

## INSTRUCTIONS AND INFORMATION (Rev. 12/21/2023)

1. Please note that Public Officers Law Article 6 states that all records in the possession of the Herkimer County Industrial Development Agency (Agency) are open to public inspection and copying. If you feel that certain sections of the Project Application should be withheld from public inspection, please notate accordingly to request such sections be kept confidential.
2. New laws have been established in regards to record keeping, reporting, and recapture requirements for IDA's that authorize sales tax exemptions to a Project Operator or Agent. The Agency must now keep a record of the amount of sales tax benefits provided to each Project and make those records available to the State upon request. Also, within 30 days of providing financial assistance to a Project, the Agency must report to the State the amount of sales tax benefits intended to be provided to a Project. It is now a requirement of the State that the Agency post on the internet and make available without charge copies of its resolutions and project agreements and documents.
3. If you are requesting a sales tax exemption from the Agency as part of your application for assistance, you must include a realistic estimate of the value of the savings anticipated. **IT IS IMPERATIVE THAT THE SALES TAX ESTIMATES IN THE APPLICATION BE AS REALISTIC AS POSSIBLE.** This is the number that will be provided to the state.
4. The state requires that the Agency recapture any state sales tax benefits given if: a. the project was not entitled to receive benefits; b. the exemptions exceed the amount authorized or were claimed for unauthorized property or services; c. the Project Operator failed to use the property or services in a manner indicated by its agreement with the Agency.
5. It is important that the Application is completed in its entirety leaving no blanks. If the question is not applicable, please note n/a.
6. If more space is needed for a particular answer, please attached a separate sheet.
7. The Agency non-refundable general application fee is \$1000. The Market Rate Housing Benefit fee due with the application is \$2,000 which includes a non-refundable application fee of \$1000 and a commitment fee of \$1,000 that will be applied at closing; if the project does not close, the \$1,000 is not refundable.
8. Agency fees are assessed at 1% of the total project cost.
9. The Agency will collect ½ (one-half) of the project fee at the time of signing of an inducement agreement. The final half of the Agency fee will be payable at which time the project closing takes place.
10. The applicant is responsible for all Agency legal fees related to this project.
11. Should your company for any reason decide to withdraw this application for financial assistance after submission but prior to completion, you will be responsible for any legal fees involved up to the time of withdrawal. Also, the Agency will assess a fee for services rendered and costs incurred to date.
12. Should your company reassign your project, the Agency will collect a non-refundable fee of \$2,000 at the time of reassignment.
13. The Agency will assess your company an annual administration fee to cover ongoing compliance and oversight functions in the form of rent under the Lease Agreement in the amount of \$750 for general projects; \$1,500 for solar projects in years 1-5, then increased by \$500 every five years throughout the duration of the project; \$1,500 for housing projects in years 1-5, then increased by \$500 every five years throughout the duration of the project.

14. In accordance with section 224-a(8)(d) of article 8 of the New York Labor Law, the Agency has identified that any “financial assistance” (within the meaning of section 858 of the General Municipal Law) granted by the Agency to the Applicant consisting of sales and use tax exemption benefits, mortgage recording tax exemption benefits and real property tax exemption benefits, constitutes “public funds” within the meaning of section 224-a(2)(b) of Article 8 of the New York Labor Law and such funds are not excluded under Section 224-a (3) of Article 8 of the New York Labor Law. The Agency hereby notifies the Applicant of the Applicants obligations under Section 224-a (8)(a) of Article 8 of the New York Labor Law.



**APPLICATION TO  
HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
FOR FINANCIAL ASSISTANCE**

**I. APPLICANT INFORMATION:**

**Company Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
**Product/Services:** \_\_\_\_\_  
**Phone No.:** \_\_\_\_\_ **Fax No.:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_  
**Fed ID No.:** \_\_\_\_\_ **NAICS Code:** \_\_\_\_\_  
**Contact Person/Title:** \_\_\_\_\_

**Principal Owners/Officers/Directors:**  
**(list owners with 15% or more in equity holdings with percentage ownership)**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Corporate Structure (attach schematic if Applicant is a subsidiary or otherwise affiliated with another entity)*

**Form of Entity:**

- Corporation
- Partnership (General \_\_\_\_\_ or Limited \_\_\_\_\_; number of general partners \_\_\_\_\_ and, if applicable, number of limited partners).
- Limited Liability Company/Partnership (number of members \_\_\_\_\_).
- Sole Proprietorship

**If a corporation, partnership, limited liability company/partnership:**

**Date of establishment** \_\_\_\_\_.

**Place of organization** \_\_\_\_\_.

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

**APPLICANTS' COUNSEL**

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
 \_\_\_\_\_  
**Phone No.:** \_\_\_\_\_  
**Telefax No.:** \_\_\_\_\_  
**Email:** \_\_\_\_\_

**II. PROJECT INFORMATION**

**A) Describe the proposed project, acquisition, construction or reconstruction in as much detail as possible.**

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

**B) Project Description (check all applicable)**

- Manufacturing**
- Warehousing/Distribution**
- Tourism Destination Facility**
- Retail\***
- Other – Specify** \_\_\_\_\_

\*If the Project has a retail component, please complete part VI of this application – the Retail Questionnaire.

**C) Name of all sub-lessees or other occupants of the facility:**

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

**D) Principals of any sub-lessee or occupant.**

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

**III. COST BENEFIT ANALYSIS:**



**Column C minus Column B. The Agency can assist with this estimation at your request.)**

**4. Estimated interest savings on Issuance by the Agency of Industrial Revenue Bonds** \$ \_\_\_\_\_

**Total Estimated Value of Tax Exemptions** \$ \_\_\_\_\_

**D) Real Property Tax Exemption**

Please use the table below to list estimated real property exemption by year. In ‘Column A’ enter the tax revenue generated by all applicable parcels absent a project. Typically, this value is calculated for the current year and then escalated at 2% per year for the duration of the would-be PILOT term. In ‘Column B’ enter the estimated value of the PILOT payments for each year through the duration of the PILOT term. In ‘Column C’ enter the property taxes that the Project would otherwise pay, but-for the PILOT abatement, on the full assessed value. Typically, this value is calculated for the current year and then escalated at 2% a year for the PILOT term. Each column should have an equal number of entries for the entire length of the of PILOT.

Year	<u>Column A</u> Property Tax Without the Project	<u>Column B</u> Estimated PILOT Payments	<u>Column C</u> Estimated Property Taxes on Full Assessment
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

Attach more sheets as necessary.

Column A: The amount of tax due in each year if the Project that is the subject of this application does not occur.

Column B: The estimated PILOT amounts for each year.

Column C: The hypothetical value of property tax payments as if the Project moves forward and the property is fully taxable.

**E) Employment Information/Job Creation**

The Agency uses the following standard when reporting **FTE – Full Time Equivalent** jobs: Full-time equivalent is a ratio that compares the number of hours worked during a pay period by an employee to the number of work hours during the pay period that equates to full time employment. For example, an employee who works hours equal to full time is 1.0 FTE. An employee who works half the hours of full-time employment is 0.5 FTE, while an employee that works one-third the hours of full-time employment would be considered .3 FTE. Please contact the Agency for assistance if needed.

Please estimate the number of jobs (both retained and created) associated with the operations of the Project subject to this application:

Previous Year	Current Year	Year 1	Year 2	Year 3

For year 3, total number of jobs retained: FTE \_\_\_\_\_

For year 3, total number of jobs created: FTE \_\_\_\_\_

For the jobs that will be **created and retained** as a result of this project, please provide more information below.

The tables below capture the number of jobs created and retained in the first three years of operations as the Project reaches employment stability. Do not include construction phase employment below. Also note, the following tables should be **cumulative**. In other words, jobs that are created in Year 1 and expected to be retained through Year 3, should be included in each of the three tables below. Therefore, in most cases, job counts in Year 3 should be greater than, or equal to, jobs in Year 1.

In the ‘Description’ tab please enter the job title for each position. In the ‘NAICS Code’ column enter the NAICS code associated with each position. If NAICS Code is unknown, please use the keyword search function in the following link to find the most appropriate code: <https://www.census.gov/naics/>. Enter the **cumulative** job count and the average salary for each position in the ‘Count’ and ‘Average Salary’ columns respectively. Attached additional sheets as needed.

### Year 1

Description	NAICS Code	Job Count	Average Salary
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**Year 2**

Description	NAICS Code	Job Count	Average Salary

**Year 3 (Stabilization and thereafter)**

Description	NAICS Code	Job Count	Average Salary

Note: Enter the entire created/retained job count for the Project in Year 3, even if full employment won't occur until a later year.

**Please note any proposed fringe benefits for jobs to be created by job title.**

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**Estimate number of construction jobs to be used for this project: FTE** \_\_\_\_\_

**F) Other Benefits**

In this section, please list any other public and/or private benefits associated with the Project. Wherever possible, please quantify those benefits. (If necessary, please use an attachment to describe and quantify those amounts for each year of the PILOT.) Examples of such quantifiable benefits would include hotel occupancy tax, retail sales tax, host community benefit payments, etc. Please also describe any non-quantifiable benefits if applicable.

**Other Public Benefits:** \_\_\_\_\_

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As with public benefits, please list any quantifiable or non-quantifiable benefits that accrue to private individuals (royalty payments, solar lease payments, etc.)

**Other Private Benefits:** \_\_\_\_\_



**IV. PROJECT LOCATION/UTILITIES/IMPACT**

A) Project Address: \_\_\_\_\_  
\_\_\_\_\_

B) Are Utilities on Site  
Water \_\_\_\_\_ Electric \_\_\_\_\_  
Gas \_\_\_\_\_ Sanitary/Storm Sewer \_\_\_\_\_

C) Present legal owner of the site \_\_\_\_\_.

D) Zoning of Project Site: Current: \_\_\_\_\_ Proposed: \_\_\_\_\_.

E) Are any variances needed: \_\_\_\_\_.

F) Principal use of Project upon completion: \_\_\_\_\_.

G) Will the Project result in the removal of a plant or facility of the Applicant from one area of the State of New York to another? \_\_\_\_\_.

H) Will the Project result in the removal of a plant or facility of another proposed occupant of the Project from one area of the State of New York to another area of the State of New York? \_\_\_\_\_.

I) Will the Project result in the abandonment of one or more plants or facilities located in the State of New York? \_\_\_\_\_.

**If you answered yes to G-H or I please indicate whether the project is reasonably necessary for the company to maintain its competitive position in the industry. Please explain in detail. Attach supporting documentation.**

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

**V. REPRESENTATIONS BY THE APPLICANT:**

The Applicant understands and agrees with the Agency as follows:

- A.) **Job Listings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, 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. The IDA encourages to the fullest extent possible, the hiring of local labor for all construction projects.
- B.) **Annual Sales Tax Filings.** In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax 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. A copy of such form should be provided to the Agency annually upon submission to the State.
- C.) **Sales Tax Tracking.** The Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance that they will submit to the Agency, a quarterly tracking form (form will be provided) listing all sales tax savings incurred to allow for the Agency to monitor and report to the State as required.
- D.) **Recapture of Benefits.** The Applicant understands and agrees that the benefits received from tax abatements/exemptions shall be subject to recapture in accordance with the Agency’s tax exemption policy. The Agency reserves the right to include in the transaction documents the recapturing of the total value of real property/sales tax exemptions approved for a Project if any of the following conditions arise:
- a. The Project Facility as defined in the PILOT/Lease Agreement is sold or closed and the Applicant leaves or departs Herkimer County.
  - b. There is a significant change in the use of the Project Facility and/or business activities of the Applicant.
  - c. There is a significant reduction in the number of full/part-time jobs at the Project Facility in comparison to what was estimated in the Applicant’s Project Application that are not reflective of the Applicant’s normal business cycle or national economic conditions.
  - d. The Applicant fails to fully comply with all periodic and/or annual reporting requirements of the Agency, State or Federal government.
  - e. The Applicant failed to achieve any minimal new job creation figures specified by and within the time frames specified by the Agency
- E.) **Annual Employment Reports.** The Applicant understands and agrees that, if the 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 in addition to any additional project information as may be required. The Chief

Executive Office shall submit to the Agency prior to February 1<sup>st</sup> of each year, a written certification setting forth:

- a. Number of full-time equivalent employees at the Project location as of the last date of the prior year
- b. Number of construction jobs during the fiscal year as a result of the Project

F.) **Absence of Conflicts of Interest.** The Applicant has received from the Agency a list (see pages 24-25) 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:

\_\_\_\_\_

\_\_\_\_\_

**VI. RETAIL QUESTIONNAIRE (if applicable):**

(To be completed by Applicant indicated retail component of the Project in Part II, Question B of this application).

A.) **Will any portion of the Project (including that portion of the cost to be financed from equity or sources other than Agency financing) consist of facilities or property that are or will be primarily used in making retail sales to customers who personally visit the Project?**

YES \_\_\_\_\_ NO \_\_\_\_\_

For purposes of Question A, the term “retail sales” means (i) sales by a registered vendor under Article 28 of Tax Law of the State of New York (the “Tax Law”) primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

B.) **If the answer to Question A is YES, what percentage of the cost of the Project (including that portion of the cost to be financed from equity or sources other than Agency financing) will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project?**

\_\_\_\_\_ %

C.) **If the answer to Question A is YES, and the amount entered for Question B is greater than 33.33%, indicate whether any of the following apply to the Project:**

**1. Is the Project likely to attract a significant number of visitors from outside the economic development region (i.e., Onondaga and Albany Counties) in which the Project is or will be located?**

YES \_\_\_\_\_ NO \_\_\_\_\_

**2. 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, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services?**

YES \_\_\_\_\_ NO \_\_\_\_\_

3. Will the Project be located in one of the following: (a) an area designated as an empire zone pursuant to Article 18-B of the General Municipal Law; or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of the households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to any of the subdivisions 1 through 3 of Question C is YES, attach details.

D.) If the answer to any of the subdivisions 2 through 3 of Question C is YES, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? If YES, attach details.

YES \_\_\_\_\_ NO \_\_\_\_\_

E.) State percentage of the Applicant’s annual gross revenues comprised of each of the following:

Retail Sales: \_\_\_\_\_% Services: \_\_\_\_\_%

F.) State percentage of Project premises utilized for same:

Retail Sales: \_\_\_\_\_% Services: \_\_\_\_\_%

**VII. FINANCIAL INFORMATION (attach the following):**

- 1. Financial Statements for the last three fiscal years.
- 2. Proforma balance sheet as at start of operations at project site.
- 3. Projected profit and loss statements for first two years of operation at project site.
- 4. Projected “cash flow” statement, by quarters, for first year of operation at project site.
- 5. Detailed site plans
- 6. Construction budgets or contractor estimates
- 7. Evidence of current employment, such as NYS-45 Quarterly Report

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

Applicant: \_\_\_\_\_

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

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

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

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

Submit this application with a general application fee of \$1000.00. If this application is for Market Rate Housing Benefits, please submit \$2,000.00 which includes a non-refundable application fee of \$1000.00 and a commitment fee of \$1,000.00 that will be applied at closing; if the project does not close the \$1,000.00 is not refundable. Make check payable to: Herkimer County Industrial Development Agency, 420 E. German Street, Suite 101A, Herkimer, New York 13350, to the attention of John J. Piseck, Jr., Chief Executive Officer. The Agency will collect ½ (one-half) of its Project Fee at the time of the signing of an inducement agreement. The final half of the Agency fee will be payable at which time the HCIDA takes title to the Facility, or upon issuance of bonds. The applicant will also be responsible for all HCIDA legal fees related to this project. Should your company for any reason decide to withdraw this application for financial assistance after submission but prior to completion, you will be responsible for any legal fees involved to that point. In addition, the Agency will assess a fee for services rendered and costs incurred. Should your project be reassigned to another institution, the Agency will collect a fee of \$2000 for costs incurred due to the reassignment.

*Agency fees will be assessed at 1% of the total project cost.*

The Agency will assess your company an annual administration fee in the form of rent under the Lease Agreement in the amount of \$750.00 for general projects; \$1,500 for solar projects in years 1-5, then increased by \$500 every 5 years throughout the duration of the project; \$1,500 for housing projects in years 1-5, then increased by \$500 every five years throughout the duration of the project.

**Please call 315-866-3000 with any questions**

*“This institution is an equal opportunity provider, employer and lender”*

**HOLD HARMLESS AGREEMENT**

**Applicant hereby releases the Herkimer County 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 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.**

\_\_\_\_\_  
**(Applicant)**  
\_\_\_\_\_  
**(Date)**  
\_\_\_\_\_  
**(By)**  
\_\_\_\_\_  
**(Name)**  
\_\_\_\_\_  
**(Title)**

**STATE OF NEW YORK )**  
**)ss.:**  
**COUNTY OF \_\_\_\_\_ )**

**On the \_\_\_\_ day of \_\_\_\_\_, in the year 20\_\_\_\_, before me, the undersigned a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individuals, or the person or behalf of which the individuals acted, executed this instrument.**

\_\_\_\_\_  
**Notary Public**