

**CITY OF PEEKSKILL  
INDUSTRIAL DEVELOPMENT AGENCY**

**Application for Financial Assistance**

The City of Peekskill Industrial Development Agency (the "Agency") is a public benefit corporation of the State of New York (the "State") operating pursuant to the provisions of Article 18-A of the State General Municipal Law. The Agency is authorized to provide qualified projects several forms of financial assistance under State law and pursuant to the Agency's "uniform tax exemption policy", including tax-exempt bond financing (project must also satisfy certain requirements under the Internal Revenue Code), taxable bond financing, mortgage recording tax exemption, sales tax exemption and a partial abatement from real property taxes (collectively, the "Financial Assistance"). In order to be considered for all or any portion of the Financial Assistance, each applicant must complete this Application in duplicate, sign and date the Application, and return the completed Application to the Agency together with the applicable application fee and deposit payable to the City of Peekskill Industrial Development Agency. The Agency's administrative fee and application fee for projects undertaken with its assistance shall be as follows:

**Application Fee and Deposit:** The Agency will collect a non-refundable application fee plus a deposit toward administrative fee and legal costs. The Agency's Application Fee Schedule is as follows:

**Tax Exempt and Taxable Bond Transactions:** The Agency will collect a \$1,000 non-refundable application fee, plus a \$2,000 deposit toward Agency administrative fee and legal costs.

**Lease-Leaseback with PILOT and Sales Tax and Mortgage Recording Exemption Transactions (No PILOT):** The Agency will collect a \$500 non-refundable application fee, plus a \$2,000 deposit toward Agency administrative fee and legal costs.

**Agency Administrative Fee:** The Agency will collect an Administrative Fee at closing for all transactions, plus all accrued Agency attorney fees. On a case-by-case basis, the Agency may require and escrow for fees and/or periodic reimbursement if project development period between application and closing exceeds Six (6) months. The Agency's Administrative Fee Schedule is as follows:

**Tax Exempt and Taxable Bond Transactions:** 1% of principal amount of Agency bonds issued.

**Lease-Leaseback Transactions with PILOT:** ½% of Total Project Cost, with \$5,000 minimum.

**Sales Tax and Mortgage Recording Exemption Transactions (No PILOT)** \$4,500 minimum or 10% of estimated Financial Assistance, whichever is greater

Please answer all the questions in Parts A through D either by filling in the blanks, completing the answer in the space provided in the Application, or by attachment. Please refer to section IV of Part D of the Application for a statement of costs and fees applicable to providing Financial Assistance. *All information submitted in the Application will be kept confidential.*

*No Application will be considered until a fully completed and executed Application, in duplicate, is received by the Agency, together with applicable processing fees. The Agency will not accept this application as complete until the Agency receives (i) a completed environmental assessment form concerning the Project; (ii) the Applicant has met with Agency representatives and has received the Agency'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.*

Questions about the Application should be directed to the Agency at (914) 734-4214 or by email to [klockwood@cityofpeekskill.com](mailto:klockwood@cityofpeekskill.com)

**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.**

**PART A**

**Applicant and Project Information**

1. Applicant name, address, telephone, fax, email and contact person:

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

2. Applicant business form:

- Sole Proprietorship       Corporation  
 Partnership               Not-for profit corporation  
 Limited Partnership       Other

- a. If a corporation, what is the state of incorporation? \_\_\_\_\_. If not a New York Corporation, is applicant authorized to conduct business under the laws of the State of New York?
- b. If a not-for-profit corporation, is the corporation qualified under Internal Revenue Code Section 501(c)(3) with the Internal Revenue Service?
- c. If the applicant is a corporation, indicate the names and addresses of the principal shareholders, or members in the case of a not-for-profit corporation:

3. Applicant Officers                      Name & Address                      Other Business Affiliations

<u>Applicant Officers</u>	<u>Name &amp; Address</u>	<u>Other Business Affiliations</u>

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

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

5. Please list locations of all current operations, including the municipality in which they are located.

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6. Please list applicant financial references (at least three (3) institutions), indicating name of institution, address, telephone, fax, email and contact person:

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7. Please list applicant financial references (at least three (3) institutions), including name of institution, address, telephone, fax, email and contact person:

Institution:	Phone:
Address:	Fax:
Contact:	Title:

Institution:	Phone:
Address:	Fax:
Contact	Title:

Institution:	Phone:
Address:	Fax:
Contact	Title:

8. Please list professional references of the applicant:

Name:	Phone:
Address:	Fax:
	Contact:

Name:	Phone:
Address:	Fax:
	Contact:

9. Please provide the name, address, telephone, fax, email and contact person of and at the law firm or attorney representing the applicant:

Name:
Address:
Telephone:
Fax:
Email:

10. Please provide the name, address, telephone, fax, email and contact person of the CPA firm or financial advisor of the applicant if any:

Name:
Address:
Telephone:
Fax:
Email:

11. Please answer the following questions:

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

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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12. Indicate what type of financial assistance the applicant is seeking from the Agency:

- \_\_\_\_\_ tax-exempt revenue bond financing
- \_\_\_\_\_ "straight lease" transaction
- \_\_\_\_\_ PILOT agreement
- \_\_\_\_\_ sales tax exemption
- \_\_\_\_\_ mortgage recording tax exemption
- \_\_\_\_\_ other (please specify)

Please note that for any proposed project for which tax-exempt financing is requested, the applicant will be required to complete a detailed "tax questionnaire" to be provided by the Agency's Bond Counsel to determine eligibility under the Internal Revenue Code for tax-exempt financing.

### Project Data

1. Provide a detailed description of the proposed project, indicating (i) location (attach current tax bills with proof of current payment), (ii) dimensions of the proposed building or facility, (iii) type of construction of the building or facility, and (iv) intended use of the building or facility:
  - a. Please attach a photograph of the site or existing facility to be improved.
  - b. Please attach a copy of the preliminary plans of the proposed project.
  - c. Is the proposed project a **manufacturing** facility? If so, briefly describe the proposed manufacturing process.
  - d. Is the proposed project a **commercial** facility? If so, briefly describe the proposed retail sales operation contemplated.
  - e. Is the proposed project a **dormitory, healthcare, senior housing, other housing, or continuing care retirement community** facility or other purpose which a non-for-profit corporation may engage in, such as an **educational** facility? If so, is (or will be) the project owner a qualified 501(c)(3) not-for-profit corporation?
  - f. Is the proposed project a **pollution control** facility? If so, indicate the type of pollution to be abated, and existing orders of environmental agencies to abate pollution.
  
2. Utilities on site:

Water	Municipal: _____
	Describe other: _____
Sewer:	Municipal: _____
	Describe other: _____
Electric:	Utility: _____
Gas:	Utility: _____
  
3. Indicate the current legal owners and all tenants of the building or site or the proposed project:

4. Indicate any existing or proposed leases and sub-leases for the proposed project and provide a copy of any such lease or sub-lease:
5. Indicate any purchase option agreement relating to the proposed project and provide a copy of the purchase option agreement:
6. Indicate any litigation or controversy regarding (i) title to the site or building to be acquired, constructed or improved, (ii) conditions on or under the site including environmental or hazardous waste conditions, (iii) the financial condition of the applicant or any entity controlling the applicant or any entity which the applicant controls, and (iv) the general operations of the applicant.
7. If the applicant is or is controlled by a corporation or by a person or entity which is a majority shareholder in a corporation listed on a national stock exchange, please provide a copy of the annual report (including certified financial statements) of such corporation for its two (2) most recent fiscal years.
8. Will the proposed 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:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
9. Will the proposed 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:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If the answer to either question 8. or 9. is yes, **you are required to** indicate whether any of the following apply to the proposed project:

- A. Is the proposed 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:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



B. 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 Agency will be barred from providing any financial assistance.**

**THE AGENCY 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 AGENCY’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 Agency that the undertaking of the proposed project and provision of financial assistance to the Company by the Agency will not violate GML Section 862(1).**

10. Does the proposed 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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If the answer to 10. is yes, what percentage of the cost of the proposed 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 proposed project? \_\_\_\_\_%

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

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

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

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

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D. Is the predominant purpose of the proposed project to make available goods or services which would not, but for the proposed project, be reasonably accessible to the residents of the City, Town or Village within which the proposed 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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E. Will the proposed 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 (iii) 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 (iv) 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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12. State whether there is a likelihood that the proposed project would not be undertaken but for the financial assistance provided by the Agency, or if the project could be undertaken without financial assistance provided by the Agency, please indicate why the proposed project should be undertaken by the Agency.

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

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**Employment Information**

1. Please provide the following information regarding the projected employment roll of the applicant at the proposed project before and after the Agency has provided financial assistance:

	<b>Current</b>	<b>First Year</b>	<b>Second Year</b>
Full Time:			
Part-Time:			
Seasonal:			
Construction:			

Indicate any changes in the quality of the workforce at the proposed project which is expected as a result of the Agency providing financial assistance:

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2. Please indicate the annual payroll at the proposed project before and after the application of the Agency's financial assistance.

Annual Payroll (before Agency assistance): \$ \_\_\_\_\_

First year after project completion \$ \_\_\_\_\_

Second year after project completion \$ \_\_\_\_\_

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

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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1. The projected timeframe for the creation of new jobs.

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2. 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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3. 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 Agency (Mid-Hudson Economic Development Region)

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**Project Costs**

1. Please provide an estimate of cost of the following items of the proposed project:

Land	\$ _____
Improvements to Land (other than site work)	\$ _____
Site Work	\$ _____
Building Construction	\$ _____
Machinery and Building Fixtures	\$ _____
Equipment	\$ _____
Legal Fees (excluding financing costs)	\$ _____
Architect and Engineering Fees	\$ _____
Financing Costs (including transaction legal counsel)	\$ _____
Working Capital	\$ _____
Other (please specify)	\$ _____
Total	\$ _____

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.

2. With respect to the total costs of the proposed project:

a. Indicate the amount to be financed: \$ \_\_\_\_\_

b. Indicate the term of the financing: \_\_\_\_\_

c. Indicate the name, address, telephone, fax, email and contact person of the financial institution where the applicant is seeking financing:

Name:
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Address:
Telephone:
Fax:
Email:

- d. Has the applicant received a written commitment from the financial institution to finance the proposed project?
  - e. Indicate whether the applicant would like the Agency's assistance in obtaining a financial institution to assist in the financing of the proposed project? *(If so, an additional \$500 processing fees is payable to the Agency.)*
  - f. Indicate what amount of the cost of the proposed project is expected to be paid from funds generated by the applicant without borrowing:
  - g. Indicate any contribution of funds from an equity offering or venture capital funding for the proposed project:
3. For a **manufacturing** facility only, please indicate the dollar value of "capital expenditures" (as determined in accordance with the provisions of the Internal Revenue Code) that the applicant or entity related to or controlled by the applicant, has expended and will expend within the City of Peekskill during the past three (3) calendar years and the following three (3) calendar years following project completion.
4. 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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**Project Construction Schedule**

- 1. Indicate the proposed date for commencement of construction or acquisition of the proposed project, assuming financing of the proposed project is available to meet the applicant's schedule (please include the date upon which equipment/materials subject to sales tax will be first purchased):

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2. Indicate a schedule for the application of proceeds of financing and other moneys to acquire, construct, and equip the proposed project to completion:

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3. Indicate the date on which the completed project is expected to be first placed in service:

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**PART B**

**City of Peekskill IDA Financial Assistance Requested and Applicant Estimates**

**Estimated Cost of Industrial Development Agency Financial Assistance**

1. Sales and Use Tax Exemption
  - A. Amount of Project Cost Subject to Sales and Use Tax: \$
  - Sales and Use Tax Rate: \_\_\_\_\_%
  - B. Estimated Exemption (A X .0735): \$
  
2. Mortgage Recording Tax Exemption
  - A. Projected Amount of Mortgage: \$
  - Mortgage Recording Tax Rate: \_\_\_\_\_%
  - B. Estimated Exemption (A X .0130): \$
  
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 PCIDA 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 Agency Financial Assistance**

1. Jobs to be retained in Peekskill
2. Current Company payroll in Peekskill \$
3. Project Jobs to be Created over 3 years



**PART C**

**Environmental Compliance Review**

Please provide the following information regarding environmental review of the proposed project.

1. Has the applicant retained an environmental engineer to assist with the environmental review compliance procedures relating to the proposed project?

If so, please provide the name, address, telephone, fax, email and contact person of the firm:

Name:
Address:
Telephone:
Fax:
Email:

If not, would the applicant like the Agency's assistance in obtaining the services of an environmental engineer? *(If so, an additional \$500 processing fee is payable to the Agency.)*

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2. If an environmental assessment form or a draft environmental impact statement has been prepared by the applicant, please attach a copy of the completed form to the Application.
  3. To the knowledge of the applicant, has there ever been any toxic or hazardous waste materials located or stored on the site of the proposed project site, or has any activity ever been conducted on the site of the proposed project which could be expected to generate toxic or hazardous waste material?
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**PART D**

**REPRESENTATIONS BY THE APPLICANT**

The applicant understands and agrees with the Agency as follows:

- I. Job Listings In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must 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 Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the proposed project is located.
  
- II. First Consideration for Employment. In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
  
- III. Annual Sales Tax Fillings. In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant.
  
- IV. Annual Employment Reports. The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
  
- V. Absence of Conflicts of Interest. The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

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## **PART E**

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

Applicant hereby releases the CITY OF PEEKSKILL INDUSTRIAL DEVELOPMENT AGENCY and the members, officers, servants, agents and employees thereof (the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency'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 Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency 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 Agency 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 Agency, its agents or assigns, all costs incurred by the Agency 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 Agency, 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 Agency to any member of the public pursuant to a properly submitted request under FOIL and the Agency 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 Agency 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 Agency 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 Agency shall make an independent determination of the extent to which any information contained herein may be considered as such)

In the event that the Agency 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 Agency 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 Agency to protect the trade secrets from disclosure shall be reimbursed by the Company to the Agency.

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

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

- (a) All application and deposit amounts required herein, to be paid upon submission of the Application;
- (b) An Administrative Fee amounts to be paid at transaction closing;
- (c) An amount to be determined by Agency Staff payable to the Agency'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 Agency for (1) legal services, including but not limited to those provided by the Agency’s general counsel or bond/transaction counsel, and (2) other consultants retained by the Agency in connection with the

proposed project; with all such charges to be paid by the applicant at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore please note that the applicant is entitled to receive a written estimate of fees and costs of the Agency's bond/transaction counsel;

- (e) The cost incurred by the Agency and paid by the applicant, including bond/transaction counsel and the Agency'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 Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency 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 Agency 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 Agency'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 Agency 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.

### **Certification**

(to be executed by the principal of the applicant and acknowledged by a notary public)

- I. \_\_\_\_\_ deposes and says that he/she is the \_\_\_\_\_ (name of chief executive officer or other authorized representative of applicant) \_\_\_\_\_ (title) of \_\_\_\_\_ (name of corporation or other entity) named in the attached Application; that he/she has read the foregoing Application and knows the contents thereof, that the same is true to his/her knowledge.
  
- II. The grounds for deponent's belief relative to all matters in the Application which are not stated upon his/her own personal knowledge, are investigations which deponent has caused to be made concerning to subject matter of the Application, as well as information

acquired by deponent in the course of his/her duties as an officer of and from the books and papers of said corporation or other entity.

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

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

V. The Applicant, on behalf of itself and all owners, occupants and/or operators receiving or that will receive financial assistance from the Agency (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.

VI. The Applicant, 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 Agency 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 Agency's involvement in the project, including all costs of the agency relating to same.

VIII. The Applicant has reviewed and accepts the terms of the Agency's Project Recapture and Termination Policy.

The applicant and the individual executing this Application on behalf of applicant acknowledge that the Agency 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 Agency (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 Agency 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 Agency's involvement in the project, including all costs of the agency relating to same. The Company has reviewed and accepts the terms of the Agency'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

**PART F**

As a condition to issuing industrial revenue bonds for the proposed project, the City of Peekskill Industrial Development Agency (the "Agency") is required by the Office of the New York State Comptroller ("OSC") to obtain the following supplementary information on an annual basis from the applicant during the term any such bonds are outstanding:

1. Outstanding balance at beginning and end of the year and principal payments made during the year.
2. Current interest rate (for adjustable rate bonds, the interest rate at year end).
3. Current year real estate tax exemptions for county, local (city, town, village, fire district) and school district taxes.
4. PILOT (payment in lieu of taxes) payments made each year to county, local and school district taxing authorities.

In addition to the above, in reporting to OSC during the first year such bonds are outstanding the Agency will need the following from the applicant:

1. An amortization schedule showing the planned principal reduction each year for the life of the bond issue (if applicable).
2. The amount exempted for:
  - (a) sales tax, and
  - (b) mortgage recording tax

This information is required by January 31 of each succeeding year and should be submitted in writing to the Agency at its office at 840 Main Street, Peekskill, New York 10566.

The applicant, through its signing officer, certifies that it has reviewed, understands and will comply with the above, as required by OCS.

\_\_\_\_\_  
(Company)

By: \_\_\_\_\_  
(Name and Title)

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



# Project Summary and Financial Assistance Cost Benefit Analysis

(This page to be completed by PIDA Staff)

Company Name: \_\_\_\_\_  
 Project Description: \_\_\_\_\_  
 Project Location: \_\_\_\_\_  
 City: \_\_\_\_\_  
 School District: \_\_\_\_\_

## Estimated Cost of Industrial Development Agency Financial Assistance

1. Sales and Use Tax Exemption
  - A. Amount of Project Cost Subject to Sales and Use Tax: \$
  - Sales and Use Tax Rate: \_\_\_\_\_%
  - B. Estimated Exemption (A X .0735): \$
  
2. Mortgage Recording Tax Exemption
  - A. Projected Amount of Mortgage: \$
  - Mortgage Recording Tax Rate: \_\_\_\_\_%
  - B. Estimated Exemption (A X .0130): \$
  
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 PCIDA 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 Agency Financial Assistance

1. Jobs to be retained in Peekskill
2. Current Company payroll in Peekskill \$
3. Project Jobs to be Created over 3 years
4. Total Project Investment \$

- 5. Non IDA financing leveraged \$
- 6. Other project benefits:

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Agency Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

**Exhibit A**

**Environmental Assessment Form**