

**Chairman**  
Kevin O'Bryan

**Vice-Chair**  
Steve Bouchey

**Executive Director**

Monica Kurzejeski

**Board Members**

Hon. Dean Bodnar

Mr. Paul Carroll

Hon. Robert Doherty

Louis Anthony

Tina Urzan

Adam Hotaling

Susan Farrell

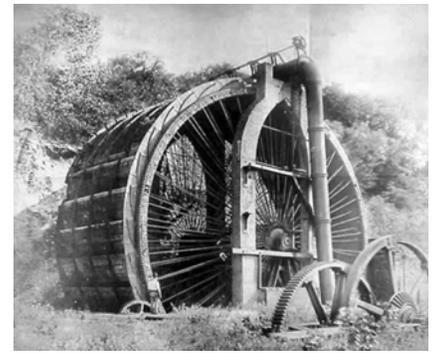
**Troy**  
**Industrial Development**  
**Authority**

**BOARD OF DIRECTORS MEETING**  
**May 20, 2016**  
**10:00 a.m.**

**Planning Department Conference**  
**Room**

**City Hall**

**A G E N D A**



- I. Approval of Minutes from the April 22, 2016 board meeting.
- II. IDA Compliance Materials: New Application, Uniform Project Evaluation Policy, Recapture and Termination Policy, Compliance Resolution and Project Agreement
- III. PARIS report (to be distributed)
- IV. Project Pipeline (to be distributed)
- V. Daigle Development, LLC – Initial Project Resolution
- VI. HV Housing, LLC –Project Authorizing Resolution
- VII. Troy Living, LLC – Authorizing Resolution
- VIII. Financials
- IX. Old Business
- X. New Business
- XI. Adjournment

# City of Troy Industrial Development Authority

April 22, 2016  
10:00 AM  
Meeting Minutes

**Present:** Kevin O'Bryan, Hon. Robert Doherty, Susan Farrell, Hon. Dean Bodnar, Tina Urzan, Paul Carroll and Lou Anthony

**Absent:** Steve Bouchey

**Also in attendance:** Justin Miller, Paul Goetz, Mary Ellen Flores, James Lozano, Dep. Mayor Monica Kurzejeski, Deanne DalPos, Michael Uccellini, Thomas Uccellini, Tim Haskins and Denee Zeigler

The Chairman called the meeting to order at 10:00 a.m.

I. Minutes

The board reviewed the minutes from the March 11, 2016 board meeting.

**Hon. Dean Bodnar made a motion to approve the March 11, 2016 meeting minutes.**

**Tina Urzan seconded the motion, motion carried.**

II. SaxBST Audit

Paul Goetz spoke to the board about the recently completed 2015 audit. A copy of the draft financial statements and the management letter were distributed to the board members for review. He advised that it shows as a draft until it is signed by management. In this case it will be Joe Mazzariello, James Lozano and the chairman. He explained that the letter attached is where any negative comments or findings would be made and pointed out that there is nothing to report.

Mr. Goetz advised that page 3 of the report, the auditor's opinion, sets up the responsibilities of management and outlines what is being audited. Mr. Goetz advised that the IDA received an unqualified opinion; the highest level. Mr. Goetz explained that the next section discusses the Management Discussion and Analysis letter, but because this is a smaller entity it is not needed.

Mr. Goetz discussed the section Statement of Internal Controls which is found towards the end of the report.

Mr. Goetz discussed the Statement of Net Position. He advised that it compares the amounts from 2014 and 2015. Two items show much different amounts; \$1.2 in assets at the end of 2014 to \$308,000 at the end of 2015. He advised that the Riverfront Park Access project and the administrative support agreement with the City of Troy both were significant expenses. Mr. Goetz noted that there is cash assets of \$308,000 and a reimbursement check that was deposited in 2016 for \$250,000.

The rest of the report discusses the accounting policies, transactions with the City of Troy and the community development projects. He advised that the last section of the report discusses internal controls and compliance; both with nothing to report.

**Paul Carroll made a motion to accept the 2015 audit as presented by Paul Goetz of SaxBST.  
Tina Urzan seconded the motion, motion carried.**

The Chairman advised that he would like to adjourn the IDA portion of the meeting and convene the CRC portion of the meeting at 10:18 a.m.

The IDA reconvened at 10:22 a.m.

III. PARIS report

The chairman advised that the presentation of the PARIS report will be at the next meeting. He wanted to stress that this is a very important document for the board to sign off on and wants it to be ready with time to review before we vote on it.

IV. Project Pipeline

Mrs. Kurzejeski advised the board that the project pipeline report was used by Bill to track upcoming and in process projects. She advised that there are a couple of items that need some updating before it is ready for the board members to review. The chairman advised that he would like this to be a report that we visit several times a year. Mr. Doherty asked if completed projects stay on the report. Mrs. Kurzejeski advised that the pipeline will show where it is in the process. It also shows potential projects that have reached out to us or have filled out applications already.

V. HV Housing, LLC

The chairman introduced Michael Uccellini to the board to discuss the changes in their student housing project. Mr. Uccellini introduced Tim Haskins, project developer, and Thomas Uccellini. Mr. Haskins advised that the best way to present this project is to note what will be different from the previously approved project.

Mr. Haskins explained that the 2014 project was contemplated as a land lease transaction that would have taken place between the school and the developer. When that project did not go forward, the school sold the entire tract to the developer instead. He advised that the previous project was for 330 beds and will now be 268 beds. The other difference is with an increase of 65 parking spaces at the suggestion of the planning commission.

Mr. Haskins advised that they also made a significant change in vehicle access. In the initial project, there was a one way exit onto VanDenburgh Ave. He advised that it was important to them to have an exit that allowed traffic to exit both ways onto VanDenburgh Avenue and felt it would help with traffic issues on Morrison Ave. Mr. Haskins advised that they were able to widen the road to

two lanes as long as archeological monitoring while excavating. Mr. Haskins advised that the exit on Morrison Ave is going to be restricted to a right-hand turn out only.

Mr. Haskins advised that to comply with the complete streets program, they will be leveling out the property so that it is at street level with the intersection. This will decrease the height of the building and allow for future improvements such as adding a sidewalk going down the hill. Mr. Haskins advised that the changes will allow them to add a road that goes completely around the property.

Mr. Uccellini advised that they expected to have the student housing ready for the end of June 2017. Mr. Haskins advised that there will be a mix of 2 and 4 bedroom units and will have an amenity space, business/student center, yoga and security space. Mrs. Kurzejeski asked if there will be 24 hour security. Mr. Uccellini advised that no, students will have to buzz people in after hours.

Mr. Doherty asked about the outcome of the traffic study that was done. Mr. Haskins advised that the results of the study shows no need for a traffic light to be added at the entrance of the site. He advised that the changes they will be making will reduce the cars by 35 cars during the peak a.m. and p.m. times because the students will be on site rather than traveling to and from the school. Mr. Haskin advised there is updated traffic signalizations that will be put in place called lead pedestrian interval which will stop traffic in all directions and allow them to cross the street.

The board asked if there is a fill agreement with the college. Mr. Uccellini advised there is no agreement but will be working closely with them.

Mrs. Kurzejeski advised that she recently spoke to a resident of the Stowe farm area who has been happy with the student housing projects that have happened in that area. She advised that the new projects spark improvements to be made by some of the older apartments in that area.

Mr. Bodnar asked if there is any CDTA shuttle service. Mr. Haskins advised no, it will be a walkable area and there is a large CDTA station in front of the college. Mr. Bodnar noted that it is a long walk. Mr. Uccellini advised that HVCC has a great relationship with CDTA. Tina Urzan asked for clarification on the traffic flow. Mr. Haskins indicated it on the aerial maps.

Mrs. Kurzejeski asked about the total acreage that they own. Mr. Uccellini advised that it is about 40 acres and indicated it on the map. He also showed where the subdivision will occur. Mr. Haskins advised that they will be going in front of the planning commission in April. Mr. Doherty commended them on their presentation. (See attached Resolution 04/16 #1)

**Hon. Dean Bodnar made a motion to approve the initial resolution for HV Housing, LLC.**

**Susan Farrell seconded the motion, motion carried.**

VI. Financials

Jim Lozano talked about the balance sheet for the month of March. He noted the status of the cash and noted that change was due to The Community Builders project. He also noted the PILOT payment for Dinosaur BBQ has not been received. Mrs. Urzan asked how far behind they are. Mrs. Zeigler advised that there was a change within the company and they have new contact/billing information. The chairman advised that the PILOT reporting coming out of the City needs to be tightened up going forward. Mr. Bodnar asked if a demand letter will be sent. Mr. Miller advised he will look into.

Mr. Lozano wanted to note that the \$250,000 reimbursement from the City of Troy for the Riverfront Park Access project has been received and deposited and will show on next month's balance sheet.

Mr. Lozano noted that there was a surplus on the income statement. He advised that is the result of The Community Builders project. He added that there are very limited operating expenses.

**Tina Urzan made a motion to approve the financials as presented.**

**Paul Carroll seconded the motion, motion carried.**

VII. Adjournment

With no additional business to discuss, the IDA portion of the meeting was adjourned at 10:45 a.m.

**Hon. Dean Bodnar made a motion to adjourn the IDA meeting.**  
**Tina Urzan seconded the motion, motion carried.**

**INITIAL PROJECT RESOLUTION**  
(*HV Housing, LLC Project*)

A regular meeting of the Troy Industrial Development Authority (the “Authority”) was convened on April 22, 2016 at 10:00 a.m., local time, at 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180.

The meeting was called to order by the Vice Chairman and, upon roll being called, the following members of the Authority were:

<u>MEMBER</u>	<u>PRESENT</u>	<u>ABSENT</u>
Kevin O’Bryan	X	
Hon. Dean Bodnar	X	
Hon. Robert Doherty	X	
Steve Bouchey		X
Louis Anthony	X	
Paul Carroll	X	
Adam Hotaling		X
Susan Farrell	X	
Tina Urzan	X	

The following persons were ALSO PRESENT: Paul Goetz, James Lozano, Mary Ellen Flores, Deanna DelPos, Michael Uccellini, Thomas Uccellini, Tim Haskins, Justin Miller Esq. and Denee Zeigler.

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of HV Housing, LLC.

On motion duly made by Hon. Dean Bodnar and seconded by Susan Farrell, the following resolution was placed before the members of the Troy Industrial Development Authority:

Member	Aye	Nay	Abstain	Absent
Kevin O’Bryan	X			
Hon. Dean Bodnar	X			
Hon. Robert Doherty	X			
Steve Bouchey				X
Louis Anthony	X			
Paul Carroll	X			
Adam Hotaling				X
Susan Farrell	X			
Tina Urzan	X			

Resolution No. 04/16 #1

RESOLUTION OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY (THE "AUTHORITY") (i) ACCEPTING THE APPLICATION OF HV HOUSING, LLC (COLLECTIVELY, THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (ii) AUTHORIZING THE SCHEDULING, NOTICE AND CONDUCT OF A PUBLIC HEARING WITH RESPECT TO THE PROJECT; AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AUTHORITY WITH RESPECT TO THE PROJECT

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York, as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (hereinafter called the "Authority") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **HV HOUSING, LLC**, for itself and/or on behalf of an entity to be formed (collectively, the "Company"), has requested the Authority's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Authority of a leasehold interest in approximately 13 acres of real property located at 45 Vandenburg Avenue at the corner of Morrison Avenue and Vandenburg Avenue, Troy, New York 12180 (the "Land", being more particularly identified as a portion of TMID No. 112.69-1-10) and the existing site and infrastructure improvements located thereon being comprised of five (5) buildings containing approximately 91,793 square feet of space along with existing site improvements (the "Existing Improvements"), (ii) the demolition of portions of the Existing Improvements and the planning, design, engineering, construction, operation and maintenance upon the Land and around the Existing Improvements of a four (4) story residential facility including seventy-two (72) units of rental residential housing containing 268 beds along with related common area space, related exterior access and egress improvements, parking, curbage, site work and landscaping improvements (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in and around the Existing Improvements and Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's development of the Project in and around the Land, Existing Improvements and Improvements (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to the Act, the Authority desires to adopt a resolution describing the Project and the Financial Assistance (as hereinafter defined) that the Authority is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Authority will (i) accept the Application submitted by the Company; (ii) approve the scheduling, notice and conduct of a Public Hearing with respect to the Project; and (iii) approve the negotiation, but not the execution or delivery, of certain documents in furtherance of the Project, as more fully described below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. The Company has presented an application in a form acceptable to the Authority. Based upon the representations made by the Company to the Authority in the Company's application and in related correspondence, the Authority hereby finds and determines that:

(A) By virtue of the Act, the Authority has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Authority has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Authority will induce the Company to develop the Project, and otherwise furthering the purposes of the Authority as set forth in the Act; and

(D) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Authority hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

Section 2. The proposed Financial Assistance being contemplated by the Authority includes (i) a sales and use tax exemption for materials, supplies and rentals acquired or procured in furtherance of the Project by the Company as agent of the Authority; (ii) mortgage recording tax exemption(s) in connection with secured financings undertaken by the Company in furtherance of the Project; and (iii) an abatement or exemption from real property taxes levied against the Land and Facility pursuant to a PILOT Agreement to be negotiated.

Section 3. The Chairman, Vice Chairman, and/or Executive Director/Chief Executive Officer of the Authority are hereby authorized, on behalf of the Authority, to schedule, notice and conduct a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) a Lease Agreement, pursuant to which the Company leases the Project to the Authority (or, a Deed of conveyance to the Authority whereby the Authority will acquire fee title to the Land and Project), (B) a related Leaseback Agreement, pursuant to which the Authority leases its interest in the Project back to the Company, (C) a PILOT Agreement,

pursuant to which the Company agrees to make certain payments in-lieu-of real property taxes, and (D) related documents thereto; *provided* (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Authority arising out of or related to the Project and indemnification of the Authority by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the PILOT Agreement are consistent with the Authority's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 4. The officers, employees and agents of the Authority are hereby authorized and directed for and in the name and on behalf of the Authority to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Authority with all of the terms, covenants and provisions of the documents executed for and on behalf of the Authority.

Section 5. These Resolutions shall take effect immediately.

DRAFT

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK            )  
COUNTY OF RENSSELAER    )

I, Denee Zeigler, the undersigned, Secretary of the Troy Industrial Development Authority (the "Authority"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Authority, including the Resolution contained therein, held on April 22, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Authority had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Authority present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority this 22nd day of April, 2016.



(SEAL)

**Application to  
Troy Industrial Development Authority (TIDA)  
For  
Tax Exempt Bond Financing  
and/or  
Straight-Lease Transaction  
and  
Fee Schedule**

Please contact the Authority for more information  
regarding project eligibility and application process.

FORM ADOPTED \_\_\_\_\_

**Troy Industrial Development Authority (TIDA)**

433 River Street, Suite 5001, Troy NY 12180

**AUTHORITY ADMINISTRATIVE FEE SCHEDULE**

**Taxable and Tax Exempt Industrial Development Revenue Bonds**

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**Application Fee:** A non-refundable fee of \$2,500.00 and a \$500.00 processing fee are payable to the TIDA at the time the application is submitted. The \$2,500.00 fee will be credited towards the total fee at closing.

**Fee:** First \$10,000,000: .75% of the principal amount of the bond series.  
Over \$10,000,000: .5% of the bond series  
Annual (post-closing) administrative fee of \$1,500.00

**Straight Lease Transactions (including PILOT Agreement)**

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**Application Fee:** A non-refundable fee of \$2,500.00 and a \$500.00 processing fee are payable to the TIDA at the time the application is submitted. The \$2500.00 fee will be credited towards the total fee at closing.

**Fee:** First \$10 million – .75%  
Annual administrative fee of \$500.00

**Sales Tax and/or Mortgage Recording Tax only Transactions (No PILOT Agreement)**

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**Application Fee:** A non-refundable fee of \$2,500.00 and a \$500.00 processing fee are payable to the TIDA at the time the application is submitted. The \$2500.00 fee will be credited towards the total fee at closing.

**Fee:** Minimum \$4,500.00 or 10% estimated exemption amount, whichever is greater  
Annual administrative fee of \$500.00

## INSTRUCTIONS

1. The Authority will not approve any applications unless, in the judgment of the Authority, said application contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Fill in all blanks, using “none” or “not applicable” or “N/A” where the question is not appropriate to the project which is the subject of this application (the “Project”).
3. If an estimate is given as the answer to a question, put “(est)” after the figure or answer, which is estimated.
4. If more space is needed to answer any specific question, attach a separate sheet.
5. When completed, return this application to the Authority at the address indicated on the first page of this application.
6. The Authority will not accept this application as complete until the Authority receives (i) a completed environmental assessment form concerning the Project; (ii) the Applicant has met with Authority representatives and has received the Authority’s review and completed **Project Summary and Financial Assistance Cost Benefit Analysis (See, last 2 pages of this Application)**; and payment of all required fees and escrows, as applicable.
7. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Authority (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant’s competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of Public Officers Law.
8. The applicant will be required to pay to the Authority all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Authority’s bonds issued to finance the project. The applicant will also be expected to pay all costs incurred by general counsel and bond counsel to the Authority. The costs incurred by the Authority, including the Authority’s general counsel and bond counsel, may be considered a part of the project and included as a part of the resultant bond issue.
9. The Authority has established a combined application fee of \$3,000.00 (\$2,500 + \$500) to cover the anticipated costs of the Authority and counsel in processing this application. A check or money order made payable to the Authority must accompany each application. **THIS APPLICATION WILL NOT BE ACCEPTED BY THE AUTHORITY UNLESS ACCOMPANIED BY THE APPLICATION FEE.**
10. The Authority has established a project fee for each project in which the Authority participates. **UNLESS THE AUTHORITY AGREES IN WRITING TO THE CONTRARY, THIS PROJECT FEE IS REQUIRED TO BE PAID BY THE APPLICANT AT OR PRIOR TO THE GRANTING OF ANY FINANCIAL ASSISTANCE BY THE AUTHORITY.**

This application should be submitted to the Troy Industrial Development Authority, 433 River Street, Suite 5001, Troy NY 12180 (Attn: Chief Executive Officer).

**PLEASE NOTE: APPLICANTS SEEKING FINANCIAL ASSISTANCE IN THE FORM OF SALES AND USE TAX EXEMPTIONS AFTER MARCH 28, 2013 SHALL BE SUBJECT TO THE ENHANCED REPORTING, COMPLIANCE AND RECAPTURE REQUIREMENTS SET FORTH WITHIN SECTION 875 OF THE GENERAL MUNICIPAL LAW OF THE STATE OF NEW YORK (“GML”). IN ADDITION, APPLICANTS SEEKING ANY FINANCIAL ASSISTANCE ON OR AFTER JUNE 1, 2016 SHALL BE SUBJECT TO THE PROVISIONS CONTAINED WITHIN GML Section 859-a (4)-(6). APPLICANTS SHOULD CONSULT WITH COUNSEL AND ACCOUNTANT PROFESSIONALS TO UNDERSTAND THESE NEW REQUIREMENTS.**

**Troy Industrial Development Authority (TIDA)**

**Application for Tax Exempt Bond Financing and/or Straight-Lease Transaction**

**I. APPLICANT INFORMATION**

Company Name:

Address:

Phone No.:

Fax No.:

Federal Tax ID:

Contact Person:

E-Mail:

Date:

a. Form of Entity:

\_\_\_\_\_ Corporation

\_\_\_\_\_ Partnership (General \_\_\_ or Limited \_\_\_; Number of General Partners \_\_\_ and, if applicable, Number of Limited Partners \_\_\_, List Partners in section below.

\_\_\_\_\_ Limited Liability Company, Number of Members \_\_\_

\_\_\_\_\_ Sole Proprietorship

Please also indicate whether the Company will utilize any affiliates and/or real estate holding companies to undertake the proposed project. If so, please provide names and details for all such entities.

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

b. Principal Owners/Officers/Directors: (List owners with 5% or more in equity holdings with percentage of ownership)

Name	Address	Percentage Ownership/Office

(Use attachments if necessary)

c. If a corporation, partnership, limited liability company:

What is the date of establishment? \_\_\_\_\_ Place of organization \_\_\_\_\_

If a foreign organization, is the Applicant authorized to do business in the State of New York? \_\_\_\_\_

*(Attach organizational chart or other description if applicant is a subsidiary or otherwise affiliated with another entity)*

d. Attach certified financial statements for the company's last three complete fiscal years. If the company is publicly held, attach the latest Form 10K as well.

**II. APPLICANT'S COUNSEL**

Name/Firm:

Address:

Phone No.:

Fax No.:

E-Mail:

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**III. PROJECT INFORMATION:**

a. Please provide a brief narrative description of the Project (attach additional sheets or documentation as necessary).

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b. Location of Project (all information mandatory – attach current tax bills with proof of current payment)

Project Address:

City:

Name of School District:

Tax Map No.:

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Describe Existing Improvements, if any:

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c. Are Utilities on Site? Water:\_\_\_\_\_ Electric:\_\_\_\_\_ Gas:\_\_\_\_\_ Sanitary/Storm Sewer:\_\_\_\_\_ Telecom:\_\_\_\_\_

d. Identify Present legal owner and all tenants of the site if other than Applicant and by what means will the site be acquired for this Project (please include details regarding purchase and sale agreement, if applicable, including all contingencies):

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e. Zoning of Project Site:

Current: \_\_\_\_\_ Proposed: \_\_\_\_\_

f. Are any zoning approvals needed? Identify: \_\_\_\_\_

g. Local Permitting and Approvals – Does the project require local planning or permitting approvals? If so, please explain. \_\_\_\_\_ Will a site plan application to be filed? \_\_\_\_\_ If so, please include copy if prepared.

h. Has another entity been designated lead agent under the State Environmental Quality Review Act (“SEQRA”)? \_\_\_\_\_; If yes, please explain:

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i. Will the Project result in the removal of a plant or facility of the Applicant or a proposed Project occupant from one area of the State of New York to another area of the State of New York? \_\_\_\_\_; If yes, please explain:

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j. Will the Project result in the abandonment of one or more plants or facilities of the Applicant or a proposed Project occupant located in the State of New York? \_\_\_\_\_; If yes, explain:

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k. If the answer to either question i. or j. is yes, **you are required to** indicate whether any of the following apply to the Project:

1. Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please provide detail:

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2. Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please provide detail:

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**NOTES: If you answer "yes" to questions i. or j., above, and fail to provide a detailed response within question k.(1) or k.(2), above, then the Authority will be barred from providing any financial assistance.**

**THE AUTHORITY IS REQUIRED TO NOTIFY THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY FROM WHICH YOUR FACILITY IS BEING RELOCATED OR ABANDONED. THIS NOTIFICATION WILL BE SENT PRIOR TO THE AUTHORITY'S CONDUCT OF REQUIRED PUBLIC HEARINGS(S).**

**CERTIFICATION: Based upon the answers provided within i. j., k(1), and k(2), above, the Company hereby certifies to the Authority that the undertaking of the proposed project and provision of financial assistance to the Company by the Authority will not violate GML Section 862(1).**

- l. Does the Project include facilities or property that are primarily used in making retail sales of goods **or provide** services to customers who personally visit such facilities? \_\_\_\_\_; If yes, please explain:

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- m. If the answer to l. is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods **or** any services to customers who personally visit the Project? \_\_\_\_\_%

- n. If more than 33.33%, indicate whether any of the following apply to the Project:

1. Will the Project be operated by a not-for-profit corporation? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain:

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2. Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes \_\_\_\_\_; No \_\_\_\_\_. If yes, please explain:

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3. Would the Project occupant, but for the contemplated financial assistance from the Authority, locate the Project and related jobs outside of New York State? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain:

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4. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the City within which the Project will be located because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain:

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5. Will the Project be located in one of the following: (i) an area designed as an Empire Zone pursuant to Article 18-B of the General Municipal Law; or (ii) a census tract or block numbering area (or census tract or block number area contiguous thereto) which, according to the most recent census data, has (x) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of households receiving public assistance, and (y) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain:

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o. Does the Company intend to lease or sublease more than 10% (by area or fair market value) of the Project? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please complete the following for EACH existing or proposed tenant or subtenant:

Sub lessee name: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Employer's ID No.: \_\_\_\_\_

Sub lessee is a: \_\_\_\_\_ (Corporation, LLC, Partnership, Sole Proprietorship)

Relationship to Company: \_\_\_\_\_

Percentage of Project to be leased or subleased: \_\_\_\_\_

Use of Project intended by Sub lessee: \_\_\_\_\_

Date and Term of lease or sublease to Sub lessee: \_\_\_\_\_

Will any portion of the space leased by this sub lessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide on a separate attachment (a) details and (b) the answers to questions I. 1-5 with respect to such sub lessee.

p. Project Costs (Estimates):

Category	Amount
Land-acquisition	
Buildings-Construction/Renovation (No FF&E)	
Utilities, roads and appurtenant costs	
Machinery and Equipment (All FF&E)	
Soft Costs (Architect, Legal and Engineering)	
Costs of Bond issue	
Construction Loan Fees and interest	
Other (specify)	
<b>Total Project Costs</b>	

Please include supplemental sheets as necessary with all project cost details, including the following:

**Mandatory:** In addition to the above estimated of capital costs of the project, which must include all costs of real property and equipment acquisition and building construction or reconstruction, you must include details on the amounts to be financed from private sector sources, an estimate of the percentage of project costs financed from public sector sources (all public grants, loans and tax credits to be applied for), and an estimate of both the amount to be invested by the applicant and the amount to be borrowed to finance the project.

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q. Job Creation:

Construction jobs created by the Project: \_\_\_\_\_ Anticipated Dates of Construction: \_\_\_\_\_

Permanent jobs created by the Project

**Column A:** Insert the job titles that exist within the company at the time of application, as well as any job titles that will be established as a result of the Project.

**Column B:** Indicate the entry level wage for each listed job title either in terms of hourly pay or annual salary.

**Column C:** For each listed job title insert the number of positions that exist at the time of application.

**Column D:** Insert the number of jobs to be created during year one of the Project for each listed job title.

**Column E:** Insert the number of jobs to be created during year two of the Project for each listed job title.

**Column F:** Insert the number of jobs to be created during year three of the Project for each listed job title.

**Column G:** Indicate the total number of jobs to be created for each listed title as a result of the Project. (Column D + Column E + Column F = Column G)

(A)  Job Title	(B)  Annual or Hourly Wages	(C)  Current Number of Positions	(D)  Jobs Created: Year One	(E)  Jobs Created: Year Two	(F)  Jobs Created: Year Three	(G)  Total Jobs Created
<b>TOTALS:</b>						

In addition to the job figures provided above, please indicate the following:

- 1) The projected number of full time equivalent jobs that would be retained and that would be created if the request for financial assistance is granted.

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- 2) The projected timeframe for the creation of new jobs.

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- 3) The estimated salary and fringe benefit averages or ranges for categories of the jobs that would be retained or created if the request for financial assistance is granted.

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4) An estimate of the number of residents of the economic development region as established pursuant to section two hundred thirty of the economic development law, in which the project is located that would fill such jobs. The labor market area defined by the Authority (Capital Economic Development Region)

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TIDA Financial Assistance Requested and Company Estimates

A. Estimated Project Costs eligible for Industrial Development Authority Financial Assistance

1. Sales and Use Tax (  ) Check if Requested

A. Amount of Project Cost Subject to Sales and Use Tax: \$  
Sales and Use Tax Rate: 8.00 %

B. Estimated Sales Tax (A X .08): \$

2. Mortgage Recording Tax Exemption (  ) Check if Requested

A. Projected Amount of Mortgage: \$  
Mortgage Recording Tax Rate: 1.25 %

B. Estimated Mortgage Recording Tax (A X .0125): \$

3. Real Property Tax Exemption (  ) Check if Requested

A. Projected Increase in Assessed Value on Project: \$

B. Total Applicable Tax Rates Per \$1000: \$

C. Estimated Annual Taxes without PILOT (A X B)/1,000: \$

4. Interest Exemption (Bond transactions only) (  ) Check if Requested

a. Total Estimated Interest Expense Assuming Taxable Interest: \$

b. Total Estimated Interest Expense Assuming Tax-exempt Interest Rate: \$

B. Estimated Benefits of Industrial Development Authority Financial Assistance

1. Current Company employment in Capital Economic Development Region

2. Current Company payroll in Capital Economic Development Region \$

3. Project Jobs to be Created over 3 years

- Is the company delinquent in the payment of any state or municipal property taxes?  Yes  No
- Is the company delinquent in the payment of any income tax obligation?  Yes  No
- Is the company delinquent in the payment of any loans?  Yes  No
- Is the company currently in default on any of its loans?  Yes  No
- Are there currently any unsatisfied judgments against the company?  Yes  No
- Are there currently any unsatisfied judgments against any of the company's principals?  Yes  No
- Has the company ever filed for bankruptcy?  Yes  No
- Have any of the company's principals ever personally filed for bankruptcy, or in any way sought protection from creditors?  Yes  No

Are there any current or pending real estate tax assessment challenges associated with the proposed project realty and/or improvements?  Yes  No

Is the proposed project realty currently subject to any exemption from real estate taxes?  Yes  No

Are there any current or pending criminal investigations or indictments of the Company or any of its principals or equity holders (including any and all holders of equity or ownership of Company parent organizations)?  Yes  No

If the answer to any of the questions above is "Yes," please provide additional comments in the space below and on additional pages if necessary.

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r. **For Industrial Revenue Bonds ONLY, including this project,** list capital expenditures of the company at Project location:

Category	Last Three Years	Next Three Years
Land		
Building		
Equipment		
Soft Costs		
Other		
Total		

s. State whether there is a likelihood that the project would not be undertaken but for the financial assistance provided by the Authority, or, if the project could be undertaken without financial assistance provided by the Authority, a statement indicating why the project should be undertaken by the Authority

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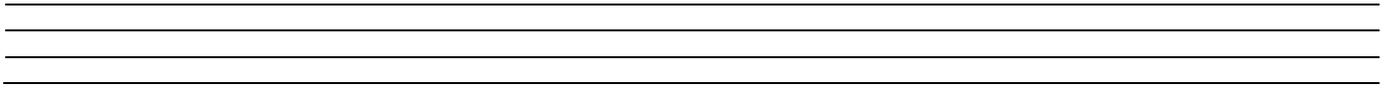


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t. List any other positive impacts that the Project may have on the City of Troy:



## V. REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Authority as follows:

- A. **Job Listings:** In accordance with Section 1967-a(2) of the New York Public Authorities Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOL”) and with the administrative entity (collectively with the DOL, the “JTPA Entities”) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (“JTPA”) in which the Project is located.
- B. **First Consideration for Employment:** In accordance with Section 1967-a(2) of the New York Public Authorities Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, 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 1964-a(9) of the New York Public Authorities Law, the applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Authority, in accordance with Section 1964-a(9) of the Public Authorities Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant.
- D. **Annual Employment Reports:** The applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, the applicant agrees to file, or cause to be filed, with the Authority, on an annual basis, reports regarding the number of people employed at the project site.
- E. **Absence of Conflicts of Interest:** The applicant has received from the Authority a list of the members, officers, employees and Counsel of the Authority. No member, officer, employee, or Counsel of the Authority has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

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**HOLD HARMLESS AGREEMENT AND APPLICATION DISCLAIMER  
CERTIFICATION PURSUANT TO NEW YORK STATE  
FREEDOM OF INFORMATION LAW (“FOIL”)**

Applicant hereby releases the TROY INDUSTRIAL DEVELOPMENT AUTHORITY and the members, officers, servants, agents and employees thereof (the "Authority") from, agrees that the Authority shall not be liable for and agrees to indemnify, defend and hold the Authority harmless from and against any and all liability arising from or expense incurred by (A) the Authority's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Authority, (B) the Authority's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Authority with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Authority or the Applicant are unable to reach final agreement with the respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Authority, its agents or assigns, all costs incurred by the Authority in the processing of the Application, including attorneys' fees, if any.

Through submission of this Application for Financial Assistance (this "Application"), the Company acknowledges that the Authority, as a public benefit corporation, is subject to the New York State Freedom of Information Law ("FOIL") and Open Meetings Law ("OML"), as codified pursuant to the Public Officers Law ("POL") of the State of New York (the "State"). Accordingly, unless portions hereof are otherwise protected in accordance with this Certification, this Application, including all Company-specific information contained herein, is subject to public disclosure in accordance with applicable provisions of the POL, Article 18-A of the General Municipal Law ("GML") and the Public Authorities Accountability Act of 2005, as codified within the Public Authorities Law ("PAL") of the State. Specifically, this Application may be disclosed by the Authority to any member of the public pursuant to a properly submitted request under FOIL and the Authority is further required to affirmatively disclose certain provisions contained herein pursuant to the GML and PAL, including the identification of the Company, general project description, location proposed capital investment and job estimates.

Notwithstanding the foregoing, the Company, pursuant to this Certification, may formally request that the Authority consider certain information contained within this Application and other applicable supporting materials proprietary information and "trade secrets", as defined within POL Section 87(2)(d). To the extent that any such information should qualify as trade secrets, the Company hereby requests that the Authority redact same in the event that formal disclosure is requested by any party pursuant to FOIL. Application Sections or information requested by Company for Redaction\*:

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

(\* - Please indicate specific sections within Application that the Company seeks to qualify as "trade secrets". Additional correspondence or supporting information may be attached hereto. Please also note that

notwithstanding the Company's request, the Authority shall make an independent determination of the extent to which any information contained herein may be considered as such)

In the event that the Authority is served with or receives any subpoena, request for production, discovery request, or information request in any forum that calls for the disclosure of the Application, in entirety, specifically including but not limited to any demand or request for production or review of Company-designated trade secrets, the Authority agrees to notify the Company as promptly as is reasonably possible, and to utilize its best efforts to: oppose or decline any such request; preserve the confidentiality and non-disclosure of such requested confidential material; and maintain such information and prevent inadvertent disclosure in responding to any such discovery or information request. The Company understands and agrees that all reasonable costs, including attorney's fees, associated with any such formal undertaking by the Authority to protect the trade secrets from disclosure shall be reimbursed by the Company to the Authority.

The undersigned officer of the applicant deponent acknowledges and agrees that the applicant shall be and is responsible for all costs incurred by the Authority and legal counsel for the Authority, whether or not the Application, the proposed project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Authority shall not be liable for and agrees to indemnify, defend and hold the Authority harmless from and against any and all liability arising from or expense incurred by (A) the Authority's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Authority, (B) the Authority's acquisition, construction and/or installation of the proposed project described herein and (C) any further action taken by the Authority with respect to the proposed project; including without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.

By executing and submitting this Application, the applicant covenants and agrees to pay the following fees to the Authority, the same to be paid at the times indicated:

- (a) The sum of \$2,500, plus the sum of \$500 as a non-refundable processing fee, to be paid upon submission of the Application;
- (b) An Administrative Fee amounts to be determined using the schedule on Page 2 hereof for all other projects for which the Authority provides financial assistance, to be paid at transaction closing;
- (c) An amount to be determined by Authority Staff payable to the Authority's bond/transaction counsel for the preparation and review of the inducement resolution, the environmental compliance resolution, TEFRA hearing proceedings and the tax questionnaire assuming no further activity occurs after the completion of the inducement proceedings, to be paid within ten (10) business days of the receipt of bond/transaction counsel's invoice;
- (d) All fees, costs and expenses incurred by the Authority for (1) legal services, including but not limited to those provided by the Authority's general counsel or bond/transaction counsel, and (2) other consultants retained by the Authority in connection with the proposed project; with all such charges to be paid by the applicant at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Authority's invoices therefore please note that the applicant is entitled to receive a written estimate of fees and costs of the Authority's bond/transaction counsel;

- (e) The cost incurred by the Authority and paid by the applicant, including bond/transaction counsel and the Authority's general counsel's fees and the processing fees, may be considered as a costs of the project and included in the financing of costs of the proposed project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.

The applicant further covenants and agrees that the applicant is liable for payment to the Authority of all charges referred to above, as well as all other actual costs and expenses incurred by the Authority in handling the application and pursuing the proposed project notwithstanding the occurrence of any of the following:

- (a) The applicant's withdrawal, abandonment, cancellation or failure to pursue the Application;
- (b) The inability of the Authority or the applicant to procure the services of one or more financial institutions to provide financing for the proposed project;
- (c) The applicant's failure, for whatever reason, to undertake and/or successfully complete the proposed project; or
- (d) The Authority's failure, for whatever reason, to issue tax-exempt revenue bonds in lieu of conventional financing.

The applicant and the individual executing this Application on behalf of applicant acknowledge that the Authority and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

**Company Acknowledgment and Certification:**

The undersigned, being a duly authorized representative of the Company, hereby and on behalf of the Company, certifies to the best of his or her knowledge and under the penalty of perjury that all of the information provided by the Company within this Application for Financial Assistance is true, accurate and complete.

The Company, on behalf of itself and all owners, occupants and/or operators receiving or that will receive financial assistance from the Authority (collectively, the "Recipients") hereby certifies that the Recipients are in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

The Company, on behalf of itself and all Recipients, hereby further acknowledges that the submission of any knowingly false or knowingly misleading information herein or within any agreement with the Authority may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of the Authority's involvement in the project, including all costs of the Authority relating to same. The Company has reviewed and accepts the terms of the Authority's Project Recapture and Termination Policy.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of New York )

County of \_\_\_\_\_ ) ss.:

On the \_\_ day of \_\_\_\_\_ in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

## Project Summary and Financial Assistance Cost Benefit Analysis

(This page to be completed by TIDA Staff)

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

Project Description: \_\_\_\_\_

\_\_\_\_\_

Project Location: \_\_\_\_\_

City: \_\_\_\_\_

School District: \_\_\_\_\_

### Estimated Cost of Industrial Development Authority Financial Assistance

1. Sales and Use Tax Exemption

- A. Amount of Project Cost Subject to Sales and Use Tax: \$
- Sales and Use Tax Rate: \_\_\_\_\_ 8%
- B. Estimated Exemption (A X .08): \$

2. Mortgage Recording Tax Exemption

- A. Projected Amount of Mortgage: \$
- Mortgage Recording Tax Rate: \_\_\_\_\_ 1.25%
- B. Estimated Exemption (A X .0125): \$

3. Real Property Tax Exemption

- A. Projected Increase in Assessed Value on Project: \$
- B. Total Applicable Tax Rates Per \$1000: \$
- C. Total Annual Taxes without PILOT (A X B)/1,000: \$
- D. PILOT Exemption Rate (see TIDA Uniform Tax Exemption Policy): %
- E. Average Annual PILOT Payment (C X D): \$
- F. Net Exemption over PILOT term ((C-E) x 7, 10 or 15)): \$

- 4. Interest Exemption (Bond transactions only)
  - a. Estimated Interest Expense Assuming Taxable Interest: \$
  - b. Estimated Interest Expense with tax-exempt Interest Rate: \$
  - c. Interest Exemption (a - b): \$

**Estimated Benefits of Industrial Development Authority Financial Assistance**

- 1. Jobs to be retained in the Capital Economic Development Region
- 2. Current Company payroll in the Capital Economic Development Region \$
- 3. Project Jobs to be Created over 3 years
- 4. Total Project Investment \$
- 5. Non IDA financing leveraged \$
- 6. Other project benefits:

\_\_\_\_\_

\_\_\_\_\_

Authority Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

TROY INDUSTRIAL DEVELOPMENT AUTHORITY  
UNIFORM PROJECT EVALUATION POLICY  
Adopted \_\_\_\_\_, 2016

Pursuant to and in accordance with Chapter 563 of the Laws of 2015 and Section 859-a(5) of the General Municipal Law (“GML”), the Troy Industrial Development Authority (the “Authority”) hereby establishes a Uniform Project Evaluation Policy for the evaluation and selection for all qualifying categories of projects for which the Authority may provide Financial Assistance (as defined herein) in accordance with its Uniform Tax Exemption Policy (“UTEP”).

For each Application for Financial Assistance received by the Authority, the following must occur prior to authorizing the project and provision of Financial Assistance:

- 1) The Authority shall undertake an assessment of all material information included in connection with the Application for Financial Assistance as necessary to afford a reasonable basis for the decision by the Authority to provide Financial Assistance for the Project, including, but not limited to qualification of the proposed project under the GML (including any retail analysis, as applicable), conducting a full application review, review of applicant financial history and project pro-formas, and consideration of all local development priorities;
- 2) A written cost-benefit analysis shall be developed by the Authority that identifies the extent to which a project will create or retain permanent, private sector jobs, the estimated value of any tax exemptions to be provided; 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; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project, including the economic condition of the area at the time of the application, the effect of the proposed project upon the environment and surrounding property, and 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;
- 3) The Authority’s Application for Financial Assistance shall include a statement by the applicant that the project, as of the date of the application, is in substantial compliance with all provisions of Title 11 of Article 8 of the Public Authorities Law, including, but not limited to, the provisions of GML Section 859-a(5) and 862(1); and
- 4) If the proposed project involves the removal or abandonment of a facility or plant within the State of New York, the Authority shall notify the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

TROY INDUSTRIAL DEVELOPMENT AUTHORITY  
PROJECT RECAPTURE AND TERMINATION POLICY  
Adopted \_\_\_\_\_, 2016

Pursuant to and in accordance with Chapter 563 of the Laws of 2015 and Section 874 (10)-(12) of the General Municipal Law (“GML”), the Troy Industrial Development Authority (the “Authority”) hereby establishes a Project Recapture and Termination Policy for the suspension, discontinuance and/or recapture of Financial Assistance (as defined herein), or for the modification of any Payment in lieu of Tax Agreement (“PILOT Agreement”) to require increased payments under circumstances as specified herein, which may include but shall not be limited to events of material violation of the terms and conditions of any Project Agreement (as defined herein).

The Authority in its discretion reserves the right pursuant to this policy and any applicable Project Agreement to suspend, discontinue and/or recapture any financial assistance granted for a project that may include: (i) sales and use tax exemptions; (ii) mortgage recording tax exemptions; and (iii) real property tax abatements governed by a PILOT Agreement (collectively, “Financial Assistance”). The Authority’s provision of Financial Assistance shall be administered and governed pursuant to one or more Project Agreements, which shall include (i) an Agent, Financial Assistance and Project Agreement, (ii) Leaseback Agreement, and/or (iii) PILOT Agreement, along with related documents and herein, each a “Project Agreement”.

**I. Sales and Use Tax Benefits – Mandatory Recapture**

In accordance with Public Authorities Law (“PAL”) Section 1963-B and GML Section 875(3), if the Authority grants any sales and use tax exemptions to any applicant (hereinafter, the “Company”) and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Authority to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Authority as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Authority in connection with the Project, then the Authority is bound and shall recapture the sales and use tax benefits from the Company and the Authority, in its sole discretion, may terminate all applicable Project Agreements. The Authority’s Project Agreements shall include provisions whereby the Company will (i) cooperate with the Authority in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Authority that the Authority demands in connection therewith. The Authority shall cooperate with the New York State Tax Commissioner in connection with any efforts by the State of New York to assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts. Upon receipt, the Authority shall remit any recaptured sales and use tax benefits to applicable affected tax jurisdiction(s).

## **II. Termination of Project Agreements**

The Authority reserves the right to terminate any Project Agreement in the event that a Company incurs any uncured event of default thereunder. In such an event, all prospective Financial Assistance will be terminated by the Authority for a violation of any material term contained within an Application for Financial Assistance and/or any Project Agreement. Any such termination shall be undertaken upon prior notice delivered to the Company in accordance with the provisions hereof and of the applicable Project Agreement(s). In addition, the Authority further reserves the right to terminate any Project Agreement upon submission by a Company of any knowingly false or knowingly misleading information within any Application for Financial Assistance or within any Project Agreement. Upon termination of Project Agreements, all prospective Financial Assistance shall cease as of the date of such termination and the Authority reserves the right to undertake recapture of prior Financial Assistance conferred in accordance with this policy and the provisions of the Project Agreements.

## **III. Recapture and Cessation of Financial Assistance; Due Process**

Recapture of Financial Assistance: The Authority reserves the right to undertake and enforce the recapture of Financial Assistance previously conferred to a Company where it is determined through the process specified below, that:

i. Financial Assistance was obtained as a result of a knowing, misstatement of a material fact where such misstatement occurred in the Application for Financial Assistance, in any written submission, or in any on the record verbal statement made to the Authority or Authority staff.

ii. An applicant failed to achieve the goals identified as Material Factors by the Authority at the time that the Financial Assistance was approved. Such recapture of Financial Assistance, to the extent provided by law, may consider extenuating and mitigating circumstances and may consider the extent to which the Applicant failed to achieve and maintain the Material Factors.

For purposes of this Policy, “*Material Factors*” are factors determined by the Authority as being so significant that without such factors at the level specified, it is unlikely that the Authority would have agreed to grant the Financial Assistance. Such factors generally include, but are not limited to, the number of net new permanent jobs, the dollar value of net new investment, the use of local labor and in some circumstances the number of construction jobs. The quantity of such Material Factors (said Material Factors typically determined at the time a Project is granted Financial Assistance) and the threshold for the termination of Financial Assistance and for the recapture thereof shall be determined by the Authority and Authority staff, as appropriate (and as further identified, below), on a case by case basis.

Cessation of Financial Assistance: The Authority further reserves the right to undertake the cessation of Financial Assistance to be conferred by the Authority to any Company without

undertaking termination of a Project Agreement (including, but not limited to any PILOT Agreement), where any Material Factor is identified by the Authority as having been violated and/or not satisfied by a Company within any particular reporting period. Specifically, the Authority reserves the right and shall require within all Project Agreements that the Company acknowledge and agree that the Authority may in its unilateral discretion cease and curtail all or portions of Financial Assistance to be conferred where a Company fails to achieve or maintain job creation and retention goals as set forth within a Company's Application for Financial Assistance.

For the purposes of this Policy and any Project Agreement, "Full-Time Employee" shall mean shall mean, with respect to any specific date or period, a person directly employed on such date or during such period by the Company (inclusive of its Affiliates, and in the case of a multi-tenanted facility, all tenants of such facility), and who shall on such date or for such period have carried out the terms of such employment on a "full-time basis" at the Project. "Full-time basis" shall mean a person working at least 35-40 hours per week. The term Company Employee shall also include a part-time employee ("Part-Time Employee"), which will count as a fraction of a Full-Time Employee (an employee working 17.5-20.0 hours per week will count as .5). A seasonal employee will also count as a fraction of a Full-Time Employee based on the number of full months worked in a year (an employee hired to work only for three months in a year will count as .25).

If it is determined upon review of the Annual Report that the number of Full-Time Employees at the Facility is less than what was represented in the Application (the "Employment Target"), the Authority shall require within all PILOT Agreements that an additional PILOT Payment that represents a pro rata recapture of ad valorem taxes that would otherwise be due and owing in the absence of the PILOT Agreement.

#### **IV. Due Process for Recapture of Prior Financial Assistance**

Knowledge of Potential Termination of Benefits or Recapture Issue: When Authority staff become aware of a potential issue with respect to a Material Factor(s) related to the provision of Financial Assistance to an Applicant and is unable to otherwise remedy the issue, staff shall notify the Authority board. It is understood that this due process policy shall not apply to termination of Financial Assistance related to the typical/standard events of default (not otherwise involving a Material Factor) as so identified within Project Agreements.

- a) Authority Decision to Commence a Proceeding: The Chair of the Authority shall cause a proceeding to be commenced to determine if Financial Assistance should be recaptured.
- b) Notice to the Applicant: If a decision is made to commence a proceeding to recapture Financial Assistance, then the Applicant shall be provided written notice ("Notice") of: (i) the alleged Material Factor(s) violation, (ii) the potential for recapture of Financial Assistance as may be considered with respect to the commencement of such a proceeding, (iii) their rights to be heard and to appeal any such determination, and (iv) the date and time where a meeting will take place to consider the matter.

- c) Due Process Provisions.
  - (i) Sufficient Time to Prepare a Response: An Applicant shall be given ten (10) business days from the date said Notice is received or deemed received to prepare and submit a written response to any alleged Material Factor(s) violation.
  - (ii) Opportunity to be Heard: An Applicant will be provided an opportunity to make a written or written and oral presentation to the Authority following the ten (10) day Notice period.
  - (iii) Representation: An Applicant shall have the right to be represented by counsel, or to appear without counsel.
  - (iv) Creation of Written Record: The Authority shall create a full written or electronic record that includes a statement of the alleged Material Factor(s) violation, the response, all evidence that has been submitted and a transcript or summary of any oral presentations that have been made. The record shall also include the vote, if any, taken by the Authority.
  - (v) Executive Session: To the extent allowed by the New York State Open Meetings Law, at the request of an Applicant, the Authority may go into executive session to receive certain confidential information that pertains to the considerations being made by the Authority.
  - (vi) Authority Recommendation: The Authority shall vote on a resolution recommending a recapture of Financial Assistance.

If a determination is made to recapture New York State and local sales and use tax exemptions and mortgage recording tax exemptions, in accordance with GML and Authority policies, the amount the Authority shall recapture shall be equal to 100% of the amount of New York State and local sales and use tax exemption and/or mortgage recording tax exemption benefit so obtained and utilized.

If a determination is made to recapture an abated amount of real property tax payment or payments provided by and through the Authority to an Applicant under the terms of a PILOT Agreement, the maximum amount that may be recaptured is equal to, but may be less than, the sum total of real property tax abatement received by the Applicant in the year or years that the violation(s) of Material Factors occurred as so determined by the Authority and as provided in the related inducement resolution authorizing the provision of Financial Assistance to the Applicant.

All determinations by the Authority with respect to recapture shall be final. The Authority reserves all rights and remedies pursuant to applicable law, including the right to

enforce payment of all recaptured sums through applicable provisions of the Project Agreement(s) and to institute legal actions to recover any recaptured sums.

V. **Flexible Application of Termination of Authority Benefits and Recapture of Authority Benefits.**

To the extent permitted by law and Authority policies, the Authority Board shall have broad discretion in recommending how to implement the termination of Project Agreements, Cessation of Financial Assistance and recapture of Financial Assistance. Such recommendation related thereto shall be based upon the circumstances that trigger such action. The Authority Board shall consider the extent of the violation of a Material Factor, the duration of such violation, the cause of such violation and the extent to which there was a creation of net new jobs, new investment, the use of local labor and such other Material Factors as may have been considered at the time of the inducement.

**AUTHORIZING RESOLUTION**  
*(Adopting IDA Compliance Materials)*

A regular meeting of the Troy Industrial Development Authority was convened on May 20, 2016, at 10:00 a.m. at 433 River Street, Troy, New York 12180

The meeting was called to order by the Chairman, with the following members being:

PRESENT:

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Troy Industrial Development Authority:

Resolution No. 2016 -

**RESOLUTION OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY  
ADOPTING FORMS, POLICIES AND PROCEDURES PURSUANT TO  
CHAPTER 563 OF THE LAWS OF 2015**

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York, as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (hereinafter called "Authority") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, pursuant to Chapter 563 of the Laws of 2015 and as set forth in subdivisions 4,5 and 6 of Section 859-a and subdivisions 10, 11 and 12 of Section 874 of the General Municipal Law, the Authority is required and desires to adopt the following: (i) an updated Application for Financial Assistance (the "Application"); (ii) an updated Project Recapture and Termination Policy; (iii) a Uniform Project Evaluation Policy; and (iv) a standard form of Agent and Financial Assistance and Project Agreement; and

WHEREAS, Authority Staff and counsel have prepared proposed drafts of the Application and above-listed policies and the Authority desires to adopt same.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. The Authority hereby adopts (i) the updated Application; (ii) the updated Project Recapture and Termination Policy; (iii) the proposed Uniform Project Evaluation Policy,

and (iv) the Agent and Financial Assistance and Project Agreement, all in the forms as set before this meeting. The foregoing materials shall be utilized and take effect as of the date hereof.

Section 2. The members, officers, employees and agents of the Authority are hereby authorized and directed for and in the name and on behalf of the Authority to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Authority with all of the terms, covenants and provisions of the documents executed for and on behalf of the Authority.

Section 3. These Resolutions shall take effect immediately upon adoption.

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

Member	Aye	Nay	Abstain	Absent
Kevin O'Bryan				
Hon. Dean Bodnar				
Hon. Robert Doherty				
Steve Bouchey				
Louis Anthony				
Paul Carroll				
Adam Hotaling				
Susan Farrell				
Tina Urzan				

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK                    )  
COUNTY OF RENSSELAER            ) ss:

I, the undersigned Secretary of the Troy Industrial Development Authority, DO  
HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the meeting of the Troy Industrial Development Authority (the "Authority") including the resolution contained therein, held on May 20, 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 Authority and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Authority had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Authority present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Authority this  
\_\_ day of \_\_\_\_\_, 2016.

---

Secretary

[SEAL]

## AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

THIS AGENT AND FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (hereinafter, the “Agent Agreement”), made as of the \_\_ day of \_\_\_\_\_, 201\_\_, by and between the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY**, a public benefit corporation of the State of New York, with offices at 433 River Street, 5<sup>th</sup> Floor, Troy, New York (the “Authority”), and **[NAME OF COMPANY]**, a **[Entity Type]** duly organized, validly existing and in good standing under the laws of the State of **[New York]**, with offices at \_\_\_\_\_ (the “Company”).

### WITNESSETH:

WHEREAS, the Authority was created by Title 11 of Article 8 of the Public Authorities Law of the State of New York (“PAL”), as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York; and

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

WHEREAS, by Resolution adopted on **[Date of Project Authorizing Resolution]** (the “Resolution”), the Authority authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement; and

WHEREAS, by its Resolution, the Authority has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use tax exemption benefits for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) an exemption benefit from mortgage recording tax, and (c) a partial abatement from real property taxes benefit conferred through a certain Payment in Lieu of Tax Agreement, dated as of \_\_\_\_\_, 20\_\_ (the “PILOT Agreement”) requiring the Company to make payments in lieu of taxes (“PILOT Payments”) 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 partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

WHEREAS, pursuant to and in accordance with Chapter 563 of the Laws of 2015 and sections 859-a and 874 of the General Municipal Law (“GML”), the Authority requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Company enter into this Agent Agreement for the purposes of, among other things, to govern administration of and provide assurances with respect to the provision and recapture of said Financial Assistance upon the terms herein set forth; and

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

WHEREAS, no agent status in favor of the Company or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Company by the Authority prior to the effective date of this Agent 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:

1. Purpose of Project and Scope of Authority. The purpose of the Authority's provision of Financial Assistance with respect to the Project is 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 City of Troy, and to specifically promote the investment commitment, employment commitment, and other commitments of the Company contained herein and within the Company's Application.

Pursuant to the Resolution, the Authority has appointed the Company as agent to undertake the Project, as defined herein and within the Resolution. The Company hereby agrees to limit its activities as agent for the Authority under the authority of the Resolution to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. Pursuant to the Resolution and this Agent Agreement, the Company has the power to delegate such Authority, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on Schedule A attached hereto (collectively, the "Subagent"). The Company shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent for the Authority. The Company's right to appoint subagents is expressly conditioned upon updating of Schedule A, hereto, along with the timely filing of Form ST-60 (non-primary) for each subagent, with such updated Schedule A and a copy of and proof of filing of such ST-60 (non-primary) being immediately filed with the Authority. The right of the Company and all duly appointed subagents to act as agent of the Authority shall expire on **[ST-60 Expiration Date]**, unless extended as contemplated by the Resolution. The aggregate amount of work performed by the Company and all subagents as agent for the Authority shall not exceed the amounts identified in the Resolution and Section 2(h)(i) of this Agreement.

All contracts entered into by the Company and all subagents thereof as agent for the Authority shall include the language contained within Schedule B, hereto. **Failure by the Company and/or any subagent thereof to include such language shall disqualify the agent status and sales tax exemptions derived by virtue of this Agent Agreement. The Company, for itself and on behalf of all duly appointed subagents, hereby agrees that all contracts entered into by the Company and any subagents thereof shall be available to the Authority for inspection and confirmation of the foregoing mandatory language.**

2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Authority to proceed with the Project/Facility:

(a) The Company is a [Entity Type] duly organized, validly existing and in good standing under the laws of the State of [New York], has the authority to enter into this Agent Agreement, and has duly authorized the execution and delivery of this Agent Agreement.

(b) Neither the execution and delivery of this Agent Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agent Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, and building laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Authority harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agent Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Authority in writing with full details regarding the same. The Company hereby releases the Authority from liability with respect to, and agrees to defend, indemnify, and hold harmless the Authority, its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Authority in its reasonable discretion deems it

necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Authority upon demand.

(f) Any personal property acquired by the Company in the name of the Authority shall be located in the City of Troy, except for temporary periods during ordinary use.

(g) In accordance with Section 1963-B of the PAL and Section 875(3) of the GML, the policies of the Authority, and the Resolution, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture and/or termination of any and all Financial Assistance, as described below, if the Company receives, or any duly appointed subagents receives any Financial Assistance from the Authority, and it is determined by the Authority that:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Authority to be taken by the Company or its Subagents, if any; or

(3) the sales and use tax exemption benefits are for property or services not authorized by the Authority as part of the Project; or

(4) 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; or

(5) the Company fails to meet and maintain the thresholds and requirements representing certain material terms and conditions, said Material Term Commitment #1, and Material Term Commitment #2, all as further defined below, being the purposes to be achieved by the Authority with respect to its determination to provide Financial Assistance to the Project and required by the Authority to be complied with and adhered to, as evidenced by submission, as so required by the Authority, of written confirmation certifying and confirming on an annual basis beginning in the first year in which Financial Assistance is so claimed, through the conclusion of the later of either: (i) two (2) years following the construction completion date or (ii) the termination of this Agent Agreement or the PILOT Agreement) (said date hereinafter referred to as the "Project Completion Date" and the time period so referenced being hereinafter defined as the "Material Terms and Conditions Monitoring Period") confirming:

(a) Material Term Commitment #1; and

(b) Material Term Commitment #2;

In order to certify and verify the foregoing, the Company shall provide annually, to the Authority, a certified statement and 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, (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, and (iii) such other information, as so requested from time to time, to enable the Authority to assess the progress of the Project toward achieving the investment, job retention, job creation, or other objectives of the Project indicated in the Application for Financial Assistance.

The Company shall annually complete and submit to the Authority the Annual Certification Report in the form attached hereto as **Exhibit F. Failure by the Company to complete and submit said form to the Authority by February 15 of each year during the Material Terms and Conditions Monitoring Period shall constitute an Event of Default hereunder, whereby the Authority, in its sole and absolute discretion, may terminate this Agreement and/or the PILOT Agreement and undertake a Recapture Event Determination.**

The findings made by the Authority with respect to Section 2(g)(1), (2), (3) and/or (4) and/or failure to provide the written confirmation as required by Section 2(g)(5) with respect to the thresholds and requirements as identified in Section 2(g)(5), above, and/or failure to meet the thresholds and requirements as identified in Section 2(g)(5) above, may potentially be determined by the Authority, in accordance with the Authority's "Project Recapture and Termination Policy", to constitute a failure to comply with Section 875(3) of the New York General Municipal Law, and/or a failure to comply with a material term or condition to use property or services or Authority Financial Assistance in the manner approved by the Authority in connection with the Project, and/or a failure to comply with the Authority's policies and Resolution (collectively, findings and determinations made as described herein with respect to Section 2(g)(1), (2), (3) and/or (4) and/or the failure under Section 2(g)(5) to submit the required certification and/or the failure to meet the required thresholds and requirements as specified in Section 2(g)(5) are hereby defined as a "Recapture Event Determination"). If the Authority makes a Recapture Event Determination, the Company agrees and covenants that it will (i) cooperate with the Authority 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 Authority that the Authority demands in connection therewith. Upon receipt of such amounts, the Authority shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Authority, the New York State Tax Commissioner and/or local taxing authorities may assess and determine the Financial Assistance due from the Company, together with any relevant penalties and interest due on such amounts.

(h) In accordance with the Resolution and the Cost-Benefit Analysis (the "CBA") disclosed by the Authority at its public hearing for the Project (the "Public Hearing"), the Company further: (i) covenants that 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 Authority, subject to Section 2(g) of this Agent Agreement, cannot exceed \$ \_\_\_\_\_, (ii) confirms that the mortgage recording tax exemption amount shall not exceed \$ \_\_\_\_\_, and (iii) and confirms that real property tax abatement benefits to be provided to the Company shall conform to those disclosed within the CBA at the Public Hearing for the Project and as contained within the PILOT Agreement, a copy of such CBA and PILOT Agreement are attached hereto as **Exhibit D**.

(i) The Company further covenants and agrees to complete “IDA Appointment of Project Operator or Agent For Sales Tax Purposes” (NYS Form ST-60), in the form attached hereto as **Exhibit A**, for each Subagent, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(j) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using “IDA Agent or Project Operator Exempt Purchase Certificate” (NYS Form ST-123, a copy of which is attached hereto as **Exhibits B-1 and B-2**), and it shall be the responsibility of the Company (and not the Authority) to complete NYS 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 Authority. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, “I, [NAME OF COMPANY OR SUBAGENT], certify that I am a duly appointed agent of the TROY INDUSTRIAL DEVELOPMENT AUTHORITY and that I am purchasing the tangible personal property or services for use in the {COMPANY} Project located at [Project Address], IDA Project Number \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ A”. For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an “Invoice Rider” (a copy of which is attached hereto as **Exhibit B-3**) can be utilized for record keeping purposes.

(k) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (NYS Form ST-340, a copy of which is attached hereto as **Exhibit C**) regarding the value of sales and use tax exemptions the Company and its Subagents, if any, have claimed pursuant to the Authority conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Authority; provided, however, in no event later than February 15<sup>th</sup> of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Authority.

(l) The Company acknowledges and agrees that, except to the extent of bond proceeds (to the extent bonds are issued by the Authority with respect to the Project), the Authority 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.

(m) The Company covenants and agrees that at all times during the Material Terms and Conditions Monitoring Period, it will (i) maintain its existence and not dissolve, (ii) continue to be a [Entity Type] subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets. This Agreement may not be assigned in whole or part without the prior written consent of the Authority

(n) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Authority in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company agrees that it will, throughout the term of this Agent Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2(p). In such event, the Company, with the prior written consent of the Authority (which shall not be unreasonably conditioned, delayed or withheld) may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Authority shall notify the Company that it must comply with such requirement or requirements.

3. Hold Harmless Provision. The Company hereby releases the Authority from, agrees that the Authority shall not be liable for, and agrees to indemnify, defend and hold the Authority and its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors and assigns harmless from and against, any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agent Agreement or (ii) liability arising from or expense incurred by the Authority's financing, acquiring, constructing, rehabilitating, renovating, equipping, owning and leasing of the Equipment or of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Authority, or any of its respective executive director, directors, members, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Authority or any other person or entity to be indemnified.

4. Insurance Required. [INSERT APPLICABLE IDA INSURANCE REQUIREMENTS]

5. Additional Provisions Respecting Insurance. (a) Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for payment of the losses of the Company and the Authority as their respective interests may appear. The Company shall cause all contractors and agents of the Company undertaking the Project to carry and provide evidence of insurance as required within Section 4(a) and 4(b) of this Agreement, with the Authority named as an additional insured.

(b) All such certificates of insurance of the insurers indicating that such insurance is in force and effect, and all policies (if applicable), shall be deposited with the Authority on the date hereof. At least thirty (30) days prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Authority evidence that the policy has been renewed or replaced or is no longer required by this Agent Agreement.

6. This Agent 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.

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by a nationally-recognized overnight courier, addressed as follows:

To the Authority:

With a copy to:

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 mailed or personally delivered in the manner provided in this Section.

8. This Agent Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York 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 Rensselaer County, New York.

9. The warranties, representations, obligations and covenants of the Company under this Agent Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Agent Agreement, shall be deemed to have been relied upon by the

Authority, and shall survive the delivery and termination of this Agent Agreement to the Authority, regardless of any investigation made by the Authority. This Agent Agreement shall survive any termination or expiration of the Leaseback Agreement or the PILOT Agreement, as described below.

10. The parties are contemplating that unless the Authority and Company enter into a Lease Agreement (the "Lease Agreement"), and related Leaseback Agreement (the "Leaseback Agreement"), the Company agrees not to take title to any real property as agent for the Authority. The Authority will provide the Company with a bill of sale (a form of which is attached hereto as **Exhibit E**) which sells, transfers and delivers unto the Company and its successors and assigns, all Equipment which were acquired and installed and/or are to be acquired and installed by the Company as agent for the Authority pursuant to this Agent Agreement which Equipment is located or intended to be located within and used exclusively in furtherance of the operations of the Facility.

11. By executing this Agent Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Authority for (a) legal services, including but not limited to those provided by the Authority's general counsel or bond/transaction counsel, (b) other consultants retained by the Authority, if any, in connection with the Project; and (c) with respect to Authority's enforcement of any event of default or failure to comply with the terms of this Agent Agreement (including reasonable attorney fees). The Company further covenants and agrees that the Company is liable for payment to the Authority of all charges referred to above, as well as all other actual costs and expenses incurred by the Authority in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Authority or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

*(Remainder of page intentionally left blank)*

*[Signature Page to Agent and Financial Assistance and Project Agreement]*

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

**TROY INDUSTRIAL DEVELOPMENT  
AUTHORITY**

By: \_\_\_\_\_  
Name:  
Title:

**[COMPANY]**

By: \_\_\_\_\_  
Name:  
Title:

[Acknowledgment Page to Agent and Financial Assistance and Project Agreement]

State of New York )

County of \_\_\_\_\_ ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year 201\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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Notary Public

State of New York )

County of \_\_\_\_\_ ) ss.:

On the \_\_\_ day of \_\_\_\_\_ in the year 201\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

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Notary Public

**SCHEDULE A**

**LIST OF APPOINTED AGENTS<sup>1</sup>**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

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<sup>1</sup> FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

## **SCHEDULE B**

### MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

“This contract is being entered into by **[NAME OF COMPANY OR NAME OF SUBAGENT]** (the “Agent”), as agent for and on behalf of the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (the “Authority”), in connection with a certain project of the Authority for the benefit of **[COMPANY]**, 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 **[Project Address]** (the “Premises”). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Authority; and the Agent hereby represents that this contract is in compliance with the terms of the Agent and Financial Assistance Agreement by and between **[COMPANY]** and the Authority dated as of **[DATE OF AGENT AGREEMENT]**. This contract is non-recourse to the Authority, and the Authority 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.”

**EXHIBIT A**

**FORM OF NYS FORM ST-60 TO BE COMPLETED BY COMPANY AND FILED WITH  
THE NYS TAX DEPARTMENT IDA UNIT FOR EACH OF ITS SUBAGENTS WITHIN  
THIRTY (30) DAYS OF APPOINTMENT**

**[Attached Next Page]**

**EXHIBIT B-1**

**NYS FORM ST-123  
FOR  
COMPANY**

**[Attached Next Page]**

**EXHIBIT B-2**

**NYS FORM ST-123  
FOR  
SUBAGENTS OF COMPANY**

**[Attached Next Page]**

**EXHIBIT B-3**

**INVOICE RIDER FORM**

I, \_\_\_\_\_, the  
\_\_\_\_\_ of \_\_\_\_\_ certify  
that I am a duly appointed agent of the \_\_\_\_\_ Industrial Development Authority  
("Authority") and that I am purchasing the tangible personal property or services for use  
in the following Authority Project and that such purchases qualify as exempt from sales  
and use taxes under the Agent and Financial Assistance Agreement, dated as of [DATE  
OF AGENT AGREEMENT], by and between the Authority and [Company].

Name of the Project: [Company] Project

Street address of the Project Site: [Project Address]  
City of Troy  
Rensselaer County, New York

IDA OSC project number: \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_A

**EXHIBIT C**

**NYS FORM ST-340 TO BE COMPLETED BY THE COMPANY AND FILED  
ANNUALLY WITH THE NYS TAX DEPARTMENT IDA UNIT NO LATER THAN  
FEBRUARY 15<sup>TH</sup> OF EACH YEAR**

**[Attached Next Page]**

**EXHIBIT D**

**COST BENEFIT ANALYSIS AND PILOT AGREEMENT**

[attached]

**EXHIBIT E**

**BILL OF SALE**

**TROY INDUSTRIAL DEVELOPMENT AUTHORITY**, a public authority of the State of New York with offices at \_\_\_\_\_ (the “Grantor”), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from **[COMPANY]**, a **[Entity Type]** duly organized, validly existing and in good standing under the laws of the State of **[New York]** with offices at **[Company Address]** (the “Grantee”), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee and its successors and assigns, the Equipment [as defined in the Agent and Financial Assistance Agreement dated **[Insurance Approval Date]** (the “Agent Agreement”), as may be amended from time to time], which were acquired and installed and/or are to be acquired and installed by the Grantee as agent for the Grantor pursuant to the Agent Agreement, which Equipment is located or intended to be located at the Grantee’s Facility located at **[Project Address]**.

TO HAVE AND TO HOLD the same unto the Grantee and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE’S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT “AS IS,” WITHOUT RECOURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OF DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**TROY INDUSTRIAL  
DEVELOPMENT AUTHORITY**

Form Only - Do Not Sign

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT F**

FORM OF ANNUAL EMPLOYMENT AND  
FINANCIAL ASSISTANCE CERTIFICATION LETTER

Company name and address:

Project Name:

**Job Information**

Current number of full time equivalent employees (“FTE”) retained at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

<b>Category</b>	<b>FTE</b>	<b>Average Salary and Fringe Benefits or Ranges</b>
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____
Other	_____	_____

Current number of full time equivalent employees (“FTE”) created at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

<b>Category</b>	<b>FTE</b>	<b>Average Salary and Fringe Benefits or Ranges</b>
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____
Other	_____	_____

**A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full time jobs created, an internal payroll report verifying the total jobs by employment category as outlined above at the location is required with this submission.**

**Financing Information**

Has the Authority provided project financing assistance (generally through issuance of a bond or note) Yes      No

If financing assistance was provided, please provide:

- Original principal balance of bond or note issued \_\_\_\_\_
- Outstanding principal balance of such bond or note as of December 31 \_\_\_\_\_
- Outstanding principal balance of such bond or note as of December 31 \_\_\_\_\_

Final maturity date of the bond or note \_\_\_\_\_

**Sales Tax Abatement Information**

Did your Company or any appointed subagents receive Sales Tax Abatement for your Project During the prior year? Yes      No

If so, please provide the amount of sales tax savings received by the Company and all appointed subagents \_\_\_\_\_

**(Attach copies of all ST-340 sales tax reports that were submitted to New York State by the Company and all subagents for the reporting period. Please also attached all ST-60's filed for subagents for the reporting period)**

**Mortgage Recording Tax Information**

Did your company receive Mortgage Tax Abatement on your Project During the prior year? Yes      No

(note this would only be applicable to the year that a mortgage was placed upon the Project, so if the Authority did not close a mortgage with you during the reporting period, the answer should be no)

The amount of the mortgage recording tax that was exempted during the reporting period:

\_\_\_\_\_

**PILOT INFORMATION:**

County Real Property Tax without PILOT	\$ _____
City/Town Property Tax without PILOT	\$ _____
School Property Tax without PILOT	\$ _____
TOTAL PROPERTY TAXES WITHOUT PILOT	\$ _____

Total PILOT Payments made for reporting period: \$ \_\_\_\_\_

Whether paid separately or lump sum to Authority for distribution, please provide break down of allocation of PILOT Payment to individual taxing jurisdictions:

County PILOT \$ \_\_\_\_\_  
City/Town PILOT \$ \_\_\_\_\_  
Village PILOT \$ \_\_\_\_\_  
School PILOT \$ \_\_\_\_\_  
TOTAL PILOTS \$ \_\_\_\_\_

Net Exemptions \$ \_\_\_\_\_  
(subtract Total PILOTS from TOTAL property taxes without PILOT)

I certify that to the best of my knowledge and belief all of the information on this form is correct. I further certify that the salary and fringe benefit averages or ranges for the categories of jobs retained and the jobs created that was provided in the Application for Financial Assistance is still accurate and if not, I hereby attach a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: \_\_\_\_\_

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

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

(authorized company representative)

Date: \_\_\_\_\_

**INITIAL PROJECT RESOLUTION**  
*(Daigle Development, LLC Project)*

A regular meeting of the Troy Industrial Development Authority (the “Authority”) was convened on May 20, 2016 at 10:00 a.m., local time, at 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180.

The meeting was called to order by the Vice Chairman and, upon roll being called, the following members of the Authority were:

<u>MEMBER</u>	<u>PRESENT</u>	<u>ABSENT</u>
Kevin O’Bryan		
Hon. Dean Bodnar		
Hon. Robert Doherty		
Steve Bouchey		
Louis Anthony		
Paul Carroll		
Adam Hotaling		
Susan Farrell		
Tina Urzan		

The following persons were ALSO PRESENT:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of Daigle Development, LLC.

On motion duly made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the following resolution was placed before the members of the Troy Industrial Development Authority:

Member	Aye	Nay	Abstain	Absent
Kevin O’Bryan				
Hon. Dean Bodnar				
Hon. Robert Doherty				
Steve Bouchey				
Louis Anthony				
Paul Carroll				
Adam Hotaling				
Susan Farrell				
Tina Urzan				

RESOLUTION OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY (THE "AUTHORITY") (i) ACCEPTING THE APPLICATION OF HV HOUSING, LLC SUBMITTED ON BEHALF OF DAIGLE DEVELOPMENT, LLC (THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT (AS MORE FULLY DEFINED BELOW); (ii) AUTHORIZING THE SCHEDULING, NOTICE AND CONDUCT OF A PUBLIC HEARING WITH RESPECT TO THE PROJECT; AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AUTHORITY WITH RESPECT TO THE PROJECT

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York, as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (hereinafter called the "Authority") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **DAIGLE DEVELOPMENT, LLC**, for itself and/or on behalf of an entity to be formed ( collectively, the "Company"), has requested the Authority's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Authority of a leasehold interest in two parcels of real property located at 40-42 and 44 River Street, Troy, New York 12180 (the "Land", being more particularly identified as TMID Nos. 100.76-5-14 and 100.76-5-15) and the existing approximately 5,000 square foot building and parking improvements located thereon (the "Existing Improvements"), (ii) the planning, design, engineering, construction, renovation and refurbishment of the Existing Improvements by the Company to create a multi-tenanted commercial office building, along with related common area space, related exterior access and egress improvements, parking, curbage, site work and landscaping improvements (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in and around the Land, Existing Improvements and Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's development of the Project (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to the Act, the Authority desires to adopt a resolution describing the Project and the Financial Assistance (as hereinafter defined) that the Authority is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Authority will (i) accept the Application submitted by the Company; (ii) approve the scheduling, notice and conduct of a Public Hearing with respect to the Project; and (iii) approve the negotiation, but not the execution or delivery, of certain documents in furtherance of the Project, as more fully described below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. The Company has presented an application in a form acceptable to the Authority. Based upon the representations made by the Company to the Authority in the Company's application and in related correspondence, the Authority hereby finds and determines that:

(A) By virtue of the Act, the Authority has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Authority has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Authority will induce the Company to develop the Project, and otherwise furthering the purposes of the Authority as set forth in the Act; and

(D) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Authority hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

Section 2. The proposed Financial Assistance being contemplated by the Authority includes (i) a sales and use tax exemption for materials, supplies and rentals acquired or procured in furtherance of the Project by the Company as agent of the Authority; (ii) mortgage recording tax exemption(s) in connection with secured financings undertaken by the Company in furtherance of the Project; and (iii) an abatement or exemption from real property taxes levied against the Land and Facility pursuant to a PILOT Agreement to be negotiated.

Section 3. The Chairman, Vice Chairman, and/or Executive Director/Chief Executive Officer of the Authority are hereby authorized, on behalf of the Authority, to schedule, notice and conduct a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) a Lease Agreement, pursuant to which the Company leases the Project to the Authority (or, a Deed of conveyance to the Authority whereby the Authority will acquire fee title to the Land and Project), (B) a related Leaseback Agreement, pursuant to which the Authority leases its interest in the Project back to the Company, (C) a PILOT Agreement, pursuant to which the Company agrees to make certain payments in-lieu-of real property taxes, and (D) related documents thereto; *provided* (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Authority arising out of or related to the Project and indemnification of the Authority by the Company for actions taken by the Company

and/or claims arising out of or related to the Project and (ii) the terms of the PILOT Agreement are consistent with the Authority's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 4. The officers, employees and agents of the Authority are hereby authorized and directed for and in the name and on behalf of the Authority to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Authority with all of the terms, covenants and provisions of the documents executed for and on behalf of the Authority.

Section 5. These Resolutions shall take effect immediately.

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK                    )  
COUNTY OF RENSSELAER            )

I, \_\_\_\_\_, the undersigned, \_\_\_\_\_ of the Troy Industrial Development Authority (the "Authority"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Authority, including the Resolution contained therein, held on May 20, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Authority had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Authority present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_

(SEAL)

**PROJECT AUTHORIZING RESOLUTION**  
(*HV Housing, LLC Project*)

A regular meeting of the Troy Industrial Development Authority (the “Authority”) was convened on May 20, 2016, at 10:00 a.m., local time, at 433 River Street, Troy, New York 12180.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Authority were:

<u>MEMBER</u>	<u>PRESENT</u>	<u>ABSENT</u>
Kevin O’Bryan		
Hon. Dean Bodnar		
Hon. Robert Doherty		
Steve Bouchey		
Louis Anthony		
Paul Carroll		
Adam Hotaling		
Susan Farrell		
Tina Urzan		

The following persons were ALSO PRESENT:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a proposed project for the benefit of HV Housing, LLC, for itself or an entity to be formed.

On motion duly made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the following resolution was placed before the members of the Troy Industrial Development Authority:

Member	Aye	Nay	Abstain	Absent
Kevin O’Bryan				
Hon. Dean Bodnar				
Hon. Robert Doherty				
Steve Bouchey				
Louis Anthony				
Paul Carroll				
Adam Hotaling				
Susan Farrell				
Tina Urzan				

RESOLUTION OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY (THE "AUTHORITY") (i) AUTHORIZING THE UNDERTAKING OF A CERTAIN PROJECT (AS FURTHER DEFINED HEREIN) FOR THE BENEFIT OF HV HOUSING, LLC (THE "COMPANY") IN CONNECTION WITH A CERTAIN PROJECT; (ii) ADOPTING FINDINGS PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA") WITH RESPECT TO THE PROJECT; AND (iv) AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS AND AGREEMENTS RELATING TO THE PROJECT

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York, as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (hereinafter called the "Authority") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **HV HOUSING, LLC**, for itself and/or on behalf of an entity to be formed (collectively, the "Company"), has requested the Authority's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Authority of a leasehold interest in approximately 13 acres of real property located at 45 Vandenburg Avenue at the corner of Morrison Avenue and Vandenburg Avenue, Troy, New York 12180 (the "Land", being more particularly identified as a portion of TMID No. 112.69-1-10) and the existing site and infrastructure improvements located thereon being comprised of five (5) buildings containing approximately 91,793 square feet of space along with existing site improvements (the "Existing Improvements"), (ii) the demolition of portions of the Existing Improvements and the planning, design, engineering, construction, operation and maintenance upon the Land and around the Existing Improvements of a four (4) story residential facility including seventy-two (72) units of rental residential housing containing 268 beds along with related common area space, related exterior access and egress improvements, parking, curbage, site work and landscaping improvements (collectively, the "Improvements"), and (iii) the acquisition and installation by the Company in and around the Existing Improvements and Improvements of certain items of equipment and other tangible personal property necessary and incidental in connection with the Company's development of the Project in and around the Land, Existing Improvements and Improvements (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, by resolution adopted April 22, 2016 (the "Initial Project Resolution"), the Authority (i) accepted the Application submitted by the Company, (ii) authorized the scheduling, notice and conduct of a public hearing with respect to the Project (the "Public Hearing"), and (iii) described the forms of financial assistance being contemplated by the Authority with respect to the Project (the "Financial Assistance", as more fully described herein); and

WHEREAS, pursuant to the Initial Project Resolution, the Authority duly scheduled, noticed and conducted the Public Hearing at 10:00 a.m. on May 13, 2016 whereat all interested persons were afforded a reasonable opportunity to present their views, either orally or in writing on the location and nature of the Facility and the proposed Financial Assistance to be afforded the Company in connection with the Project (a copy of the Minutes of the Public Hearing, proof of publication and delivery of Notice of Public Hearing being attached hereto as **Exhibit A**); and

WHEREAS, pursuant to application by the Company, Hudson Valley Community College (“HVCC”), as lead agency pursuant to the State Environmental Quality Review Act and regulations adopted pursuant thereto (collectively, “SEQRA”), previously reviewed the Project and adopted a negative declaration (the “Negative Declaration”) with respect to the Project, a copy of which is attached hereto as **Exhibit B**; and

WHEREAS, the Authority and Company have negotiated the terms of an Agent and Financial Assistance and Project Agreement (the “Agent Agreement”), a Lease Agreement (the “Lease Agreement”), related Leaseback Agreement (the “Leaseback Agreement”) and related Payment-in-lieu-of-Tax Agreement (the “PILOT Agreement”), and, subject to the conditions set forth within this resolution, it is contemplated that the Authority will (i) acquire a leasehold interest in the Land and Existing Improvements pursuant to the Lease Agreement, (ii) appoint the Company agent of the Authority to undertake the Project and lease the Land, Existing Improvements, Improvements and Equipment constituting the Facility to the Company for the term of the Leaseback Agreement and PILOT Agreement, and (ii) provide certain forms of Financial Assistance to the Company, including (a) mortgage recording tax exemption(s) relating to one or more financings secured in furtherance of the Project; (b) a sales and use tax exemption for purchases and rentals related to the construction and equipping of the Project; and (c) a partial real property tax abatement structured through the PILOT Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. The Company has presented an application in a form acceptable to the Authority. Based upon the representations made by the Company to the Authority in the Company's application and in related correspondence, the Authority hereby finds and determines that:

(A) By virtue of the Act, the Authority has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Authority has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Authority will induce the Company to develop the Project, thereby increasing employment opportunities in the City of Troy, New York, and otherwise furthering the purposes of the Authority as set forth in the Act; and

(D) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the “State”) to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Authority hereby finds that, based on the Company’s application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(E) The Authority has reviewed the Negative Declaration adopted by HVCC and determined the Project involves a Type I as said term is defined under SEQRA. The review is uncoordinated. Based upon the review by the Authority of the Negative Declaration, related Environmental Assessment Form (the “EAF”) and related documents delivered by the Company to the Authority and other representations made by the Company to the Authority in connection with the Project, the Authority hereby ratifies the SEQRA determination made by HVCC and the Authority further finds that (i) the Project will result in no major impacts and, therefore, is one which may not cause significant damage to the environment; (ii) the Project will not have a “significant effect on the environment” as such quoted terms are defined in SEQRA; and (iii) no “environmental impact statement” as such quoted term is defined in SEQRA, need be prepared for this action. This determination constitutes a negative declaration in connection with the Authority’s sponsorship and involvement with the Project for purposes of SEQRA.

Section 2. The Authority hereby accepts the Minutes of the Public Hearing and approves the provision of the proposed Financial Assistance to the Company, including (i) a sales and use tax exemption for materials, supplies and rentals acquired or procured in furtherance of the Project by the Company as agent of the Authority; (ii) mortgage recording tax exemption(s) in connection with secured financings undertaken by the Company in furtherance of the Project; and (iii) an abatement or exemption from real property taxes levied against the Land and Facility pursuant to a PILOT Agreement.

Section 3. Subject to the Company executing the Leaseback Agreement and/or a related Agent Agreement, along with the delivery to the Authority of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Authority, the Authority hereby authorizes the undertaking of the Project, including the acquisition of a leasehold interest in the Land and Existing Improvements pursuant to the Lease Agreement and related recording documents, the form and substance of which shall be approved as to form and content by counsel to the Authority. Subject to the within conditions, the Authority further authorizes the execution and delivery of the Leaseback Agreement, wherein the Company is authorized to undertake the construction and equipping of the Improvements and hereby appoints the Company as the true and lawful agent of the Authority: (i) to acquire, construct and equip the Improvements and acquire and install the Equipment; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Authority with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in

general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Authority could do if acting in its own behalf.

Based upon the representation and warranties made by the Company the Application, the Authority hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project and that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$400,000.00**, which result in New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) not to exceed **\$5,000,000.00**. The Authority agrees to consider any requests by the Company for increase to the amount of sales and use tax exemption benefits authorized by the Authority upon being provided with appropriate documentation detailing the additional purchases of property or services, and, to the extent required, the Authority authorizes and conducts any supplemental public hearing(s).

Pursuant to Section 1963-b of the Act, the Authority may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any sales and use tax exemption benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Authority as part of the Project; (iv) the Company has made a material false statement on its application for financial assistance; (v) the sales and use tax exemption benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project fails to comply with a material term or condition to use property or services in the manner approved by the Authority in connection with the Project; and/or (vi) the Company obtains mortgage recording tax benefits and/or real property tax abatements and fails to comply with a material term or condition to use property or services in the manner approved by the Authority in connection with the Project (collectively, items (i) through (vi) hereby defined as a “Recapture Event”).

As a condition precedent of receiving sales and use tax exemption benefits, mortgage recording tax exemption benefits, and real property tax abatement benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, must (i) if a Recapture Event determination is made by the Authority, cooperate with the Authority in its efforts to recover or recapture any sales and use tax exemption benefits, mortgage recording tax benefits and/or real property tax abatements abatement benefits, and (ii) promptly pay over any such amounts to the Authority that the Authority demands, if and as so required to be paid over as determined by the Authority.

Section 4. The Chairman, Vice Chairman, and/or Executive Director/Chief Executive Officer of the Authority are hereby authorized, on behalf of the Authority, to execute, deliver (A) the Agent Agreement, wherein the Authority will appoint the Company as agent to undertake the

Project, (B) the Lease Agreement, pursuant to which the Company will lease its interest in the Land, Existing Improvements, Improvements and Equipment constituting the Facility to the Authority, (C) the Leaseback Agreement, pursuant to which the Authority will lease its interest in the Land, Existing Improvements, Improvements and Equipment constituting the Facility back to the Company, (D) the PILOT Agreement pursuant to which the Company shall be required to make certain PILOT Payments to the Authority for the benefit of the Affected Taxing Jurisdictions (along with a related PILOT Mortgage Agreement, or in the discretion of the Executive Director, a sufficient guaranty of performance under the Leaseback Agreement and PILOT Agreement), and (E) related documents, including, but not limited to, Sales Tax Exemption Letter(s), Bills(s) of Sale and related instruments; provided the rental payments under the Leaseback Agreement include payments of all costs incurred by the Authority arising out of or related to the Project and indemnification of the Authority by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 5. The Chairman, Vice Chairman and/or the Executive Director/Chief Executive Officer of the Authority are hereby further authorized, on behalf of the Authority, and to the extent necessary, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the “Lender”) up to a maximum principal amount necessary to undertake the Project and/or finance/refinance acquisition and Project costs, equipment and other personal property and related transactional costs, and, where appropriate, the Secretary or Assistant Secretary of the Authority is hereby authorized to affix the seal of the Authority to the Authority Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or the Executive Director/Chief Executive Officer of the Authority shall approve, the execution thereof by the Chairman, Vice Chairman or the Executive Director/Chief Executive Officer of the Authority to constitute conclusive evidence of such approval; provided, in all events, recourse against the Authority is limited to the Authority’s interest in the Project.

Section 6. The officers, employees and agents of the Authority are hereby authorized and directed for and in the name and on behalf of the Authority to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Authority with all of the terms, covenants and provisions of the documents executed for and on behalf of the Authority.

Section 7. These Resolutions shall take effect immediately.

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK                    )  
COUNTY OF RENSSELAER            )

I, \_\_\_\_\_, the undersigned, \_\_\_\_\_ of the Troy Industrial Development Authority (the "Authority"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Authority, including the Resolution contained therein, held on May 20, 2016, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Authority had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Authority present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_

(SEAL)

EXHIBIT A  
PUBLIC HEARING MATERIALS

EXHIBIT B  
SEQRA MATERIALS

**AUTHORIZING RESOLUTION**

*(Troy Living LLC Project –  
Assignment to Irving Ave 158 LLC)*

A regular meeting of the Troy Industrial Development Authority (the “Authority”) was convened on May 20, 2016, at 10:00 a.m., local time, at 433 River Street, 5<sup>th</sup> Floor, Troy, New York 12180.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Authority were:

<u>MEMBER</u>	<u>PRESENT</u>	<u>ABSENT</u>
Kevin O’Bryan		
Hon. Dean Bodnar		
Hon. Robert Doherty		
Steve Bouchey		
Louis Anthony		
Paul Carroll		
Adam Hotaling		
Susan Farrell		
Tina Urzan		

The following persons were ALSO PRESENT:

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a project previously undertaken for the benefit of Troy Living, LLC.

On motion duly made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the following resolution was placed before the members of the Troy Industrial Development Authority:

Member	Aye	Nay	Abstain	Absent
Kevin O’Bryan				
Hon. Dean Bodnar				
Hon. Robert Doherty				
Steve Bouchey				
Louis Anthony				
Paul Carroll				
Adam Hotaling				
Susan Farrell				
Tina Urzan				

RESOLUTION OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY (THE "AUTHORITY") (i) AUTHORIZING THE ASSIGNMENT OF CERTAIN DOCUMENTS IN CONNECTION WITH A CERTAIN PROJECT (AS FURTHER DEFINED HEREIN) PREVIOUSLY UNDERTAKEN FOR THE BENEFIT OF TROY LIVING, LLC (THE "COMPANY") TO IRVING AVENUE 158 LLC (THE "ASSIGNEE"); AND (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS AND AGREEMENTS RELATING THERETO

WHEREAS, by Title 11 of Article 8 of the Public Authorities Law of the State of New York, as amended, and Chapter 759 of the Laws of 1967 of the State of New York, as amended (hereinafter collectively called the "Act"), the **TROY INDUSTRIAL DEVELOPMENT AUTHORITY** (hereinafter called the "Authority") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, the Authority previously appointed **TROY LIVING, LLC** (the "Company") as agent to undertake a certain project (the "Project") consisting of (A) the acquisition by the Authority of a leasehold or other interest certain real property located at 63-65 Third Street, City Troy, New York (the "Land") and the existing improvements located thereon, including the approximately 44,000 square foot building located on the Land (the "Existing Facility"); (B) the renovation of the Existing Facility, (C) the construction of an underground attached parking facility (the "Parking Facility") and together with the Existing Facility, the "Facility"), (D) the acquisition of and installation in the Facility of certain equipment (the "Equipment" and, together with the Land and Facility, the "Project Facility") collectively with the Land, the Existing Improvements and the Improvements, the "Facility"), and (E) the lease of the Authority's interest in the Facility back to the Company; and

WHEREAS, by resolution adopted June 27, 2007, the Authority authorized the undertaking of the Project and pursuant to which the Authority and the Company entered into a certain Company Lease Agreement, Lease Agreement, and PILOT Agreement and related documents, each dated as of June 1, 2017 (collectively, the "Authority Documents"); and

WHEREAS, pursuant to the Lease Agreement, and in connection with the sale of the Project Facility, the Company has requested the Authority's approval of the proposed assignment of the Authority Documents (the "Assignment") to Irving Ave 158 LLC (the "Assignee"); and

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TROY INDUSTRIAL DEVELOPMENT AUTHORITY AS FOLLOWS:

Section 1. Subject to (i) the Company and Assignee executing an Assignment and Assumption Agreement (the "Assignment Agreement"), (ii) the delivery to the Authority of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Authority, and (iii) compliance with the Lease Agreement, the Authority hereby authorizes the

Assignment of the Authority Documents to the Assignee. The Authority hereby finds that the Assignment constitutes a Type II Action, as defined within the State Environmental Quality Review Act (“SEQRA”) and regulations adopted pursuant thereto at 6 NYCRR Part 617.5(c)(26) whereby the Assignment constitutes a transfer of leasehold rights with no material change in permitted conditions or activities.

Section 2. The Chairman, Vice Chairman, and/or Executive Director/Chief Executive Officer of the Authority are hereby authorized, on behalf of the Authority, to execute, deliver the Assignment Agreement and related documents; provided the rental payments under the Leaseback Agreement, as assigned, and the Assignment Agreement include payments of all costs incurred by the Authority arising out of or related to the Project and prospective indemnification of the Authority by the Assignee for actions taken by the Assignee and/or claims arising out of or related to the Project.

Section 3. The Chairman, Vice Chairman and/or the Executive Director/Chief Executive Officer of the Authority are hereby further authorized, on behalf of the Authority, and to the extent necessary, to execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Assignee (the “Lender”) up to a maximum principal amount necessary to undertake the Project and/or finance/refinance acquisition and Project costs, equipment and other personal property and related transactional costs, and, where appropriate, the Secretary or Assistant Secretary of the Authority is hereby authorized to affix the seal of the Authority to the Authority Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman and/or the Executive Director/Chief Executive Officer of the Authority shall approve, the execution thereof by the Chairman, Vice Chairman or the Executive Director/Chief Executive Officer of the Authority to constitute conclusive evidence of such approval; provided, in all events, recourse against the Authority is limited to the Authority’s interest in the Project.

Section 4. The officers, employees and agents of the Authority are hereby authorized and directed for and in the name and on behalf of the Authority to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Authority with all of the terms, covenants and provisions of the documents executed for and on behalf of the Authority.

Section 5. These Resolutions shall take effect immediately.

**SECRETARY'S CERTIFICATION**

STATE OF NEW YORK            )  
COUNTY OF RENSSELAER    )

I, \_\_\_\_\_, the undersigned, \_\_\_\_\_ of the Troy Industrial Development Authority (the "Authority"), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Authority, including the Resolution contained therein, held on May 20, 2016 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Authority had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Authority present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_

(SEAL)