



SALE/LEASEBACK ASSISTANCE APPLICATION
ONTARIO COUNTY, STATE OF NEW YORK

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INTRODUCTION

The applicant is responsible for the submission of a complete financial assistance package which includes:

- 1) Completed Sale/Leaseback Assistance Application and all supporting documents (page 4)
One copy to each OCIDA and Transaction Counsel.
- 2) Completed Environmental Assessment Form (page 11)
One copy to each OCIDA and Transaction Counsel.
- 3) Application Fee (page 3)
- 4) Counsel Retainer Fee (page 3)

ANY APPLICATION WHICH IS INCOMPLETE OR CONTAINS INSUFFICIENT INFORMATION AND/OR SUPPORTING DOCUMENTATION WILL BE RETURNED TO THE APPLICANT

APPLICATION FEE:

Non-Refundable Application Fee: **\$750.00***
*(*To be submitted to OCIDA with Sale/Leaseback Assistance Application)*

LEGAL FEE:

Counsel Retainer Fee: (Deposit towards Agency counsel fees to be paid by applicant) **\$1,500.00***
*(*To be submitted to OCIDA with Sale/Leaseback Assistance Application)*

IDA ADMINISTRATION FEE:

The Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in effect on the date of the foregoing application, which amount is payable at closing.



APPLICATION FOR SALE/LEASEBACK ASSISTANCE

APPLICANT INFORMATION:

Company Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Contact Person: _____ Title: _____
 Phone Number: (____) _____ Fax Number: (____) _____
 E-Mail: _____
 Federal ID Number: _____

CORPORATE STRUCTURE:

Attach schematic if Applicant is subsidiary or otherwise affiliated with another entity.

- Corporation:** Type of Corporation _____
- Partnership:** General OR Limited
 Number of general partners ____ and, if applicable
 Number of limited partners ____
- Limited Liability Company/Partnership:**
 Number of members/partners: ____
- Sole Proprietorship:**
 Date of establishment/incorporation: ___/___/___
 Place of organization: **City:** _____ **State:** _____
 Is the applicant authorized to do business in the Sate of New York? Yes No

Principal Officers and Owners:

Name:	Title:





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APPLICANT'S COUNSEL:

Firm Name: _____ Attorney Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: (____) _____ Fax Number: (____) _____

E-Mail: _____

PROJECT INFORMATION:

Type of Project

- checkbox New Building and/or Equipment checkbox Refinancing checkbox Transfer checkbox Other
checkbox Additional Facility checkbox Amendment checkbox Second Mortgage

Describe the proposed acquisition, construction or reconstruction, purchase of equipment, and other project items. Explain the reason for the project and the benefits for the applicant. Explain how the project will be used.

Project Address: _____

City: _____ State: _____ Zip: _____

Municipality: (City/Town/Village) _____

School District: _____

Tax Map Number: _____

Owner of Record: _____

Proposed Owner of Record: _____

Principal Use of Project Upon Completion: _____





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Current Zoning: _____ Does Project Comply with Existing Zoning: Yes No

Necessary Variances: a. _____ b. _____ c. _____ d. _____

Size of Building/Addition: Existing Sq Ft: _____ New Sq Ft: _____ Total Sq Ft: _____

Type of Building: _____

Permits Required: a. _____ b. _____ c. _____ d. _____
(e.g., air, water, wastewater, other)

Timeline for completion of SEQR review, site plan review, obtaining of permits or variances:

Applicant the Current Site Owner? Yes No

If No, is the Site under purchase contract/option? Yes No Purchase Contract/Option Expiration: _____

Details of the Purchase Contract/Option: _____

Will the project be subleased*? Yes No If yes, please fill in the table below.

Company Name	Address	Relationship to Applicant	Type of Business

**Potential subleasee(s) of any OCIDA owned building must be pre-approved by the Agency Board throughout the term of an active sale/leaseback agreement.*

Does the applicant or proposed occupant of the project have any other locations in the NY State? Yes No

Company Name	Address

Will the project result in the removal of a plant or facility of the applicant's or another proposed occupant of the project from one area of New York State to another area of the State? Yes No

Will the project result in the abandonment of one or more plants or facilities of the applicant or other occupants of the project located in New York State? Yes No





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If the answer to either of the preceding questions was “Yes” please answer the following two questions:

- 1) Has the applicant or another proposed occupant of the project considered removing such other plant or facility to a location outside New York State? Yes No

If yes, please explain in detail: _____

- 2) Is the project reasonably necessary to preserve the competitive position of the applicant or another proposed occupant of the project in its respective industry? Yes No

If yes, please explain in detail: _____

Would this project proceed without IDA assistance? Yes No

If no, explain why IDA assistance is necessary. Check all that apply and explain individual circumstances:

- Competitive pressure Financial Assistance
 Cost of doing business (high taxes, wages, workers compensation insurance, etc.) Location/Transportation close to markets

Explain: _____





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Please attach market studies or business analysis to assist in illustrating need.

Record the number of jobs to be retained because of this project. Retained jobs are those that represent full time equivalent positions filled at the time of the application. During the three year projection period, retained positions are those that will be preserved by the company because of this project. Retained positions can stay the same throughout the three (3) year period or can decrease but can not increase above the initial number reported.

Estimate the number of jobs to be created by this project. Created jobs represent new full-time equivalent positions expected to be filled because of this project.

Please complete the annual payroll, over the next three (3) years. If there is more than one proposed occupant, job reporting must be included for each.

Attach the appropriate NYS-45MN (top section, number of employees only), W-3 or other forms that substantiate current year numbers reported below. Please do not include any specific employee information such as name, social security number or wages. Attach reconciliations as necessary.

Full Time Equivalents As of 12/31/ ____ (last full calendar year)						Annual Payroll
		Regular		Temporary/ Seasonal		
		Retained	New	Retained	New	
Current in County		0				
Project	Year 1					\$
	Year 2					\$
	Year 3					\$

Please keep in mind the recapture of benefits provisions of Section E of the Ontario County IDA Uniform Tax Exemption Policy (see page 14) as estimates are prepared.

Project Cost:

Land:	\$ _____	Soft Costs:	
Building:		Engineering	\$ _____
Renovation	\$ _____	Architect	\$ _____
Acquisition	\$ _____	Fees/Permits	\$ _____
Expansion	\$ _____	*ODIDA Fee	\$ _____
New Building	\$ _____	**Legal Fees	\$ _____
Equipment:		(**Including transaction counsel, Agency Counsel, Applicant Counsel, Bank Counsel).	
Manufacturing	\$ _____	Other Costs:	\$ _____
Non-Manufacturing	\$ _____		
Describe Equipment: _____		TOTAL COSTS:	\$ _____

*In accordance with Current Fee Schedule



REPRESENTATIONS BY THE APPLICANT**The Applicant understands and agrees with the Agency as follows:**

- A) Job Listings:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal Job Training Partnership Act (Public Law 97-300) (JTPA) in which the Project is located.
- B) First Consideration for Employment:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, where practicable the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C) Annual Sales Tax Filings:** In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemption as part of the financial assistance from the Agency, the Applicant will file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of the sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
- D) New York State Department of Taxation and Finance Form ST-60:** In accordance with Section 874(9) of the New York General Municipal Law, the Applicant understands that the Applicant and each agent, subagent, contractors and/or subcontractor appointed by the Applicant and claiming a sales tax exemption in connection with the Project must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of the Applicant or any such agent, subagent, contractor and/or subcontractor as agent of the Agency for purposes of completing the Project. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project.
- E) Annual Employment Reports:** The Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, the Applicant will file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site.
- F) Absence of Conflicts of Interest:** The Applicant has received from the Agency a list of the members, Officers and employees of the Agency. The member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:
-
- G) State Environmental Quality Review Act Compliance:** The Agency, in granting financial assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act ("SEQR") and must complete necessary determinations required thereunder. Consequently, the Applicant has completed and attached hereto appropriate Environmental Assessment Forms, with respect to the Project, if appropriate at this time. In any event, the Applicant understands that, as its sole expense, it is required to take all necessary action in order for the Agency to comply with the requirements of SEQR, and including through a lead agency other than the Agency in case of a coordinated review.





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The Applicant and, if applicable, the individual executing the Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this application and hereby represent that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

By: _____
(Name)
Name: _____
Title: _____

This application should be submitted with an application fee of \$750.00, payable to the Ontario County Industrial Development Agency, 20 Ontario Street, Canandaigua, NY 14424, and a retainer of \$1,500.00, payable to Nixon Peabody LLP.

CERTIFICATION

_____ (name of representative of entity submitting application, or name of individual submitting application) deposes and says that she/he (choose and complete one of the following two (2) options) (i) is a/the _____ (title) of _____ (company name), the entity named in the attached application, or (ii) is the individual named in the attached application; that s/he has read the foregoing application and knows the contents thereof; and that the same is true to his/her knowledge.

Deponent further says that s/he is duly authorized to make this certification on behalf of her/himself or on behalf of the entity named in the attached application. The grounds of deponent's belief relative to all matters in 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, if deponent is not an individual applicant, information acquired by deponent in the course of his/her duties in connection with said entity and from the books and papers of said entity.

As (i) the representative of said entity, or (ii) the individual applicant (such entity or individual applicant hereinafter referred to as the "Applicant"), deponent acknowledges and agrees that the Applicant shall be and is responsible for all costs incurred by the Ontario County 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 provision of financial assistance to which this applicant relates. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specific period of time to take reasonable, proper or requested action or withdraws, abandons, cancels or neglects the application, then upon presentation of an invoice, the 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 to transaction counsel for the Agency and fees of general counsel for the Agency.

Upon the successful conclusion of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in effect on the date of the foregoing application, which amount is payable at closing.

Name: _____
Title: _____

Sworn to before me this _____ day of _____, 20__ (Seal)



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Environmental Assessment Form

INTERNET LINK ADDRESS:

This form is immediately available as either a printable version via the Internet or filled out entirely online via the Internet.

PRINTABLE VERSION

To download a PDF (Portable Document Format) to your computer, go to either of these two websites:

- 1) **Ontario County Office of Economic Development website** (<http://www.ontariocountydev.org/>)
 - Click on "Online Forms";
 - Click on the form: "(New York) State Environmental Quality Review – Full Environmental Assessment Form (SEQR-FEAF)"; and
 - Follow the instructions on how to download this form to your computer.

- 2) **New York State website** (<http://www.dec.state.ny.us>)
 - Under the category Regulatory Information, click on "Impact Assessment (SEQR)";
 - Click on "Downloadable SEQR Forms"; and
 - Select the Full Environmental Assessment Form and download to your computer.

ONLINE VERSION

To fill out this form online:

- Go to the New York State website (<http://www.dec.state.ny.us>);
- Under the category Regulatory Information, click on "Impact Assessment (SEQR)";
- Read and follow the instructions on how to fill out this form online.

Please complete and sign this State form and submit it along with your application, to the Ontario County Industrial Development Agency.





INDUSTRIAL DEVELOPMENT AGENCY

Uniform Tax Exemption Policy

Adopted March 22, 1999

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the Ontario County Industrial Development Agency (the "Agency") may provide financial assistance to qualified applicants for qualified projects in the form of issuance of its tax-exempt or taxable bonds or by participation in straight lease transactions.

The Agency does not, as a matter of policy, provide financial assistance to retail projects (meaning locations for the retail sale of good). However, the Agency does reserve the right to deviate from such policy on the same basis for deviation with respect to its tax exemption policy as set forth under Paragraph D listed below.

The Agency has adopted this Uniform Tax Exemption Policy to provide guidelines for the claiming of real property, sales and use tax and mortgage recording tax abatements.

A. REAL PROPERTY TAXES

The Agency's policy with respect Civic Facilities for not-for-profit corporations is to grant one hundred percent (100%) real property tax abatements for the full term of the lease or installment sale agreement.

The Agency's general policy is to grant other applicants real property tax abatements equal to those provided by Section 485-b of the Real Property Tax Law regardless of whether such abatements would be available from the municipality and the school district in which the project is located. In addition, it is the general policy of the agency that it may grant full tax exemption for a period up to five years, with stepped down percentages as determined by the Agency on a case-by-case basis for a period of up to an additional fifteen (15) years for technical/research/processing facilities and industrial and manufacturing facilities, which includes without limitation, computer technology and software, distribution, warehouse, research and producer service facilities (as determined by the Agency from time to time), and with respect to vacant facilities or with respect to facilities which the Agency, in its sole discretion, determines to be in areas of economic distress or having higher than average unemployment of similar circumstances, and a determination by the Agency to grant such exemptions shall not be considered a deviation from policy. The Agency may also grant up to full tax exemption for any period of time in its discretion with respect to facilities having a unique impact upon economic development in Ontario County (for example, as an illustration only, a project such as the Ontario County airport). In addition, the Agency may grant enhanced benefits on a case-by-case basis for a project expected to have significant impact on the locality in which the project will be located. In making a determination to provide enhanced benefits, the Agency considers the factors listed in Paragraph D below, no one of which is determinative.

B. SALES AND USE TAX EXEMPTIONS

The Agency's policy is to permit project applicants, as agent of the Agency, to claim exemption from sales and use taxes on the construction and equipping of a project to the full extent permitted by New York State Law.

- 1) All project applicants must agree in writing to timely file with the New York State Department of Taxation and annual statement of the value of all sales and use tax exemptions claimed in connection with the facility in full compliance with Section 874(8) and Section 874(9) of the New York General Municipal Law, in the form and at the times required thereby.



C. MORTGAGE RECORDING TAX EXEMPTIONS

- 1) The Agency's policy is to permit mortgage recording tax exemptions on all project-related financings to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the project.
- 2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings, e.g., second mortgages on the project to secure subordinated indebtedness of the project applicant. In determining whether to permit such exemptions on non-project related financings, the Agency, shall consider such factors as it deems appropriate, including but not limited to the use of the property, the degree of investment, the degree and nature of employment, and the economic condition of the area in which the facility is located.

D. DEVIATIONS

In addition to or in lieu of the foregoing the Agency may determine, on a case-by-case basis, to deviate from the guidelines described above or provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviations from the guidelines set forth above require the written notification by the Agency to the Chief Executive Officer of each affected tax jurisdiction. The Agency may consider any or all of the following factors in making such determination, no single one of which is determinative:

- The nature of the proposed project (e.g., manufacturing, commercial, civic).
- The nature of the property before the project begins (e.g., vacant land, vacant buildings).
- The economic condition of the area at the time of the application and the economic multiplying effect that the project will have on the area.
- The extent to which a project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary ranges of such jobs.
- The estimated value of tax exemptions to be provided.
- The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of proposed project upon the environment and the surrounding property.
- The extent to which the proposed project will require the provision of additional services including, but not limited to, additional education, transportation, police, emergency medical or fire services.
- The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.
- (Civic Facility Project Only) the extent to which the proposed project encourages charitable entities to locate within the municipality in which the project is located or expand the services such not-for-project entity provides to the municipality.

E. RECAPTURE OF BENEFITS

The Agency, in its sole discretion and on a case-by-case basis may determine (but shall not be required to do so) with respect to a particular project to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but shall not be limited to, the following:

- 1) Sale or closure of facility;
- 2) Significant employment reduction;
- 3) Significant change in use of facility;
- 4) Significant change in business activities of project applicant or operator; or
- 5) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal state or local environmental laws or regulations.

If the Agency determines to provide for recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

F. ADDITIONAL RECAPTURE PROVISIONS

In addition to the provisions for recapture set forth in Paragraph E, the Agency may, in its sole discretion and on a case-by-case basis, require recapture of benefits with respect to any project or project applicant for:

1. Failure to respond to Agency inquires concerning payment of principle and interests;
2. Failure to respond to Agency inquires concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;
3. Failure to respond to Agency inquiries regarding payment of monies in lieu of taxes;
4. Failure to respond to Agency inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations pursuant to Paragraph D or Paragraph E of this policy;
5. Failure to respond to the inquiries of the Agency or failure to provide the Agency with any information or document requested by the Agency in order to provide and federal, state or local agency with information or reports required under any applicable law, rule or regulation;
6. Failure to provide any other information concerning the project or the project applicant or any project operator requested by the Agency.
7. Upon the occurrence of any of these events listed in this Paragraph F, the Agency will, upon at least 10 calendar days, send a written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by the Agency. Within thirty (30) calendar days after the hearing, the Agency will issue a determination whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency's involvement.



APPLICABILITY

This Uniform Tax Exemption Policy shall apply to all projects of which the Agency has adopted or adopts an Inducement Resolution after July 21, 1993 and all refinancing of any project induced or closed before July 21, 1993.

AMENDMENTS OR MODIFICATIONS

The Agency, by resolution of its Members, and upon notice to all affected tax jurisdictions as may be required by law, may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.





INDUSTRIAL DEVELOPMENT AGENCY

MARY HAS COST BENEFIT ANALYSIS THAT GOES ON THIS PAGE





INDUSTRIAL DEVELOPMENT AGENCY

NEW YORK STATE TAX FORM ST-60

IDA APPOINTMENT OF PROJECT OPERATOR OR AGENT

This sales tax form (ST-60) is used to designate a project operator or appoint a person as agent of the IDA for purposes of extending a sales and compensating use tax exemption. The IDA must file a separate form for each project operator or agent appointed, whether directly or indirectly, and regardless of whether it is the primary operator or agent.

To download a PDF (Portable Document Format) to your computer, go to this website:

New York State website: <http://www.tax.state.ny.us>

- 1) Click on "Forms & Instructions."
- 2) Click on "numerical list by form number."
- 3) Click on "Click here for Forms ST-00-1 through Y-206."
- 4) Click on the form "ST-60" to start the download process.

Please complete and sign this form and submit it, along with your application, to the Ontario County Industrial Development Agency.

