

Livingston County
Industrial Development Agency

Sale/Leaseback Assistance Application



(revised March, 2010)

Livingston County

Industrial Development Agency

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Introduction

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

1. Completed Sale/Leaseback Assistance Application and all supporting documents (page 4). *One copy each to LCIDA and Transaction Counsel.*
2. Completed Full Environmental Assessment Form (page 12)
One copy each to LCIDA and Transaction Counsel
3. Application Fee (*see below*)
4. Counsel Retainer Fee (*see below*)

Please note

The Livingston County Industrial Development Agency (LCIDA), in its discretion, may require an environmental audit with respect to the proposed site of this project. If such an audit is prepared for others, including the Company or a lender, such audit shall be provided to the LCIDA.

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

APPLICATION FEE:

Application fee: (non-refundable) \$500.00
(to be submitted to LCIDA with Sale/Leaseback Assistance Application)

LEGAL FEE:

Counsel Retainer Fee: (deposit towards counsel fee) \$1500.00
(to be submitted to LICDA with Sale/Leaseback Assistance Application)

LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY
APPLICATION FOR SALE/LEASEBACK ASSISTANCE

Applicant Information

Company Name _____
Address _____
Phone number _____
Fax number _____
Email _____
Federal ID number _____
Contact Person _____

Corporate Structure

- Corporation
- Partnership: general limited
 - Number of general partners _____ and, if applicable.
 - Number of limited partners _____
- Limited Liability Company/Partnership
 - Number of members/partners _____
- Sole Proprietorship

Date of establishment/incorporation _____

Place of organization _____

Is the applicant authorized to do business in the State of New York? _____

Names and titles of principal officers and owners:

Applicant's Counsel

Name _____

Address _____

Phone Number _____

Fax Number _____

Email Address _____

Project Information

PROJECT TYPE

- New building and/or equipment
- Refinancing
- Transfer
- Additional facility
- Amendment
- Second mortgage
- Other _____

Describe the proposed acquisition, construction or reconstruction, purchase of equipment and other project items. Explain the reason for the project and the benefits for the applicant. Explain how the project will be used. (Attach an additional page if necessary.)

Project Address: _____

Municipalities and school district: _____

Tax map number: _____

Present record owner of the site: _____

Proposed record owner of the site: _____

Site zoning: Current _____ Proposed _____

Necessary variances: _____

Principal use of project upon completion: _____

Upon completion, do you expect this project to be a phase of further capital expansions within the next 3 years? If so, explain phases and initiation dates:

Size of building/addition: _____

Type of building: _____

If project site is not presently owned, is it under purchase contract/option? _____

Explain: _____

Will the project be subleased? _____ If so, please attach a copy of such sublease, if available.

Please explain, including relationship of sublessee to applicant:

Will the project result in the removal of a plant or facility of the applicant's or another proposed occupant of the project from one area of New York State to another area of the state? _____

Will the project result in the abandonment of one or more plants or facilities of the applicant or other occupant of the project located in New York State? _____

If the answer to either of the preceding two questions was "yes", please answer the following two questions:

1. Has the applicant or another proposed occupant of the project considered removing such other plant or facility to a location outside New York State?

If yes, please explain in detail: _____

2. Is the project reasonably necessary to preserve the competitive position of the applicant or another proposed occupant of the project in its respective industry? _____

If yes, please explain in detail: _____

Current retained full time equivalent employment at this project location

1. At this project location ? _____
2. At any other location within Livingston County? _____
3. Estimated average annual salary of jobs to be retained \$ _____

Job Creation

Estimate the number of jobs to be created upon completion of this project, over the next three years.

	Jobs	Annual Payroll
At project completion:		
1. year after project completion	_____	_____
2. year after project completion	_____	_____
3. year after project completion	_____	_____

At project completion:

1. Annualized salary range of jobs to be created \$ _____ to _____
2. Estimated average annual salary of jobs to be retained (at current market rates) \$ _____

Expected mortgage, if any, necessary to finance this project: \$ _____

Project Costs

Land \$ _____

Building:

Renovation \$ _____

Acquisition \$ _____

Expansion \$ _____

New Building \$ _____

Equipment:

Manufacturing \$ _____

Non-mfg. Equip. \$ _____

(that is equipment subject to sales tax)

Describe Equipment: _____

Other non-reoccurring costs subject to sales tax

Soft costs:

Engineering \$ _____

Architect \$ _____

Fees/permits \$ _____

LCIDA fee \$ _____ (1% of costs benefiting from

IDA assistance)

Legal fees (including transaction counsel, Agency
counsel, applicant counsel, bank counsel, etc.

\$ _____

Other costs: \$ _____

TOTAL \$ _____

REPRESENTATIONS BY THE APPLICANT

The Applicant understands and agrees with the Agency as follows:

A) Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreement, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal Job Training Partnership Act (Public Law 97-300) in which the project is located.

B) First Consideration for Employment. In accordance with Section 858-b(2) of the New York State General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in WIB programs who shall be referred by the WIB entities for new employment opportunities created as a result of the Project.

C) Annual Sales Tax Filings. In accordance with Section 874(8) of the New York State 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, the Applicant will file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of the sales tax exemptions claimed by the Applicant and all consultants or sub contractors retained by the state. This information must be filed with the Agency annually before March 1st.

D) New York State Department of Taxation and Finance Form ST-60. In accordance with Section 874(9) of the New York General Municipal Law, the Applicant understands that the Applicant and each agent, subagent, contractor and/or sub contractor appointed by the Applicant and claiming a sales tax exemption in connection with the Project must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form St-60 must be delivered to the Agency within five (5) days of the appointment of the Applicant or any such agent, subagent, contractor and/or subcontractor as agent of the Agency for purposes of completing the Project. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project.

E) Annual Employment Reports. The Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, the Applicant will file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site. This information will be reported to the Agency using Form NYS-45-MN

F) Absence of Conflicts of Interest. The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No members, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction completed by the Applicant, except as hereinafter described:

G) State Environmental Quality Review Act Compliance. The Agency, in granting financial assistance to the Applicant, is required to comply with the New York State

Environmental Quality Review Act (“SEQR”) and must complete necessary determinations required thereunder. Consequently, the Applicant has completed and attached hereto appropriate Environmental Assessment Forms, with respect to the Project, if appropriate at this time. In any event, the Applicant understands that, at its sole expense, it is required to take all necessary action in order for the Agency to comply with the requirements of SEQR, and including through a lead agency other than the Agency in the case of a coordinated review.

The Applicant and, if applicable, the individual executing this Application on behalf of the Applicant, acknowledges 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 material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

(Applicant)

By: _____
Name: _____
Title: _____

This application should be submitted with an application fee of \$500.00, payable to the Livingston County Industrial Development Agency, 6 Court Street, Geneseo, New York 14454, and a retainer of \$1,500.00, payable to Livingston County Industrial Development Agency which will be forwarded to legal counsel.

Certification

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

Deponent further says that s/he is duly authorized to make this certification on behalf of her/himself or on behalf of the entity named in the attached application. The grounds of deponent's belief relative to all matters in said application which are not stated upon his/her own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as, if deponent is not an individual applicant, information acquired by deponent in the course of his/her duties in connection with said entity and from the books and papers of said entity.

As (i) the representative of said entity, or (ii) the individual applicant (such entity or individual applicant hereinafter referred to as the "Applicant"), deponent acknowledges and agrees that the Applicant shall be and is responsible for all costs incurred by the Livingston County Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the provision of financial assistance to which this application relates. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels or neglects the application, then upon presentation of an invoice, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application up to that date and time, including fees to transaction counsel for the Agency and fees of general counsel for the Agency. Upon the successful conclusion of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in affect of the date of the foregoing application, which amount is payable at closing.

Name: _____

Title: _____

Sworn to before me this _____ day of _____, 20____. _____

(seal)

ATTACHMENT

Exemptions from sales taxes are 2 years unless otherwise authorized:

	First Year	Five Year	Ten Year
Land:	\$ _____	\$ _____	\$ _____
Building:			
Renovation	\$ _____	\$ _____	\$ _____
Acquisition	\$ _____	\$ _____	\$ _____
Expansion	\$ _____	\$ _____	\$ _____
Equipment:			
Manufacturing	\$ _____	\$ _____	\$ _____
Technical equip	\$ _____	\$ _____	\$ _____
Soft Costs:			
Engineering	\$ _____	\$ _____	\$ _____
Architect	\$ _____	\$ _____	\$ _____
Fees/Permits	\$ _____	\$ _____	\$ _____
LCIDA fee	\$ _____	\$ _____	\$ _____
Legal fees (including transaction counsel, Agency counsel, applicant counsel, bank counsel, etc)	\$ _____	\$ _____	\$ _____
Other Costs:	\$ _____	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____	\$ _____
Expected loan if any, necessary to finance this project			\$ _____

Livingston County
Industrial Development Agency
Environmental Assessment Form

Internet link address:

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

PRINTABLE VERSION

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

New York State Website: (<http://www.dec.state.ny.us>)

- Be certain to select the **Full Environmental Assessment Form** and download to your computer.

ONLINE VERSION

To fill out this form online:

- Go to the New York State website (<http://www.dec.state.ny.us>)
- Be certain to select the **Full Environmental Assessment Form** and download to your computer
- Read and follow the instructions on how to fill out this form online
- **NOTE:** This form contains many questions. Even though many are comprised of simple check boxes, be advised that this form may take an hour or more to complete online.

Please complete and sign the State form and submit it, along with your finished application to the Livingston County IDA office.

Livingston County

Industrial Development Agency

UNIFORM TAX EXEMPTION POLICY

Adopted on December 15, 1993

Amended on January 8, 1998

It is the policy of the Livingston County Industrial Development Agency to grant exemptions from real property taxes, sales taxes, and mortgage recording taxes for business expansion projects which create or retain permanent private sector jobs. In developing this uniform tax exemption policy the IDA has taken into consideration the following factors: The value of tax exemptions to be provided; the impact of a proposed project on economic development projects in the vicinity; the amount of private sector investment; the extent to which a proposed project will provide sources of revenue and cost; and the extent to which private sector employment is expanded within Livingston County.

A. REAL PROPERTY TAX ABATEMENTS

The Livingston County Industrial Development Agency (LCIDA) has adopted a uniform, county-wide policy for the provision of real property tax abatements for eligible expanding industries. The policy applies to that portion of a tax bill which reflects taxes derived from the dollar value added to a property by virtue of investment made by an expanding company. The company or project receiving tax abatements must create or retain permanent private sector jobs. This policy includes the following essential elements: the period of exemption, the percentage of exemption, the types of projects for which exemption can be claimed, and the procedures for payments-in-lieu-of taxes (PILOT). The PILOTs will be described in detail through special agreements and will include real property taxes, sales taxes, and mortgage recording taxes. These PILOT agreements will be in written form and will be delivered to each affected tax jurisdiction within fifteen (15) days of signing the agreement. Permissible projects under this policy and under recently adopted state and federal laws include manufacturing, wholesale, and distribution facilities. Retail is not permitted except for tourism destination facilities.

1. New Construction

Jurisdiction:	Length and Percent of Abatement
County/Town/School	100% value added abatement years 1 - 5
	Year 6: 80% abatement
	Year 7: 60% abatement
	Year 8: 40% abatement
	Year 9: 20% abatement
	Year 10: Fully taxable

Village	75% value added abatement years 1 - 6
	Year 7: 60% abatement
	Year 8: 40% abatement
	Year 9: 20% abatement
	Year 10: Fully taxable

Renovations of Existing Buildings

County/Town/Village/School 7 year property tax freeze

2. **Retail Tourism Destination Facilities**

New Construction

County/Town/School 100% value added abatement years 1 - 5

Year 6: 80% abatement

Year 7: 60% abatement

Year 8: 40% abatement

Year 9: 20% abatement

Year 10: Fully taxable

Village 75% value added abatement years 1 - 6

Year 7: 60% abatement

Year 8: 40% abatement

Year 9: 20% abatement

Year 10: Fully taxable

Renovation of Existing Buildings

County/Town/Village/School 7 year property tax freeze

Should the calculation of the sixth year PILOT payment result in a lower payment than the previous year, the amount of the previous year's payment will be made.

3. **Deviations from Policy**

The Livingston County Industrial Development Agency (LCIDA) reserves the right to deviate from this policy and from the types of projects identified herein based upon consideration of jobs created and investment made in a project. If a policy deviation is proposed, the affected tax jurisdictions will be so notified. Their input will be sought in advance of adoption of any deviation, and any PILOT policy deviation will be so noted in a required Public Hearing. However, the LCIDA does not foresee any circumstances at this time where it would deviate from policy.

B. SALES TAX EXEMPTIONS

1. Sales tax exemptions are permitted for LCIDA assisted projects involving new construction, renovation of existing buildings, and equipment purchases.
2. Sales tax exemptions are permitted up to the issuance of a Certificate of Completion on an LCIDA funded project, except that exemptions are allowed on equipment purchases intended to replace capital items previously funded through the LCIDA.
3. LCIDA does not permit sales tax exemptions for ongoing operating expenses incurred after completion of the LCIDA funded project.
4. The LCIDA will file an annual statement with the State Department of Taxation and Finance in such form as may be prescribed by the State Comptroller and which would disclose the value of all sales tax exemptions claimed in the preceding year. As part of the LCIDA application process companies applying for financial assistance will be required to identify items where sales tax exemptions will be claimed, and to submit copies of the bills of sale.
5. See A.3. above – Deviations from Policy.

C. MORTGAGE RECORDING TAX EXEMPTION

1. Any project where a mortgage is granted will be exempt from the one percent (1%) Livingston County mortgage tax which calculation is based on the face value of the mortgage.
2. The mortgage tax exemption will apply to all LCIDA eligible projects.

D. RECAPTURE OF BENEFITS

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

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

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

E. ADDITIONAL RECAPTURE PROVISIONS

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

- (1) failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificated when and as required by the Agency transaction documents;
- (2) failure to respond to Agency inquiries regarding payments of monies in lieu of taxes;
- (3) failure to respond to Agency inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations pursuant to Paragraph C or Paragraph D of this policy;
- (4) failure to respond to the inquiries of the Agency or failure to provide the Agency with any information or documents requested by the Agency in order to provide any federal, state, or local agency with information or reports required under any applicable law, rule or regulation;
- (5) failure to provide any other information concerning the project or the project applicant or any project operator requested by the Agency.

Upon the occurrence of any of these events listed in this Paragraph E, the Agency will, upon at least 10 calendar days send a written notice to the project applicant, hold a public hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the information requested by the Agency. Within 30 calendar days after the hearing, the Agency will issue a determination whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency's involvement.

APPLICABILITY

This Uniform Tax Exemption Policy shall apply to all projects of which the Agency has adopted or adopts an Inducement Resolution.

AMENDMENTS OR MODIFICATIONS

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