



WATERFRONT DEVELOPMENT OPPORTUNITY

REQUEST FOR PROPOSALS

INVITATION

The Chautauqua County Land Bank Corporation ("CCLBC") is pleased to announce a mixed-use development opportunity on a 3.8 acre parcel ("Site") on the Lake Erie waterfront in Silver Creek, New York. The CCLBC is seeking proposals and evidence of capacity from qualified developers with the vision, resources and expertise to develop the Site. Plans for this development envision a public-private use including pedestrian access to the lake and amenities, as well as either leased or owned residential units, food and beverage outlet(s), and possibly a recreational outlet.

Please refer to the Conceptual Site Plan attached hereto as Exhibit 1.

The RFP is the first step in a three-phased process, described as follows:

1. The Chautauqua County IDA will review all RFP submissions and shortlist the group to no more than three to interview with CCLBC.
2. CCLBC will select and begin exclusive negotiations with the developer who best matches the desired vision and qualifications for the project.
3. The CCLBC and the Village of Silver Creek will negotiate a Master Development Agreement with the selected developer and secure any required building variances.

The Following Deadlines apply to the RFP:

| Activity | Date |
|---|----------------|
| RFP Release Date | April 18, 2018 |
| Questions Submitted to CCLBC at gparadis@CHQlandbank.org | April 27, 2018 |
| CCLBC posts FAQs at https://chqlandbank.org/contractors-vendors | May 7, 2018 |
| Responses to the RFP must be received by | May 21, 2018 |

EMAIL RFP RESPONSES TO: gparadis@CHQlandbank.org

CHAUTAUQUA COUNTY LAND BANK CORPORATION

The property is currently owned by the Chautauqua County Land Bank Corporation ("CCLBC"). The CCLBC is a Not-For-Profit (501) (c)(3) corporation, formed to combat community deterioration by facilitating the return of vacant, abandoned and foreclosed homes to productive use in order to eliminate the harms and liabilities caused by such properties, lessen the burden of local government, and act in the public interest.

The CCLBC has all the powers and duties as granted and governed by the following legislation:

- Article 16 of the Not-for-Profit Corporate Law of New York State;
- 2010 Land Bank Law of New York State; and
- Public Authorities Act of New York State.

The stated Mission of the CCLBC is to *"Control and manage strategically selected dilapidated and abandoned residential and commercial properties acquired through the County tax foreclosure process, bank foreclosures and/or donations, and facilitate solutions aimed at stabilizing neighborhoods, encouraging private investment, and improving the quality of life throughout Chautauqua County."*

Additional Information about the CCLBC and its programs can be found at <https://CHQlandbank.org>.

LOCATION OVERVIEW

Silver Creek is a village located in the town of Hanover, County of Chautauqua, New York, United States.

As of the 2010 census, the Village had a population of 2,656. Silver Creek is named after a small river which runs through the Village and is located on the shore of Lake Erie.

The community was first settled around 1803, and the first schoolhouse was erected around 1823. The Village of Silver Creek was incorporated in 1848, and was an important port on Lake Erie until railroads reduced shipping. The Village is home to a skew arch railroad bridge, one of the few bridges in the country built on an angle.

Silver Creek is part of the Lake Erie Basin. The two creeks in the Village, Silver Creek and Walnut Creek, drain into the lake. Silver Creek is at the junction of New York State Route 5 (Central Avenue) and US Route 20 (Main Street), north of New York State Thruway (Interstate 90) Exit 58.

Silver Creek is approximately 35 minutes from downtown Buffalo, New York; 15 minutes from the city of Dunkirk, New York, and an hour from Erie, Pennsylvania. Sunset Bay and Hanover Bay, popular summer vacation communities on Lake Erie, are less than 10 minutes from the site.

Location Map



Site Description

This 3.6 acre parcel in the Village of Silver Creek is located on the shores of Lake Erie with approximately 460' of lake frontage and approximately 300' of frontage on Walnut Creek. The site is zoned commercial¹ for ease of development, and the Village has stated its willingness to allow variances to facilitate the highest and best use of the site to meet economic development objectives.

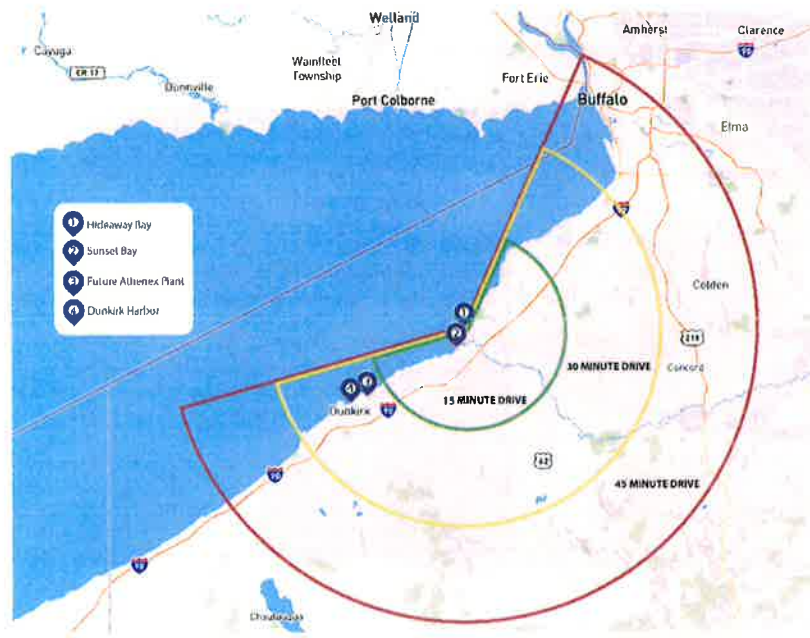
The parcel is located on a picturesque, secluded beach with natural barriers on three sides. The northern parcel line is Lake Erie; the eastern parcel boundary is slightly wooded and abuts a residential property; the southern parcel line abuts a sizeable, historic but active railroad berm and trestle; and the western parcel line is Walnut Creek. The site is accessed by a private driveway connected to Lake Avenue, and is zoned commercial¹ for ease of re-development. Wetlands, a flood plain, and coastal hazard area considerations exist on the parcel. Please see the supplemental survey for more information. Due to the Coastal Erosion Hazard Area boundary, the development footprint represents 1.3 acres, unless a variance is applied for through the DEC Region 9.

Please refer to the Survey attached hereto as Exhibit 2

¹ Definition of Silver Creek Commercial Zone included in supplement.

DEVELOPMENT OPPORTUNITY

The Site's central location to the NYS Thruway at Exit 58 at the Eastern gateway to Chautauqua County, accented by the natural beauty of its secluded waterfront setting, makes it a most desirable parcel for both residential and leisure use. The proximity to Buffalo and Dunkirk also provide an easy commute to work, shopping, and other attractions in the nearby regions. Already a popular tourist and weekend leisure destination, Chautauqua County draws significant visitor traffic from a wide demographic with interests ranging from recreation to history, wineries to spiritualism. The quality of life, the access to the arts, outdoor recreation, quality schools, and village life attracts many seasonal and year-round residents, especially those seeking waterfront property outside the metropolitan area.



The addition of a significant employer in the Athenex plant situated just 15 minutes away in the Town of Dunkirk, where 900 jobs will be added to the Northern Chautauqua County economy, represents an opportunity for increased demand for turn-key housing and amenities in the immediate area. Initial indicators from the company suggest that the demographic for recruited/relocating employees will be a younger, more affluent set who are more interested in move-in ready, rather than fixer-upper accommodations. This demographic is also looking for abundant recreational activities, access to arts and culture, and dining and entertainment options. This economic development success is just one of the many developments tipping the scales for Chautauqua County, and this parcel provides an excellent opportunity for the right developer to secure a place in the vibrant future of this region.

SUBMITTAL REQUIREMENTS

Summary

The response format requested by the CCLBC is detailed in the following sections of this RFP. The submission of a concise, professional, and complete response will help the CCLBC identify the most qualified development teams who are most aligned with the stakeholders' vision for the redevelopment

of the parcel, and will be indicative of the level of the respondent's commitment to the desired project. Any questions that arise during the preparation of a submittal should be addressed to Gina Paradis, CCLBC Executive Director at gparadis@CHQlandbank.org. Respondents must demonstrate the experience, resources, and expertise needed to design, finance, develop and otherwise operate a successful project. Past design and development experience, particularly with similar projects, will be critical in evaluating the RFP responses. Current and verifiable financial capacity, access to funding sources and the ability to complete the project in a timely manner will also be important factors in determining the most qualified RFP responses.

Responses to this RFP shall not exceed a total of 15 pages, including any appendices, using a minimum font size of 11. Respondents are asked to submit their proposals via email only, in PDF format, to gparadis@CHQlandbank.org. Submittals must be received no later than May 21, 2018 at 5:00 PM EDT. Submittals received after this due date and time will not be accepted. Delivery of the RFP response to the specified location by the prescribed date and time is the sole responsibility of the respondent.

RFP Response Components

Transmittal Letter

The submission must include a transmittal letter, on official letterhead, that provides contact information for the person with authority to negotiate on behalf of the development team. The letter must also include an affirmative statement that the respondent agrees to the minimum business terms identified in the RFP. The respondent must certify that the RFP response and all exhibits are true and correct. Unsigned and/or undated submissions will not be accepted.

Development Team

Identify the developer and other key members of the development team, including the project leader for day-to-day management and the key consultants who will be responsible for implementing said project. Provide a succinct narrative describing the role and relevant expertise of each of the firms and key individuals who would be involved in the project's implementation, with a current phone number for each.

Proposed Conceptual Development Scope

Provide a one-page narrative that describes the development concept that is envisioned for the site. As part of that description, identify any responsibilities to be imposed on the Village, County, and/or CCLBC. At the respondent's discretion, up to one graphic, such as a conceptual site plan, may also be provided.

Experience

Provide descriptions and references for at least three, but no more than five, projects that the respondent has undertaken in the past five years that are directly analogous to the project being proposed for the site. Each description should include the following information:

1. Project Name and Location
2. Development Scope
 - a. Name of the Business Operator

- b. Project Description including square footage, space/use details
 - c. Description of the quality level, market mix and amenities provided at the project
 - d. Photographs of the project
3. Financial Characteristics
 - a. Total development Costs
 - b. Financial Sources
4. Description of Roles of respondent and other team members in the development and operation of the project
5. Public Sector Contact
 - a. Provide contact information for a representative of the jurisdiction in which the project is located, including telephone number and email address.
 - b. Indicate whether the project was undertaken as a public/private partnership. If so, describe the responsibilities accepted by the public sector partner.

Financial Capacity

Provide verifiable evidence of the development team's financial ability to undertake and successfully complete the proposed project. This may include financial statements, annual reports, Letters of Credit, etc.

THE CCLBC recognizes the sensitive nature of financial capacity information that is requested in this RFP. Therefore, respondents may choose to provide a secure download site address link to share access with the CCLBC.

Required forms and Certificates

Please see Appendix A for required forms and certificates below:

1. Statement of Compliance
2. Non-Collusion Statement
3. W-9
4. Litigation Disclosure
5. CCLBC Vendor Form
6. Developer Points of Contact Form

SELECTION PROCESS AND SITE EVALUATION CRITERIA

Selection Process

The selection process will be divided into the following 3 phases:

- 1 Chautauqua County IDA will forward all qualified submissions to the CCLBC for review, along with its recommendations for the top three developer candidates.
- 2 The CCLBC and Chautauqua County IDA will jointly agree on two to three finalists to be interviewed by a committee of stakeholders.
- 3 The preferred developer will be announced and the partners commence to solidify the development contract terms.

Evaluation Criteria

The following RFP evaluation criteria will be used to select the short list of development teams who will be invited to respond to the RFP for the Site:

- 1 The respondent's agreement to abide by the minimum business terms identified in this RFP.
- 2 The development team's proven experience (and references) in successful financing, design, construction, and operation of projects of similar scope and scale.
- 3 Financial capacity to undertake a project of the proposed magnitude.
- 4 Overall quality/reputation of the development team.
- 5 Experience with long-term public/private development agreements with public sector entities.
- 6 Quality and completeness of RFP response.

DEVELOPER SELECTION SCHEDULE

The projected selection process schedule is as follows:

| Activity | Date |
|--|-----------------------------------|
| RFP Release Date | April 18 th , 2018 |
| Responses to the RFP must be received by | May 21 st , 2018 |
| Interviews with finalists | Thru June 15 th , 2018 |
| Announcement of Winning Proposal | TBD |

The CCLBC may amend this schedule at any time. Written notice of any changes to the schedule will be provided to all respondents to the RFP.

DECLARATIONS AND ADDITIONAL INFORMATION

The CCLBC Rights Pertinent to this Solicitation

1. The CCLBC reserves the right to reject all submittals for any legal permissible reason without indicating reasons for rejection.
2. The CCLBC reserves the right to amend this RFP by Addendum. The CCLBC is bound only by what is expressly stated in the RFP and any authorized written addenda to be posted on the CCLBC website.
3. The CCLBC accepts no financial responsibility for any costs incurred by the respondent during any phase of the selection process. All submittals shall become the property of

the CCLBC (except those materials marked "COONFIDENTIAL") and may be used in any way deemed appropriate.

Withdrawal of Solicitation

The CCLBC reserves the right to withdraw this RFP at any time without prior notice, and makes no representation that any agreement will be awarded to any respondent. Additionally, the CCLBC expressly reserves the right to postpone opening responses to this solicitation for its own convenience and/or to waive any informality or irregularity in the responses received.

Confidentiality

All submittals in response to this RFP are considered confidential until the CCLBC makes a selection, at which time the submittals will become public information and available to the public for review. However, the financial capacity information of each submittal will be treated as confidential and will not be available to the public for review at any time.

Examination of Solicitation

The respondent understands that the information provided in this RFP is intended solely to assist the respondent in preparing a submittal. To the best of the CCLBC's knowledge, the information is accurate; however, the CCLBC does not warrant such accuracy, and any errors or omissions subsequently do not invalidate this RFP.

Conflict of Interest

Respondents must comply with the requirements imposed by all federal, state and local laws, including those pertaining to conflict of interest. All members of responding development teams must disclose any and all circumstances that could give rise to any potential conflict of interest or appearance thereof with its participation in the project, with the CCLBC and/or the village and/or the county, including any of their agents, representatives, and consultants.

Nondiscrimination Policy

The respondent shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. The respondent shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. The respondent understands and agrees that violation of this clause shall be considered a material breach of contract and may result in contract termination or other sanctions.

Supplier Diversity

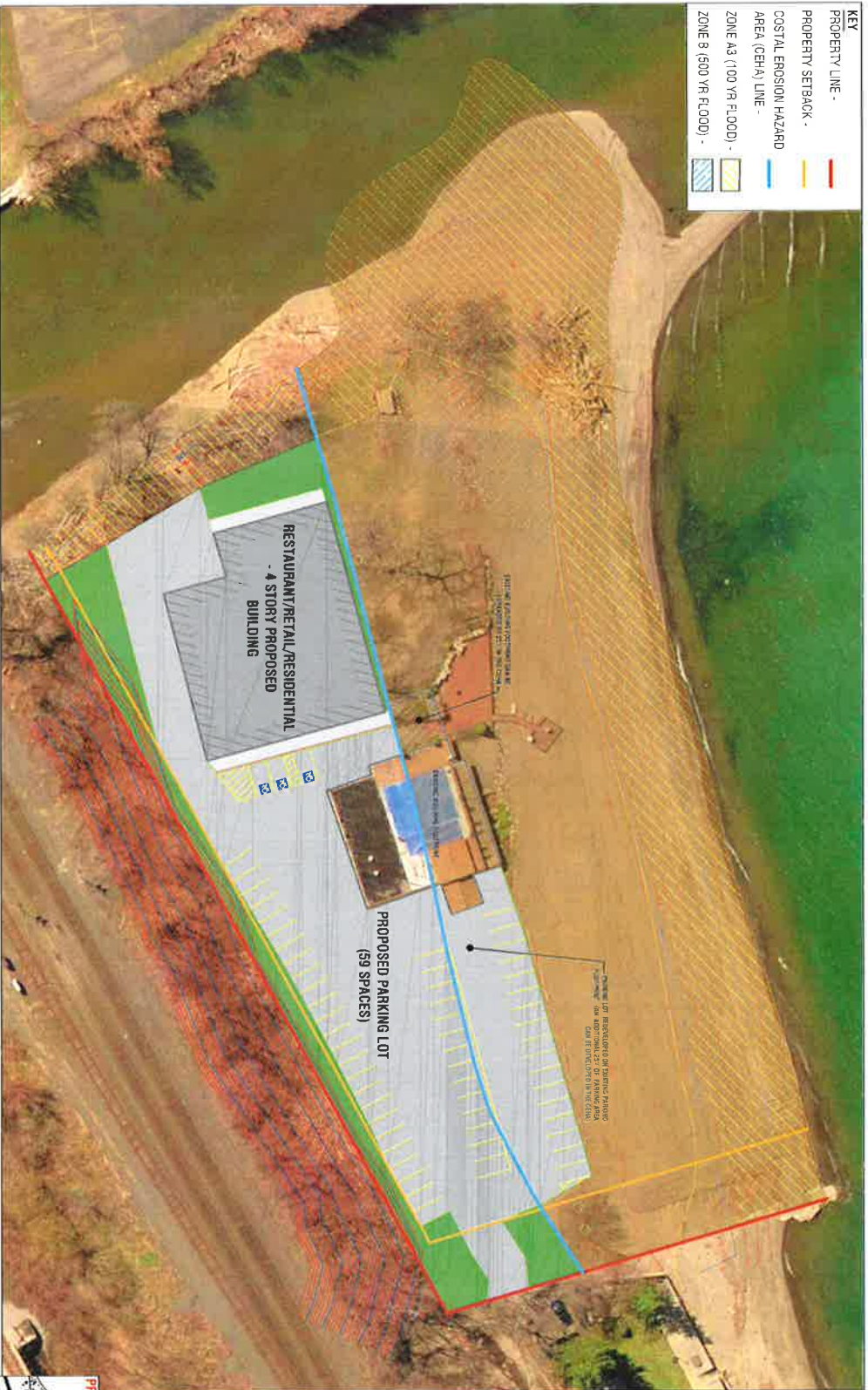
The CCLBC recognizes the importance of supplier diversity in its procurement practices. The CCLBC is committed to contracting with qualified suppliers from all parts of the business community for goods and services. By encouraging the participation of Small business

Enterprises (“SBEs”), Minority Business Enterprises (“MBEs”), and Woman Business Enterprises (“WBEs”)(collectively “SMWBEs”) in the procurement process, the CCLBC strengthens contracting opportunities for SMWBEs. The CCLBC encourages respondents to ensure these opportunities are leveraged in their project teams.



EXHIBIT 1

CONCEPTUAL SITE PLAN



PROPERTY VISION

The ideal development proposal would feature a water-dependent mixed-use facility consistent with the Local Waterfront Revitalization Program currently under development. Amenities for both public and private use of the site are desired. Responsible development of the natural setting, environmental stewardship, and consideration for the residential neighbors is desired. The Department of Environmental Conservation has participated in pre-development planning, and will assist where necessary with plan reviews and process facilitation, as the site is located within a Coastal Erosion Hazard Area (<http://www.dec.ny.gov/lands/66541.html>).

LABELLA
Associates, D.P.C.

Engineering
Architecture
Environmental
Planning

HIDEAWAY DEVELOPMENT
SITE DEVELOPMENT PLAN - ILLUSTRATIVE SITE PLAN

SCALE 1"=20'

Landbank
CORPORATION



LOT SIZE:

Total Area: +/- 3.6 AC.
Development Area (Excluding CEHA Area): +/- 1.3 AC.

BUSINESS DISTRICT ZONING INFORMATION

Allowable Uses - Retail stores and shops, personal service shops, barber shops, beauty parlors, banks, professional offices and studios, restaurants, cafes, taverns, public utility offices and substations, industrial manufacturing and processing

Maximum Height of Principal Building: 35'

Minimum Lot Width: 80'

Minimum Area: 10,000 SF

Front Yard Setback: 40'

Side Yard Setback: 10'

Permitted Accessory Building

Maximum Height: 15'

Side Lot Line: 5'

Rear Lot Line: 5'

Principal Building: 10'

Additional District Regulations and zoning information can be found at: <http://silvercreekny.com/>

PARKING REGULATIONS

Professional offices - 1 space per office
Retail Stores, banks - 1 space per each 100 SF of floor area

Restaurants, Cafes - 1 space per every 4 seats

Sales Service - 1 space per each 200 SF of floor area

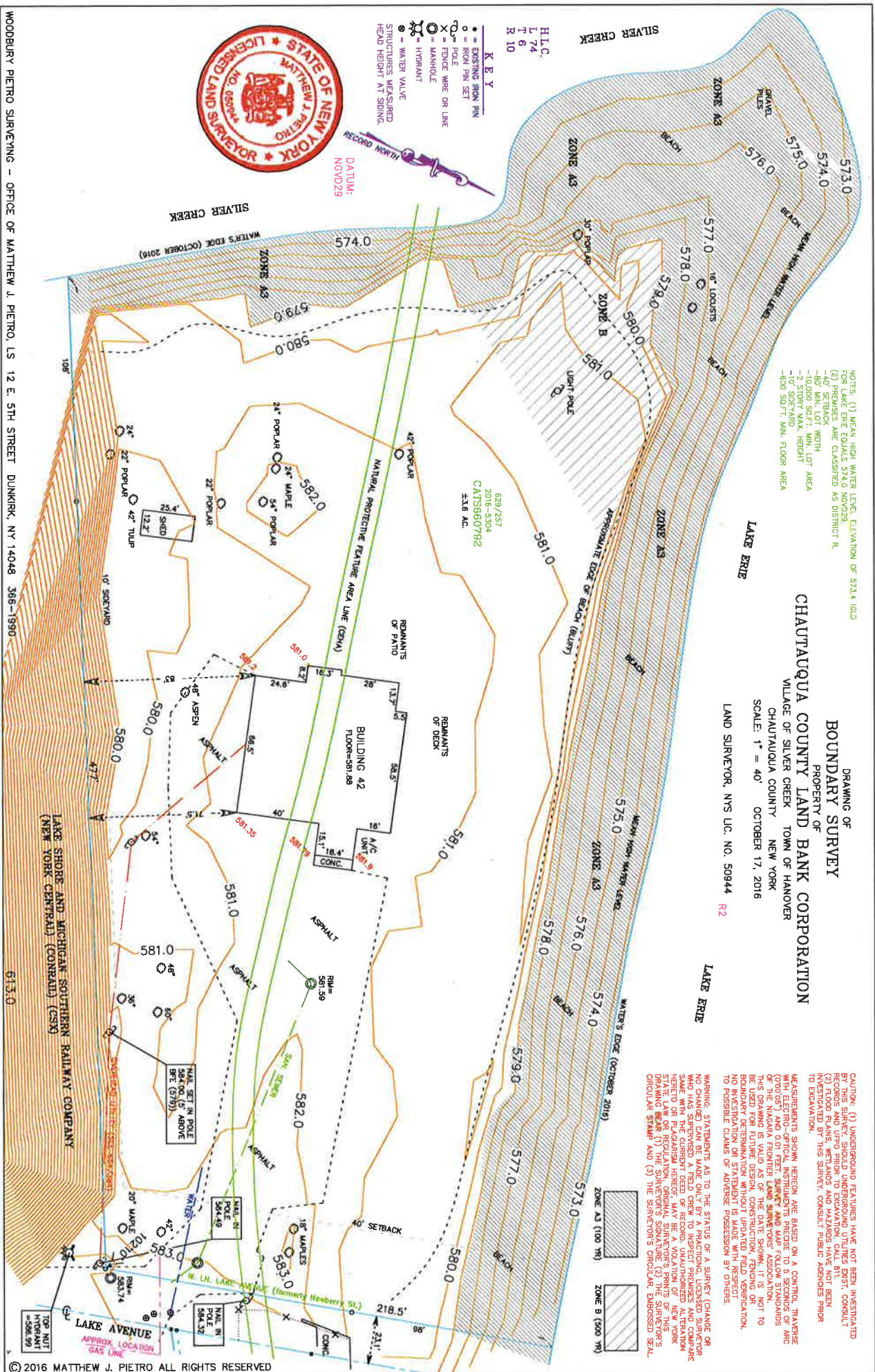
Dwellings - 1 space per dwelling unit

Additional off-street parking information for the village can be found at: <http://silvercreekny.com/>



EXHIBIT 2

SITE SURVEY





HIDEAWAY BAY DEVELOPMENT OPPORTUNITY

SUPPLEMENTAL INFORMATION AND APPENDICES



APPENDIX A

Forms:

Statement of Compliance

Non-Collusion Statement

W9

Litigation Disclosure

Developers Points of Contact



| |
|------------------------|
| DEPARTMENT USE ONLY |
| DEC APPLICATION NUMBER |

RECORD OF COMPLIANCE—Permit Application Supplement

Please read all instructions on reverse side before completing this application—Please **TYPE** or **PRINT** clearly

[illegible]

Instructions for the Completion of
NYSDEC PERMIT APPLICATION—SUPPLEMENT
Record of Compliance

Make every effort to enter the information requested in the spaces provided on this form, but **attach additional sheets where space prohibits full and complete answers. If Record of Compliance form has been previously submitted in same calendar year, indicate date of submission, DEC Region and Application Number.**

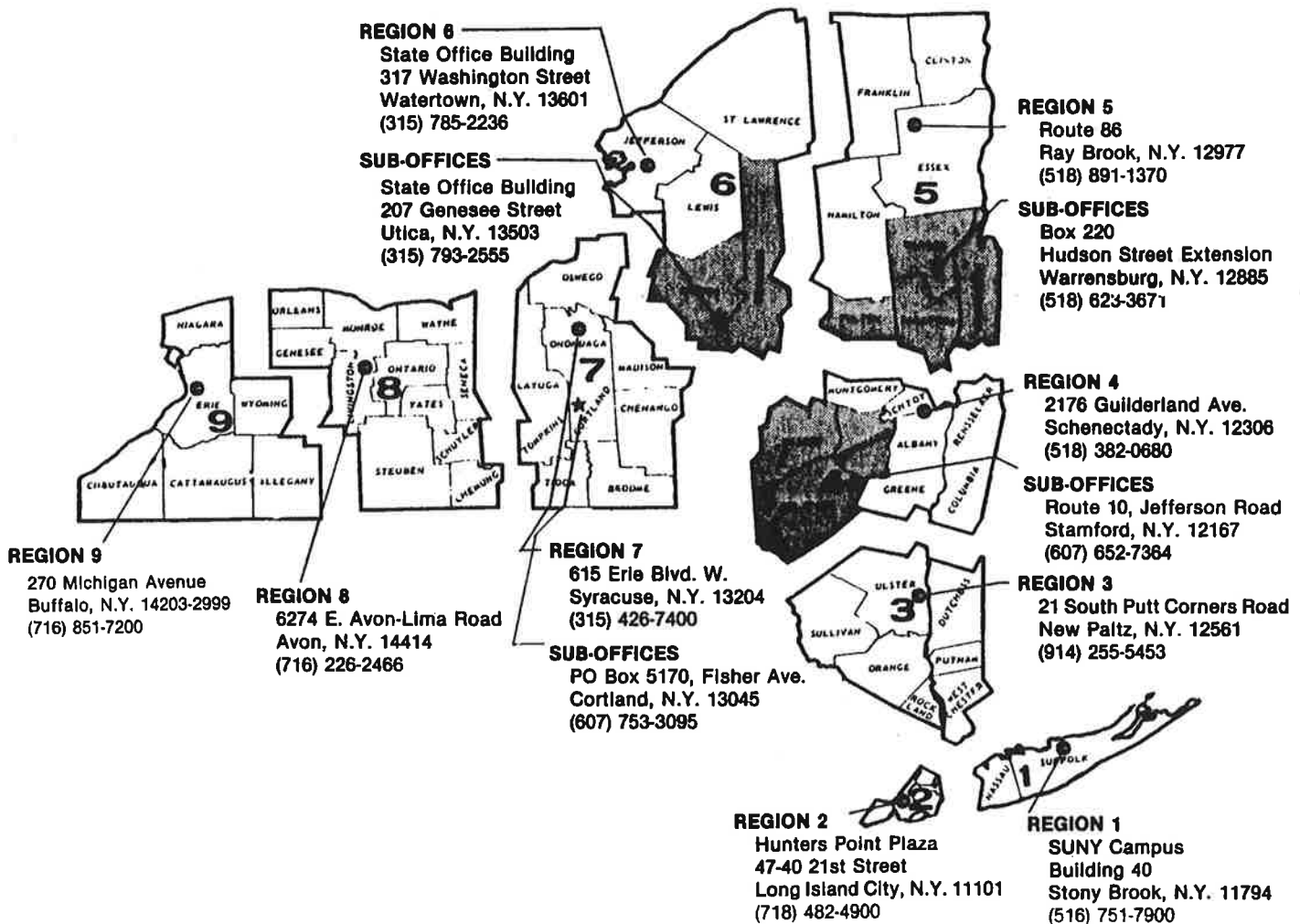
Submit this form to the Regional Permit Administrator for the DEC region in which the facility is, or is proposed to be, located. See map below.

ITEM NUMBER

- 1 Enter the full name of the Applicant.
- 2 Enter the mailing address for applicant's principal place of business.
- 3 Enter applicant's New York State mailing address, if applicable.
- 4 Enter the type of organization.
- 5 Include all current permits.
- 6a Answer "yes" if any permit that you applied for was denied, or if any permit you were granted was ever revoked, cancelled, suspended or otherwise involuntarily terminated.
- 6b Answer "yes" if you are a party to any enforcement action pending with DEC.
- 7 Provide details for each "yes" answer to 6a or 6b. Be as specific as possible, using a separate sheet.
- 8 Check appropriate boxes.
- 9 Provide details for each "yes" answer to 8a through 8d. Be as specific as possible, using a separate sheet.
- 10 If a regulatory fee is owed, indicate the amount and status of any dispute filed.
- 11 This certification block is to be used only by an applicant who is an individual and **not** by a public or private corporation, co-partnership, political subdivision, government agency, authority, department or bureau of the State, municipality, industry, association, firm, trust, or estate. See 621.3(a)(2).
- 12 These questions and the certification block are to be completed only by an applicant that is a public or private corporation, co-partnership, political subdivision, industry, association, firm, trust, or estate and who is not an applicant who is an individual. See 621.3(a)(2).
- 15

Contact the Regional Permit Administrator, Division of Regulatory Affairs, at the appropriate office of the Department, as given below, for assistance regarding the above requirements.

Department of Environmental Conservation Regional Offices
Division of Regulatory Affairs



Non-Collusive Bidding Certification

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization under penalty of perjury, that to the best of his/her knowledge and belief:

1. The prices of this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Bidder's Name

By: _____

Signature

Date

Print:

Name: _____

Title: _____

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

| | | |
|--|---|---|
| Print or type. See Specific Instructions on page 3. | 1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. | |
| | 2 Business name/disregarded entity name, if different from above | |
| | 3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____ | 4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small> |
| | 5 Address (number, street, and apt. or suite no.) See instructions. | Requester's name and address (optional) |
| | 6 City, state, and ZIP code | |
| | 7 List account number(s) here (optional) | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

| | | | | | | | | | |
|--------------------------------|--|--|--|---|--|--|---|--|--|
| Social security number | | | | | | | | | |
| | | | | - | | | - | | |
| or | | | | | | | | | |
| Employer identification number | | | | | | | | | |
| | | | | - | | | | | |

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

| IF the entity/person on line 1 is a(n) . . . | THEN check the box for . . . |
|--|---|
| • Corporation | Corporation |
| • Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes. | Individual/sole proprietor or single-member LLC |
| • LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes. | Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation) |
| • Partnership | Partnership |
| • Trust/estate | Trust/estate |

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . . | THEN the payment is exempt for . . . |
|--|---|
| Interest and dividend payments | All exempt payees except for 7 |
| Broker transactions | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends | Exempt payees 1 through 4 |
| Payments over \$600 required to be reported and direct sales over \$5,000 ¹ | Generally, exempt payees 1 through 5 ² |
| Payments made in settlement of payment card or third party network transactions | Exempt payees 1 through 4 |

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

| For this type of account: | Give name and SSN of: |
|--|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) other than an account maintained by an FFI | The actual owner of the account or, if combined funds, the first individual on the account ¹ |
| 3. Two or more U.S. persons (joint account maintained by an FFI) | Each holder of the account |
| 4. Custodial account of a minor (Uniform Gift to Minors Act) | The minor ² |
| 5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law | The grantor-trustee ¹ The actual owner ¹ |
| 6. Sole proprietorship or disregarded entity owned by an individual | The owner ³ |
| 7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A)) | The grantor* |
| For this type of account: | Give name and EIN of: |
| 8. Disregarded entity not owned by an individual | The owner |
| 9. A valid trust, estate, or pension trust | Legal entity ⁴ |
| 10. Corporation or LLC electing corporate status on Form 8832 or Form 2553 | The corporation |
| 11. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 12. Partnership or multi-member LLC | The partnership |
| 13. A broker or registered nominee | The broker or nominee |

| For this type of account: | Give name and EIN of: |
|---|-----------------------|
| 14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |
| 15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B)) | The trust |

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

Litigation Disclosure

☐

We attest that there are no pending, concluded or threatened litigation, administrative proceedings or federal or state investigations, audits, subpoenas, or other information involving this firm or its owners, its principals or members of the development team in the past five (5) years.

☐

We attest that there are pending, concluded or threatened litigation, administrative proceedings or federal or state investigations, audits, subpoenas, or other information involving this firm or its owners, its principals or members of the development team in the past five (5) years. *(Please describe below the nature, status and resolution if concluded. List any sanctions or penalties brought against your firm or any of its personnel (including suspension or disbarment) imposed on your firm or any of its personnel by regulatory or licensing agencies. Please include a description of the reasons for the sanction or penalties and whether they are subject to appeal. Please describe any potential conflict that may affect your service to the project.)*

Signed _____

Dated _____

Print Name _____

Title _____



DEVELOPER POINTS OF CONTACT

For each member of the development team, please provide the following information:

NAME:

TITLE:

BUSINESS NAME:

BUSINESS ADDRESS:

BUSINESS PHONE:

MOBILE PHONE:

ROLE:

SIGNATURE: _____ DATE: _____

NAME:

TITLE:

BUSINESS NAME:

BUSINESS ADDRESS:

BUSINESS PHONE:

MOBILE PHONE:

ROLE:

SIGNATURE: _____ DATE: _____

NAME:

TITLE:

BUSINESS NAME:

BUSINESS ADDRESS:

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MOBILE PHONE:

ROLE:

SIGNATURE: _____ DATE: _____

NAME:

TITLE:

BUSINESS NAME:

BUSINESS ADDRESS:

BUSINESS PHONE:

MOBILE PHONE:

ROLE:

SIGNATURE: _____ DATE: _____



APPENDIX B

Chautauqua County Industrial Development Agency

Potential Financial Incentives to

Developers

Financial Incentives

Agency Benefits

The Agency offers a variety of types of financial assistance to project applicants including taxable and tax-exempt financing, exemptions from real estate taxes, mortgage recording taxes, and sales and use taxes.

Tax-Exempt Financing

Under the Internal Revenue Code, interest on certain revenue bonds issued by the Agency with respect to a project located in Chautauqua County is exempt from federal income taxation ("tax-exempt financing"). Tax-exempt financing provides a project beneficiary with both access to the public markets and significantly lower interest rates than those offered through traditional financing. If a project is not eligible for tax-exempt financing, the Agency can issue taxable financing for said project. Taxable revenue bonds that are sold in the public market may also result in lower interest rates and debt service payments. The three most common types of tax-exempt revenue bonds issued by the Agency are Civic Facility Revenue Bonds, Small Issue Manufacturing Revenue Bonds and Exempt Facility Revenue Bonds.

Chautauqua County Capital Resources Corporation (the Corporation)

The Corporation undertakes project either on its own behalf, or for the benefit of an applicant. The Corporation can undertake any project that promotes community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of Chautauqua County. This is accomplished by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other eligible entities to access low interest tax-exempt and not-tax-exempt financing for their eligible projects, as well as projects and activities within the County for the purpose of relieving and reducing unemployment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the County by attracting new industry or by encouraging the development of, or retention of, an industry in the County, and lessening the burdens of government and acting in the public interest. (The Chautauqua County Capital Resources Corporation is a local development corporation formed under Section 1411 of the New York State Not-for-Profit Corporation Law.)

Small Issue Manufacturing Revenue Bonds

Tax-exempt Small Issue Manufacturing Revenue Bonds may be issued to finance facilities for the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

Exempt Facility Revenue Bonds

Tax-exempt Exempt Facility Revenue Bonds may be issued to finance certain facilities enumerated in Section 142 of the Internal Revenue Code, including certain airport facilities, docks and wharves, mass commuting facilities, water and sewerage facilities, solid waste facilities, low income residential rental facilities, and certain other facilities.

Real Property Tax Exemption/Payment in Lieu of Tax Agreement.

Sales and Use Tax Exemption

The Agency is able to provide project beneficiaries with exemptions from state and local sales and use taxes. This exemption from state and local sales and use tax applies to items purchased in connection with the acquisition, construction and equipping of approved projects and generally may include construction materials, furnishings, equipment, consumables and tool rentals. Under the Agency's Uniform Tax Exemption Policy, this exemption from state and local sales and use taxes will terminate upon completion of the project.

Each project receiving an abatement will be subject to a **Payment In Lieu of Tax Agreement** ("PILOT Agreement") in a form acceptable to the Agency. The Agency will consider project factors when determining the amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected tax jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, such payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payment payable in the first tax year following the Completion Date of the project, and in each tax year during the Term of the PILOT shall be an amount equal to (i) the assessed value, times (ii) the tax equalization rate of the applicable taxing jurisdiction, times (iii) the current tax rate for the applicable taxing jurisdiction, times (iv) the applicable abatement percentage.

For purposes of computing the PILOT payment, the "Term of the PILOT" shall be ten (10) full fiscal years for each taxing jurisdiction following the Completion Date of the project. In the case of Adaptive Re-Use Projects or Tourism Destination Projects, the

“Term of the PILOT” shall be fifteen (15) full fiscal years for each taxing jurisdiction following the Completion Date of the project. See Uniform Tax Exemption Policy.

Payment under the PILOT program must be made by the applicant to the Agency or its designee at the time or times real property taxes must be paid. Neither the PILOT Agreement nor the Agency’s involvement with the project will abate special assessments, special district taxes or other special levies.

Mortgage Recording Tax Exemption

The Agency is able to provide project beneficiaries with an exemption from state and local mortgage recording taxes. In Chautauqua County, the current mortgage recording tax rate is equal to \$1.25 for every \$100 secured by the mortgage. This exemption from state and local mortgage recording taxes enables the Agency to substantially lower the cost of financing a project with debt secured by a mortgage and/or an assignment of leases.

Bonds

Industrial Development Bond – Taxable

Eligibility is for primarily manufacturing and certain commercial projects for land, building acquisition/renovation/construction, new machinery and equipment. Minimum is \$400,000, with no upper limit. Can be used for 100% of the project. Must have public economic benefit and result in job creation.

Loans

Chautauqua Revolving Loan Fund (CRLF)

Eligibility is for businesses, although other projects may be eligible, for real estate, machinery, equipment, and working capital. Loan limit is usually \$75,000, maturing in 5 years. Must result in job creation/retention.

AL Tech Revolving Loan Fund “The History of AL Tech”

Eligibility is for primarily manufacturing concerns in Chautauqua County for real estate, machinery, equipment and working capital. Limit is 40% of eligible project costs with a maximum of \$1 million, with 7 – 20 year maturity. Must result in job creation.

UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

TAX EXEMPTION POLICY

COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

The policy of the County of Chautauqua Industrial Development Agency (the "Agency") is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may, as part of its standard policy, grant enhanced benefits for Adaptive Re-Use Projects, Tourism Destination Projects, or Small Alternate Energy Facility Projects, as provided in paragraph A. The Agency may also grant enhanced benefits on a case-by-case basis, after following the process for deviation, for projects expected to have a significant economic impact on Chautauqua County, as determined by the Agency's members.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value added by construction, renovation or other improvement, and the existing parcel involved; provided, however, in no event will the involvement by the Agency result in revenue to the affected tax jurisdictions in any tax year, to be less than the revenues received in the tax year preceding involvement by the Agency. The standard period of abatement will be ten (10) years for qualified projects and fifteen (15) years for qualified projects that are also Adaptive Re-Use Projects, Tourism Destination Projects or Small Alternate Energy Facility Projects. The abatement will be applicable to County, Municipal and School taxes for the period of abatement.

The schedule of abatement for qualified projects is as follows:

Tax Year Percentage of Abatement

1 and 2 90%

3 and 4 80%

5 and 6 70%

7 and 8 60%

9 and 10 50%

The schedule of abatement for qualified projects that are also Adaptive Re-Use Projects is as follows:

Tax Year Percentage of Abatement

1 through 5 90%

6 through 10 70%

11 through 15 50%

The schedule of abatement for qualified projects that are also Tourism Destination Projects is as follows:

Tax Year Percentage of Abatement

1 through 5 100%

6 through 10 75%

11 through 15 50%

The schedule of abatement for qualified projects that are also Small Alternate Energy Facility Projects is as follows:

Tax Year Percentage of Abatement

1 through 15 100%

Qualified projects include industrial projects (i.e. manufacturing, re-manufacturing, assembly, processing, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, etc.).

“Adaptive Re-Use Projects” are qualified projects that involve adapting old sites or structures for new purposes, including potentially a mix of business and commercial uses, or market-rate housing. Adaptive Re-Use Projects are those that will benefit Chautauqua County by redeveloping a blighted site or structure, promoting development using existing infrastructure, and creating new economic activity at

troubled sites or structures to assist in eliminating neighborhood blight. In contemplating whether a qualified project is an Adaptive Re-Use Project, the Agency may consider such things as: (i) the age of the building or structure and the challenges involved with its redevelopment, (ii) the time period during which the structure has been vacant, (iii) whether the site or structure presents a public safety hazard in its existing state, (iv) whether redevelopment of the site or structure would involve significant environmental remediation costs, and (v) the proximity of the site or structure to a distressed census tract or an area of extensive redevelopment.

“Tourism Destination Projects” are qualified projects in Chautauqua County that will attract, entice or service a significant number of Tourists, or that are significantly linked to other Tourism Destination Projects. A “Tourist” is a customer of the project or facility who resides outside of Chautauqua County.

“Small Alternate Energy Facility Projects” are qualified projects in Chautauqua County that involve the construction and operation of a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and a farm waste energy system), and (2) that is installed or to be installed in a residence, a farm or small business located within Chautauqua County.

The Agency will have the right, in its sole discretion and in accordance with applicable provisions of the New York State General Municipal Law, to determine whether a project is a qualified project and, if so, whether it is also a Tourism Destination Project, an Adaptive Re-Use Project or a Small Alternate Energy Facility Project.

Any deviations from the Agency’s standard policy will be made only with the specific approval of the Agency’s members based on the factors listed in paragraph E and those, if any, described in the New York State General Municipal Law Section 874. Additionally, the Agency will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

The Agency will use existing tax data, or building values as established by the assessor of the municipal jurisdiction within which the project is located, or by the Agency, as the basis to negotiate the payment in lieu of tax agreement. Therefore, appraisals will not normally be required.

B. Payment in Lieu of Taxes.

Each project receiving an abatement, other than Small Alternate Energy Facility Projects, will be subject to a Payment in Lieu of Tax Agreement or similar agreement (“PILOT Agreement”) in a form acceptable to the Agency. The Agency will consider project factors, similar to those described in paragraph E herein, when determining the

amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected tax jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, such payments shall be allocated among the affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payment payable in the first tax year following the Completion Date of the project, and in each tax year during the Term of the PILOT shall be an amount equal to (i) the assessed value, times (ii) the tax equalization rate of the applicable taxing jurisdiction, times (iii) the current tax rate for the applicable taxing jurisdiction, times (iv) the applicable abatement percentage.

For purposes of computing the PILOT payment, the "Term of the PILOT" shall be ten (10) (or in the case of Adoptive Re-Use Projects, Tourism Destination Projects or Small Alternate Energy Facility Projects, fifteen (15)) full tax fiscal years for each taxing jurisdiction following the Completion Date of the project.

Payment under the PILOT program must be made by the applicant to the Agency or its designee at the time or times real property taxes must be paid. Neither the PILOT Agreement nor the Agency's involvement with a project will abate special assessments, special district taxes or other special levies.

C. Sales and Use Tax Exemptions.

1) Purchases of construction materials and equipment rentals and purchases of project related equipment, furnishings and services are made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e. certificate of occupancy) or until the date certain established by the Agency on a project-by-project basis. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

2) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 874(8) of the General Municipal Law, and any other statutory or regulatory requirements.

3) In all cases, the sales and use tax exemption letter will only be issued for a period not to exceed one (1) year from the date of action by the Agency. In the event the project has not been completed within the one (1) year term, the applicant will be required to petition the Board for an extension of the sales and use tax exemption.

4) Sales and Use Tax exemptions are not available for Small Alternate Energy Facility Projects.

D. Mortgage Recording Tax Exemptions.

1) The Agency's policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the project.

2) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financing, (e.g. second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including but not limited to the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

3) Mortgage recording tax exemptions are not available for Small Alternate Energy Facility Projects.

E. Deviations.

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

1) The nature of the proposed project (e.g. manufacturing, commercial, civic, etc.).

2) The nature of the property before the project begins (e.g. vacant land, vacant building, brownfield site, etc.).

3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.

4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained and/or the salary ranges of such jobs.

5) The estimated value of tax exemptions to be provided.

- 6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- 7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
- 8) The amount of private sector investment generated or likely to be generated by the proposed project.
- 9) The likelihood of accomplishing the proposed project in a timely fashion.
- 10) The effect of the proposed project upon the environment and surrounding property.
- 11) The extent to which the proposed project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services.
- 12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- 13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.

F. Recapture of Benefits.

The Agency, at 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, that a project has failed to meet its intended goals and 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 not be limited to:

- 1) Sale or closure of facility within the time period the applicant receives Agency benefits;
- 2) Significant employment reduction or failure to meet stated employment goals;
- 3) Significant change in use in facility;
- 4) Significant change in business activities of project applicant or operator; or

5) Material noncompliance with or breach of terms of Agency transaction documents, or of zoning or land use laws or regulations, or federal, state or local environmental laws or regulations.

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

G. Effective Date.

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution on or after October 30, 2012, and all re-financing of any project induced or closed before said date.

H. Amendments.

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.