 (3/4 of 1%) based upon the amount of project cost and not limited to the amount of bonds issued (if any). |
| Refunding of Bonds: | .0025 (1/4 of 1%) based upon the amount of bonds issued to retire prior bond issue. |
| Refinancing: | .00125 (1/8 of 1%) based upon amount refinanced. |
| All Legal Fees associated with any of the transactions (including bond counsel and IDA counsel) are the responsibility of the Applicant. | |
| Adopted 4/23/14 | |

- 3. Annual Administrative Reporting Fee of \$500 to cover administrative reporting requirements to comply with New York State reporting regulations on IDA assisted projects involving Bond Financing and/or Straight Lease Transactions.**

J. CERTIFICATION

The Applicant must submit a completed certification (Corporate or Individual) executed and notarized along with the Application. Certifications are attached as Appendix C (Corporate) and Appendix D (Individual).

K. SUBMISSION OF APPLICATION

Please submit the completed Application along with the required \$500 Application Fee to:

County of Oswego Industrial Development Agency

44 West Bride Street

Oswego, NY 13126

(315) 343-1545

ATTN: L. Michael Treadwell

Chief Executive Officer

APPENDIX A PROJECTED EMPLOYMENT PLAN

Company/Applicant Name

Please complete the following chart describing your projected employment plan following receipt of IDA assistance. Indicate the number of full time equivalent (“FTE”) jobs presently at the Company and the number of FTE jobs that will be employed at the project at the end of the first and second years after the project has been completed, by category, including full time equivalent independent contractors or employees of independent contractors that work at the project location. Do not include construction workers. Indicate the salary and fringe benefit averages or ranges for each category of jobs.

| Permanent Occupations in Company | Current Jobs by Occupation | | | Projection of New Jobs to be Created Annually | | | | | | | |
|---|--|------------------|-----------|---|-----------|-----------|-----------|-----------|-----------|---------------------------------|-----------|
| | Estimated Average Salary/Benefits or Salary/Benefits Range for each category | No. of Employees | | 1st Year | | 2nd Year | | 3rd year | | Total New Jobs for 3 Yr. Period | |
| | | Full Time | Part Time | Full Time | Part Time | Full Time | Part Time | Full Time | Part Time | Full Time | Part Time |
| Professional | | | | | | | | | | | |
| Est. Average Salary or Salary Range for Professionals | | | | | | | | | | | |
| Est. Average benefits or benefit range for professionals | | | | | | | | | | | |
| Clerical | | | | | | | | | | | |
| Est. Average Salary or Salary Range for clerical positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for clerical positions | | | | | | | | | | | |
| Sales | | | | | | | | | | | |
| Est. Average Salary or Salary Range for sales positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for sales positions | | | | | | | | | | | |
| Service | | | | | | | | | | | |
| Est. Average Salary or Salary Range for service positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for service positions | | | | | | | | | | | |
| Manufacturing: | | | | | | | | | | | |
| Skilled | | | | | | | | | | | |
| Est. Average Salary or Salary Range for Mfg. skilled positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for Mfg. skilled positions | | | | | | | | | | | |
| Semi--Skilled | | | | | | | | | | | |
| Est. Average Salary or Salary Range for | | | | | | | | | | | |

| | | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|--|--|
| Mfg. semi-skilled positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for Mfg. semi-skilled positions | | | | | | | | | | | |
| Unskilled | | | | | | | | | | | |
| Est. Average Salary or Salary Range for Mfg. unskilled positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for Mfg. unskilled positions | | | | | | | | | | | |
| Other (Describe) | | | | | | | | | | | |
| Est. Average Salary or Salary Range for Other positions | | | | | | | | | | | |
| Est. Average benefits or benefit range for Other positions | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | |
| TOTAL: | | | | | | | | | | | |

LABOR UNION AGREEMENT:

The employees of our firm are not _____ are _____ currently covered by a collective bargaining agreement with:

_____ *(Name of International Union and Local Union Number)*

Union Contact Person: _____

Address/Phone: _____

Contract Expiration Date: _____

No. of employees covered: _____

LABOR MARKET AREA:

Estimate the number of residents of the Labor Market Area that would fill the jobs listed above: _____

Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| | | | |
|--|--|-------------|---------------------------------|
| Part 1 - Project and Sponsor Information | | | |
| Name of Action or Project: | | | |
| Project Location (describe, and attach a location map): | | | |
| Brief Description of Proposed Action: | | | |
| Name of Applicant or Sponsor: | | Telephone: | |
| | | E-Mail: | |
| Address: | | | |
| City/PO: | | State: | Zip Code: |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | | NO <input type="checkbox"/> |
| | | | YES <input type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: | | | NO <input type="checkbox"/> |
| | | | YES <input type="checkbox"/> |
| 3.a. Total acreage of the site of the proposed action? | | _____ acres | |
| b. Total acreage to be physically disturbed? | | _____ acres | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | _____ acres | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. | | | |
| <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) | | | |
| <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ | | | |
| <input type="checkbox"/> Parkland | | | |

| | | | | |
|--|--|-----------------------------|------------------------------|--------------------------|
| 5. Is the proposed action, | | NO | YES | N/A |
| a. A permitted use under the zoning regulations? | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Consistent with the adopted comprehensive plan? | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Are public transportation service(s) available at or near the site of the proposed action? | | <input type="checkbox"/> | <input type="checkbox"/> | |
| c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Is the proposed action located in an archeological sensitive area? | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ | | <input type="checkbox"/> | <input type="checkbox"/> | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban | | | | |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 16. Is the project site located in the 100 year flood plain? | | NO | YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, | | NO | YES | |
| a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES | | <input type="checkbox"/> | <input type="checkbox"/> | |
| b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ | | <input type="checkbox"/> NO | <input type="checkbox"/> YES | |
| | | <input type="checkbox"/> | <input type="checkbox"/> | |

| | | |
|--|--------------------------|--------------------------|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE | | |
| Applicant/sponsor name: _____ | | Date: _____ |
| Signature: _____ | | |

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

| | No, or small impact may occur | Moderate to large impact may occur |
|--|-------------------------------|------------------------------------|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Will the proposed action result in a change in the use or intensity of use of land? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Will the proposed action impair the character or quality of the existing community? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Will the proposed action impact existing: | <input type="checkbox"/> | <input type="checkbox"/> |
| a. public / private water supplies? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. public / private wastewater treatment utilities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? | <input type="checkbox"/> | <input type="checkbox"/> |

| | No, or small impact may occur | Moderate to large impact may occur |
|---|-------------------------------|------------------------------------|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Will the proposed action create a hazard to environmental resources or human health? | <input type="checkbox"/> | <input type="checkbox"/> |

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

| | |
|--|--|
| <input type="checkbox"/> | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required. |
| <input type="checkbox"/> | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts. |
| _____ | _____ |
| Name of Lead Agency | Date |
| _____ | _____ |
| Print or Type Name of Responsible Officer in Lead Agency | Title of Responsible Officer |
| _____ | _____ |
| Signature of Responsible Officer in Lead Agency | Signature of Preparer (if different from Responsible Officer) |

APPENDIX C
County of Oswego Industrial Development Agency
Corporate Certification

_____ deposes and says that he/she is the
(Name of Authorized Officer of Company submitting application)

_____ of _____,
(Title) (Company)

the corporation named in the attached application; that he/she has read the foregoing application, including any and all exhibits, schedules and attachments, and knows the contents thereof; that the same is true, accurate and complete to the best of her/his knowledge, as subscribed and affirmed under the penalties of perjury.

Deponent further says that the reason this verification is being made by the deponent and not by _____ is because the

(Company Name)
said company is a corporation. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his/her own personal knowledge, are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his/her duties as an officer of and from the books and papers of said corporation.

As an officer of said corporation (hereinafter referred to as the "Applicant"), deponent acknowledges and agrees that Applicant shall be and is responsible for all costs incurred by the County of Oswego Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the Agency's financing and assistance. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act 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 consummate the financing arrangements required to carryout the Project, then upon presentation of invoice, Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application, up to that date and time, including fees of bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion of the closing for the financing of the Project and the execution of a PILOT Agreement (if applicable), the Applicant shall pay to the Agency an administrative fee set by the Agency not to exceed an amount equal to Schedule A, provided in Section H of the application, which amount, at the option of the Agency, shall be payable at closing. The Applicant also shall pay an Annual Administrative Reporting Fee of \$500.00 to be billed annually by the Agency (if applicable). Fees of bond counsel and the general counsel of the Agency are the responsibility of the Applicant.

An application fee of \$500., payable to the County of Oswego Industrial Development Agency, is due upon submission of the application to the Agency.

| | | |
|----------------|-------------------------------------|----------------|
| | _____ Name of Authorized Officer | _____ Title |
| Corporate Seal | _____ Signature | |

STATE OF _____)
COUNTY OF _____) SS.:

On this _____ day of _____, 20____, before me personally came _____, to be personally known, who being by me duly sworn did depose and say that he/she resides in _____; that he/she is the _____ of _____, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the members of the Board of Directors of said corporation and he/she signed his/her name thereto by like order.

APPENDIX D
County of Oswego Industrial Development Agency
Individual Certification

_____ deposes and says that he/she is
(Name)
submitting this application on behalf of _____.
(Company)

(hereinafter referred to as the "Applicant"); that he/she has read the foregoing and knows the contents thereof; that the same is true, accurate and complete to the best of her/his knowledge, as subscribed and affirmed under the penalties of perjury. The grounds of deponent's beliefs relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which the deponent has caused to be made concerning the subject matter of this application as well as, if applicable; information acquired by deponent in the course of her/his duties for the applicant and from the books, and papers of the applicant.

Deponent acknowledges and agrees that Applicant shall be an is responsible for all costs incurred by the County of Oswego Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the Agency's financing and assistance. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act 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 consummate the financing arrangements required to carryout the Project, then upon presentation of invoice, Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application, up to that date and time, including fees of bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion of the closing for the financing of the project and the execution of a PILOT Agreement (if applicable), the Applicant shall pay to the Agency an administrative fee set by the Agency not to exceed an amount equal to Schedule A, provided in Section H of the application, which amount, at the option of the Agency, shall be payable at closing. The Applicant also shall pay an Annual Administrative Reporting Fee of \$500. to be billed annually by the Agency (if applicable). Fees of bond counsel and the general counsel of the Agency are the responsibility of the Applicant.

An application fee of \$500, payable to the County of Oswego Industrial Development Agency, is due upon submission of the application to the Agency.

(Company)

(Signature)

STATE OF _____)
COUNTY OF _____) SS.:

On _____, _____, before me personally came _____ to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same.

Notary Public

Appendix “E”

PILOT Schedule

(To be filled in by Agency)

The undersigned, an authorized representative of the applicant with authority to bind the applicant, does hereby agree to the foregoing PILOT schedule and hereby incorporates same into this application and requests the Agency grant, as part of the Financial Assistance awarded to the Project, the foregoing exemptions from real property tax.

Dated: _____

(Applicant Authorized Signature)

APPROVING RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) was convened in public session on June 6, 2016 at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

Present: Nick Canale, Jr., Carolyn A. Rush, H. Leonard Schick, Morris Sorbello and Gary T. Toth

Absent: Donald H. Kunzwiler

Also Present: Kevin C. Caraccioli, David S. Dano, Susan Katzoff, L. Michael Treadwell and Matt Wells

The following resolution was duly offered and seconded:

RESOLUTION AUTHORIZING THE ASSIGNMENT AND ASSUMPTION OF CERTAIN DOCUMENTS AND AUTHORIZING TRANSFER OF THE PROJECT FACILITY IN ACCORDANCE WITH THE TERMS OF A LEASE AGREEMENT ENTERED BETWEEN THE AGENCY AND THE COMPANY IN MARCH 2016 AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH

WHEREAS, the County of Oswego Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, Sunoco, Inc. (R&M), a Pennsylvania corporation (the “*Company*”), is a party to certain documents, including but not limited to an amended and restated company lease, an amended and restated agency lease agreement, an environmental compliance and indemnification agreement and a payment in lieu of tax agreement (and together with all other documents executed or assumed by the Company in connection with the Project (as defined herein) collectively the “*Company Documents*”) in conjunction with a project undertaken by the Agency pursuant to prior resolutions (the “*Project*”) consisting of: (A) (i) the acquisition or continuation of a leasehold interest in approximately 91-119 acres of improved real property located at 376 Owen Road in the Town of Volney, New York, Oswego County (the “*Land*”); (ii) construction and equipping of an approximate 1,260 square foot scale house for use in conjunction with the production of ethanol; the renovation, reconstruction, repair, equipping and improvements of approximately: (a) 10,500 square feet on the first floor and 24,000 square feet on the second floor of building 4 on the Land to be used in connection with the production of malt barley; (b) 49,000 square feet of building 5 on the Land to be used in connection with the production of malt barley and other uses; (c) 41,000 square feet in building 14 on the Land to be used for biorefining; (d) 33,500 square feet in building 25 on the Land for expansion of tank additions; and (e) 7,200 square feet in building 28 on the Land for future expansion (collectively the “*Facility*”), (B) the acquisition and installation of machinery and equipment located in the Facility to be used in the production of ethanol (collectively the “*Equipment*”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “*Project Facility*”); (C) the granting of certain financial assistance in the form of exemption from sales and use taxation, mortgage recording tax, if any, and real property tax (collectively, the “*Financial Assistance*”); and (D) the lease of the Project Facility by the Agency pursuant to a lease agreement and the lease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, in March 2016 the Company merged (the “*Merger*”) with a related company Sunoco Retail LLC, a Pennsylvania limited liability company authorized to do business in New York State (the “*New Company*”). The Company and the New Company will be owned and operated under the same corporate umbrella as the Company; and

WHEREAS, as part of the Merger, the Company intends to transfer the Project Facility to the New Company and the New Company has agreed to accept same (the “*Transfer*”); and

WHEREAS, the Company further seeks to transfer and assign all of the Company Documents to the New Company as part of the Transfer and the New Company has agreed to assume all of the Company’s obligations thereunder (the “*Assignment*”); and

WHEREAS, Company acknowledges that the Agency’s consent to the Transfer is required under the Company Documents and is now requesting the Agency consent to the Transfer and authorize the Assignment of the Company Documents by the New Company; and

WHEREAS, pursuant to section 9.1 of the amended and restated agency lease agreement entered into between the Agency and the Company dated as of March 1, 2016, the Assignment is permitted with the prior written consent of the Agency which consent shall not be unreasonably withheld; and

WHEREAS, the Agency has given due consideration to the Company's request and finds that, based upon the representations of, and information submitted by, the Company that the New Company has the ability to own, manage and operate the Project Facility in a manner substantially similar to the Company and is able to meet the obligations under the Company Documents; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as ("**SEQRA**"), the action proposed herein constitutes a Type II action and is therefore not subject to further review.

NOW, THEREFORE, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency hereby makes the following findings and determinations:

(A) The request to the Assignment is a Type II action under SEQRA and not subject to further review.

(B) The New Company has the ability to own, manage and operate the Project Facility in a manner substantially similar to the Company and is able to meet the obligations under the Company Documents; and

(C) The Agency consents to and authorizes the Transfer and the Assignment to the New Company pursuant to the terms of this Resolution and the Company Documents.

(D) As a condition precedent to the actual Transfer and/or Assignment, the Company and the New Company shall agree to cause all jobs created or retained at the Project Facility, whether such employees are employed by the Company or the New Company, to be reported to the Agency annually as required under the Act.

(2) The Chief Executive Officer and/or (Vice) Chairperson of the Agency, upon advice of counsel, is hereby authorized and directed to negotiate, execute and deliver, on behalf of the Agency, the necessary documents to effectuate the Assignment, including but not limited to any necessary amendments to the Company Documents, and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution; provided however, that as a condition precedent to the Assignment, the Company and the New Company

shall execute and delivery any and all necessary documents required by the Agency to effectuate the Assignment; and the Company shall pay the Agency's related fees and costs associated with the Assignment, including but not limited to its legal fees.

(3) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(4) The Chief Executive Officer of the Agency is hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(5) This Resolution shall take effect immediately, but is subject to execution by the Agency of the necessary documents to effectuate the assignment.

(6) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

| | <u>Aye</u> | <u>Nay</u> | <u>Abstain</u> | <u>Absent</u> | <u>Recuse</u> |
|---------------------|------------|------------|----------------|---------------|---------------|
| Nick Canale, Jr. | X | | | | |
| Donald H. Kunzwiler | | | | X | |
| Carolyn A. Rush | X | | | | |
| H. Leonard Schick | X | | | | |
| Morris Sorbello | X | | | | |
| Gary T. Toth | X | | | | |

The resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) ss.:
COUNTY OF OSWEGO)

I, the undersigned Chief Executive Officer of the County of Oswego Industrial Development Agency, Do Hereby Certify that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the “*Agency*”) held on June 6, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I Further Certify that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Agency on June 6, 2016.

L. Michael Treadwell
Chief Executive Officer

(SEAL)

County of Oswego Industrial Development Agency
Actual Revenues and Expenses
August 1, 2014 through July 31, 2015

| | Aug '14 - Jul 15 |
|---|------------------|
| Ordinary Income/Expense | |
| Income | |
| 980 · Revenues | |
| 2116 · Application/Adm Fees | 74,680.00 |
| 2401 · Interest and Earnings Savings | |
| 2401.0 · Interest General Savings | 635.00 |
| 2401.2 · Interest Micro Savings | 80.00 |
| 2401.3 · Interest PILOT/RLF Savings | 645.00 |
| 2401.4 · Interest Savings Misc | 82.00 |
| Total 2401 · Interest and Earnings Savings | 1,442.00 |
| 2405 · Interest Loans | |
| 2405.1 · Interest Gen/PILOT Loans | 207,030.00 |
| 2405.2 · Interest Micro Enterprise Loans | 1,873.00 |
| 2405.3 · Interest IRP Loans | 10,684.00 |
| Total 2405 · Interest Loans | 219,587.00 |
| 2410 · Rental of Real Property | |
| 24101 · Huhtamaki Fulton Lease | 3,296.00 |
| 24103 · Hardwood Transformations | 43,200.00 |
| 24104 · Designer Hardwood Flooring | 4,800.00 |
| Total 2410 · Rental of Real Property | 51,296.00 |
| 2770 · Other Unclassified Revenues | |
| 2770.2 · HUD Loan Interest | 19,016.00 |
| 2770.3 · HUD Loan Principal Repaid | 132,944.00 |
| 2770.4 · PILOTS Income to RLF | 190,322.00 |
| 2770.7 · Gain on Sale of Asset | 160,998.00 |
| 2770.8 · Columbia Mills Gain | 73,750.00 |
| Total 2770 · Other Unclassified Revenues | 577,030.00 |
| Total 980 · Revenues | 924,035.00 |
| Total Income | 924,035.00 |
| Expense | |
| 522 · Expenses | |
| 6460.4 · Administration | |
| 4.1 · Advertising - Notices | 807.00 |
| 4.2 · Dues and Conferences | 400.00 |
| 4.3 · Legal and Accounting | 86,675.00 |
| 4.31 · Collection Fees | 4,450.00 |
| 4.4 · Miscellaneous Expense | 104.00 |
| 4.5 · Administration Fee OOC | 238,750.00 |
| 4.6 · Supplies | 488.00 |
| 4.7 · Professional Services | 19,654.00 |
| 4.8 · Micro Enterprise Prog Expenses | 4,614.00 |
| 4.9 · Provision for Loan Losses | 73,907.00 |
| 5.1 · Interest USDA | 2,877.00 |
| 5.5 · Interest on Pathfinder Mortgage | 21,274.00 |

County of Oswego Industrial Development Agency
Actual Revenues and Expenses
August 1, 2014 through July 31, 2015

| | Aug '14 - Jul 15 |
|---------------------------------------|-------------------------|
| 5.6 · Insurance - Surelock Building | 13,046.00 |
| 6.0 · Depreciation Expense | 23,750.00 |
| Total 6460.4 · Administration | 490,796.00 |
| Total 522 · Expenses | 490,796.00 |
| 6462.4 · Grants LED | |
| 2. · Columbia Mills - Taxes | 1,405.00 |
| 2.01 · Other Property Taxes | 16,554.00 |
| 2.02 · Taxes - Oswego City Bldg. | 19,618.00 |
| 2.4.2 · Felix Schoeller North America | 36,000.00 |
| 2.4.3 · Mfg Incentive | 300,000.00 |
| Total 6462.4 · Grants LED | 373,577.00 |
| Total Expense | 864,373.00 |
| Net Ordinary Income | 59,662.00 |
| Net Income | 59,662.00 |

**County of Oswego Industrial Development Agency
Estimated Revenues and Expenses**

August 1, 2015 through July 31, 2016

| | <u>Aug '15 - Jul 16</u> |
|---|-------------------------|
| Ordinary Income/Expense | |
| Income | |
| 980 · Revenues | |
| 2116 · Application/Adm Fees | 200,000.00 |
| 2401 · Interest and Earnings Savings | |
| 2401.0 · Interest General Savings | 500.00 |
| 2401.2 · Interest Micro Savings | 100.00 |
| 2401.3 · Interest PILOT/RLF Savings | 700.00 |
| 2401.4 · Interest Savings Misc | 50.00 |
| Total 2401 · Interest and Earnings Savings | <u>1,350.00</u> |
| 2405 · Interest Loans | |
| 2405.1 · Interest Gen/PILOT Loans | 185,000.00 |
| 2405.2 · Interest Micro Enterprise Loans | 2,000.00 |
| 2405.3 · Interest IRP Loans | 13,000.00 |
| Total 2405 · Interest Loans | <u>200,000.00</u> |
| 2410 · Rental of Real Property | |
| 24101 · Huhtamaki Fulton Lease | 3,300.00 |
| 24103 · Hardwood Transformations | 43,000.00 |
| 24104 · Designer Hardwood Flooring | 4,800.00 |
| Total 2410 · Rental of Real Property | <u>51,100.00</u> |
| 2770 · Other Unclassified Revenues | |
| 2770.2 · HUD Loan Interest | 19,000.00 |
| 2770.3 · HUD Loan Principal Repaid | 130,000.00 |
| 2770.4 · PILOTS Income to RLF | 210,000.00 |
| 2770.5 · Other | 25,000.00 |
| Total 2770 · Other Unclassified Revenues | <u>384,000.00</u> |
| Total 980 · Revenues | <u>836,450.00</u> |
| Total Income | 836,450.00 |
| Expense | |
| 522 · Expenses | |
| 6460.4 · Administration | |
| 4.1 · Advertising - Notices | 1,500.00 |
| 4.2 · Dues and Conferences | 450.00 |
| 4.3 · Legal and Accounting | 100,000.00 |
| 4.31 · Collection Fees | 4,450.00 |
| 4.5 · Administration Fee OOC | 254,000.00 |
| 4.7 · Professional Services | 200,000.00 |
| 4.8 · Micro Enterprise Prog Expenses | 5,000.00 |
| 4.9 · Provision for Loan Losses | 80,000.00 |
| 5.1 · Interest USDA | 4,000.00 |
| 5.5 · Interest on Pathfinder Mortgage | 19,000.00 |
| 5.6 · Insurance - Surelock Building | 14,000.00 |
| 6.0 · Depreciation Expense | 23,750.00 |
| Total 6460.4 · Administration | <u>706,150.00</u> |
| Total 522 · Expenses | 706,150.00 |

County of Oswego Industrial Development Agency
Estimated Revenues and Expenses
August 1, 2015 through July 31, 2016

| | <u>Aug '15 - Jul 16</u> |
|---------------------------------------|-------------------------|
| 6462.4 · Grants LED | |
| 2. · Columbia Mills - Taxes | 3,100.00 |
| 2.01 · Other Property Taxes | 200.00 |
| 2.4.4 · Local Donations | 2,500.00 |
| 2.4.5 · Hospitality Initiative | 200,000.00 |
| 2.4.6 · OCIP Water Tower | 300,000.00 |
| | <hr/> |
| Total 6462.4 · Grants LED | 505,800.00 |
| | <hr/> |
| Total Expense | 1,211,950.00 |
| | <hr/> |
| Net Ordinary Income | -375,500.00 |
| | <hr/> |
| Net Income | -375,500.00 |
| | <hr/> <hr/> |

**County of Oswego Industrial Development Agency
Projected Revenues and Expenses**

August 1, 2016 through July 31, 2017

| | Aug '16 - Jul 17 |
|---|-------------------------|
| Ordinary Income/Expense | |
| Income | |
| 980 · Revenues | |
| 2116 · Application/Adm Fees | 100,000.00 |
| 2401 · Interest and Earnings Savings | |
| 2401.0 · Interest General Savings | 500.00 |
| 2401.2 · Interest Micro Savings | 100.00 |
| 2401.3 · Interest PILOT/RLF Savings | 700.00 |
| 2401.4 · Interest Savings Misc | 50.00 |
| Total 2401 · Interest and Earnings Savings | 1,350.00 |
| 2405 · Interest Loans | |
| 2405.1 · Interest Gen/PILOT Loans | 200,000.00 |
| 2405.2 · Interest Micro Enterprise Loans | 2,000.00 |
| 2405.3 · Interest IRP Loans | 15,000.00 |
| Total 2405 · Interest Loans | 217,000.00 |
| 2410 · Rental of Real Property | |
| 24101 · Huhtamaki Fulton Lease | 3,300.00 |
| 24103 · Hardwood Transformations | 43,000.00 |
| 24104 · Designer Hardwood Flooring | 4,800.00 |
| Total 2410 · Rental of Real Property | 51,100.00 |
| 2770 · Other Unclassified Revenues | |
| 2770.2 · HUD Loan Interest | 18,000.00 |
| 2770.3 · HUD Loan Principal Repaid | 125,000.00 |
| 2770.4 · PILOTS Income to RLF | 190,000.00 |
| Total 2770 · Other Unclassified Revenues | 333,000.00 |
| Total 980 · Revenues | 702,450.00 |
| Total Income | 702,450.00 |
| Expense | |
| 522 · Expenses | |
| 6460.4 · Administration | |
| 4.1 · Advertising - Notices | 1,500.00 |
| 4.2 · Dues and Conferences | 500.00 |
| 4.3 · Legal and Accounting | 100,000.00 |
| 4.31 · Collection Fees | 4,500.00 |
| 4.5 · Administration Fee OOC | 280,000.00 |
| 4.7 · Professional Services | 20,000.00 |
| 4.8 · Micro Enterprise Prog Expenses | 5,000.00 |
| 4.9 · Provision for Loan Losses | 90,000.00 |
| 5.1 · Interest USDA | 4,500.00 |
| 5.5 · Interest on Pathfinder Mortgage | 17,000.00 |
| 5.6 · Insurance - Surelock Building | 15,000.00 |
| 6.0 · Depreciation Expense | 23,750.00 |
| Total 6460.4 · Administration | 561,750.00 |
| Total 522 · Expenses | 561,750.00 |

County of Oswego Industrial Development Agency
Projected Revenues and Expenses
August 1, 2016 through July 31, 2017

| | <u>Aug '16 - Jul 17</u> |
|------------------------------------|-------------------------|
| 6462.4 · Grants LED | |
| 2. · Columbia Mills - Taxes | 3,300.00 |
| 2.01 · Other Property Taxes | 200.00 |
| 2.2 · Other Company Grants | 100,000.00 |
| 2.4.4 · Local Donations | 3,000.00 |
| | <hr/> |
| Total 6462.4 · Grants LED | 106,500.00 |
| | <hr/> |
| Total Expense | 668,250.00 |
| | <hr/> |
| Net Ordinary Income | 34,200.00 |
| | <hr/> |
| Net Income | 34,200.00 |
| | <hr/> <hr/> |