

FINANCIAL ASSISTANCE APPLICATION INSTRUCTIONS

I. General Information

The following directions will assist you (the "Applicant") in completing this application for Financial Assistance (the "Application"). Please note that all applications are subject to approval of the Erie County Industrial Development Agency (the "Agency") and that ***no*** Financial Assistance can be provided, including a sales tax exemption on purchases made prior to Agency approval.

If your project involves the relocation of a facility within Erie County, the abandonment of an existing facility, is speculative or retail in nature, or involves housing or a housing component, additional documentation is required. Please contact an Agency business development specialist as soon as possible.

Upon review of the application, the Agency may find it necessary to request additional information. Should additional information be required, the Agency will not consider the request for assistance until all such additional information is received in its entirety.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law ("FOIL"). If the Applicant believes that a portion of the Application or materials submitted in support of the Application is protected from disclosure under FOIL, the Applicant should mark the applicable section(s) or pages as "confidential" and state the applicable exception to disclosure under FOIL.

II. Fees

A non-refundable \$1,000 application and publication fee is due upon submission of your application. All projects receiving a benefit greater than \$100,000 are required to have a public hearing inclusive of a ten (10) day public notice before any approval can be granted by the Agency.

The Agency will charge an administrative fee of 1.25% of the benefitted project amount. Upon project approval, an Administrative Fee Agreement must be entered into. The Agency counsel fees are in addition to the administrative fees noted.

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any Financial Assistance with respect to the proposed Project or to enter into any negotiations with respect to the proposed Project.

III. Insurance – Summary of Insurance Requirements

Once a project is approved by the Agency, insurance will be required. Please refer to the Insurance Requirements document for details. Please note that insurance is to be provided after Agency approval and prior to the provision of Agency Financial Assistance, and shall be maintained during the term of any applicable Agent Agreement and/or Lease Agreement by and between the Agency and the Applicant.

IV. Recapture and Termination of Agency Financial Assistance

The Agency, in order to better secure the integrity of the projects that receive Financial Assistance from the Agency, has determined that it is in the public interest: (i) to ensure the continuity of such projects and the jobs created by such projects; (ii) to ensure the use of Local Labor with respect to project construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities; (iii) to ensure that the investment amount as proposed by the Applicant and considered by the Agency in its approval of a project is actually made; (iv) to ensure that the state and local sales and use tax exemption benefits are utilized in the amount as so authorized by the Agency, (v) to ensure that the state and local sales and use tax exemption benefits are only utilized by the Company/Applicant and its duly appointed agents; (vi) to ensure that the state and local sales and use tax exemption benefits are only utilized on the specific project as described in the Application; and (vii) to ensure that the Company obtains and maintains certain investment amounts and/or job creation/retention thresholds determined to be material terms and conditions critical to the Agency's Financial Assistance approval.

At such time as the Applicant fails to make the investment as approved by the Agency, fails to retain or create the jobs as represented in the Application and approved by the Agency, changes the use of the project or ownership of the project or the Applicant during the life of the project in a manner inconsistent with the Application and such change of use or ownership does not meet with the prior written approval of the Agency, fails to utilize the state and local sales and use tax exemption benefit in a manner approved by the Agency, fails to comply with the Agency's Local Labor policy, and/or it is found that the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for financial assistance, and/or fails to comply with such certain other material terms and conditions as determined by the Agency, a recapture of any and/or all state and local sales and use tax exemption benefits, mortgage recording tax exemption benefits, and real property tax abatement benefits may be required to be paid by the Applicant. In addition, the Agency may require termination of any state and local sales and use tax exemption benefits, and real property tax abatement benefits going forward.

The amount and sufficiency of the applicable recapture of benefits payment and/or the determination to terminate Agency Financial Assistance shall be made by applicable State Law and by application of the Agency's Termination and Recapture Policy.