

## UTICA INDUSTRIAL DEVELOPMENT AGENCY

ONE KENNEDY PLAZA  
CITY HALL  
UTICA, NEW YORK 13502  
(315) 792-0181

ROBERT M. PALMIERI, MAYOR

### APPLICATION FOR INDUSTRIAL DEVELOPMENT AGENCY ASSISTANCE

For further information contact:

Jack N. Spaeth  
Executive Director  
(315) 792-0195

**Online Posting Requirement.** Industrial development agencies are required by law to post on websites and make available to the public all Applications for Financial Assistance and materials submitted in support of Applications. If when completing this Application you deem any information to be specifically exempted from disclosure under Article Six of the Public Officers Law, please answer the question "This information is deemed to be exempt from disclosure under Article Six of the Public Officers Law and is submitted on the attached confidential addendum." Please answer any such questions on a separate Addendum titled, "Confidential and Protected by Article Six of the Public Officers Law." If UIDA is challenged to produce any information the Applicant identifies as protected, the Applicant will be required at its sole cost to defend such assertion on behalf of UIDA.

**Prevailing Wage.** Effective for closings that occur after December 31, 2021, certain industrial agency projects will be subject to prevailing wage rules. We had hoped to be able to provide clients with some basic guidance regarding the impending change in law long before now, but as of today the language of the statute is ambiguous at best, and more aptly described as nearly impossible to interpret. New York State has yet to appoint a member to the committee that will have oversight, and who will be able to answer questions regarding terms that have no assigned definition.

Compliance is fully the obligation of the project operator. I am attaching the legislation here so you can review with your counsel to determine what impact, if any, such a rule will have on your project.

We will keep project operators apprised if we receive more definitive guidance on the subject.

**MEMORANDUM RELATIVE TO  
INDUSTRIAL DEVELOPMENT REVENUE BONDS**

1. When it is decided that industrial revenue bonds may suit the needs of a particular company, the first order of business is to have the company complete an application form so that it may be submitted to bond counsel for a formal decision as to whether or not the project qualifies for industrial revenue bonds.
2. In certain circumstances an oral approval of the project may be had before the application is submitted, but in any event nothing much occurs until the application is completed and submitted to the Agency and to bond counsel.
3. Upon completion of the application and approval of bond counsel, the Agency will meet and adopt an Inducement Resolution and review the Environmental Impact Questionnaire and Statement of the Project Applicant. At this time a Resolution should be adopted by the Agency concerning the environmental impact.
4. The question of bond counsel must be resolved by, between and among the various parties, including the Project Applicant, the Agency, the Trustee, and the Bond Purchaser. In most instances, the Agency requires its designated bond counsel to be used by the Applicant.
5. The sale of the bonds is, of course, crucial to the entire transaction. The bonds may be sold through an underwriter either locally or in New York City; or there may be a private placement of the bonds with a bank, insurance company or a combination of purchasers. In connection with the sale of the bonds, it is essential to negotiate with the purchaser all of the terms and conditions of the transaction which are to be contained in the security instruments, whether they are real estate mortgages, security agreements or personalty or both. These terms include, among other things, the interest rate, the maturity of the bonds, the type of bonds, guarantees, repayment schedules, etc. All of this must be completed prior to the drafting of the Bond Purchase Agreement.
6. The fee schedule is attached covering the origination fee for the development corporation and the Agency's work with respect to the project and the work of the Agency's counsel. These two combined normally are approximately 1 1/2% for up to \$600,000 and scale down 1/8 of 1% for issues in excess of \$3,000,000.\* There is a minimum fee of \$3,000.00 for the development corporation (Agency) and \$4,500.00 for Agency counsel regardless of the size of the bond issue. There is, of course bond counsel's fee which normally is about \$10,000 minimum.

There are other fees for the Trustee (origination fee, annual fee and Trustee's attorney); bond purchasers may, as a condition of the purchase of the bonds, require that their counsel's fee be paid out of the project costs; and then, of course, there is the fee for the project occupant's counsel.

7. After the terms and conditions of the transaction are fairly well established, preliminary drafts of the Bond Purchase Agreement, Trust Indenture, Lease and Guaranty are prepared and reviewed by all participants and after a closing date is established, final documents are prepared.
8. A public hearing is held after which Mayor as Chief Executive must approve or disapprove the issue.
9. The Agency then adopts a formal Bond Resolution.
10. Closing is held.

## **PAYMENT IN LIEU OF TAXES - GUIDELINES**

The following are guidelines the Agency uses to determine in Payment in lieu of taxes. NOTE: Final determinations are at the sole discretion of the Utica Industrial Development Agency.

### **MANUFACTURING AND INDUSTRIAL PROJECTS**

The Company shall pay a percentage of the taxes that would otherwise be payable if the Project was not tax exempt, to each taxing jurisdiction in which the Project is located as follows:

- a) 33 1/3% of such taxes through the fifth (5th) year of the lease.
- b) 66 2/3% of such taxes from the sixth (6th) through tenth (10th) year of the lease.

### **COMMERCIAL PROJECTS**

The Company shall pay a percentage of the taxes that would otherwise be payable if the Leased Land was not tax exempt to each taxing jurisdiction in which the Leased Land is located at follows:

- a) 50% of such taxes through the second (2nd) year of the Lease.
- b) 75% of such taxes from the third (3rd) through the fifth (5th) year of the Lease.
- c) The full amount of such taxes after the fifth (5th) year of the Lease.

### **EXISTING BUSINESS**

In the event that the Company is not acquiring real property but is simply making improvements to existing real property, the Company shall pay the full amount of such taxes based upon the assessed value of the existing real property; and with respect to any increase in assessment resulting from improvements that are financed through the Bond Issue, the above payment in lieu of taxes shall apply.

Acquisitions of existing commercial properties which, in the Agency's opinion, do not add to the economic growth of the City of Utica shall pay the full amount of taxes based upon the assessed value of the existing real property.

\* - Pursuant to Agency policy, the foregoing schedules are subject to modification based on exigent economic factors.

## FEE SCHEDULE:

1. Agency fee for the development corporation:.\*
  - a) 1/2 of 1% up to \$600,000 with a minimum of \$3,000.
  - b) 1/3 of 1% for the amount between \$600,000 to \$1,500,000.
  - c) 1/4 of 1% for the amount between \$1,500,000 to \$3,000,000.
  - d) 1/8 of 1% for all in excess of \$3,000,000.
  - e) Projects that utilize Housing Finance Agency or other NYS housing agency funding or are residential in nature will be charged an Agency Fee of .005 multiplied by the total project costs.
2. Agency's Counsel's fee:
  - a) 1% up to \$600,000 with minimum of \$4,500.
  - b) For larger projects, Agency Counsel's fees are subject to negotiation.
3. For Bond Counsel's role and fee, please see pages 5-7.

4. Administrative Fee:

The Public Authority Accountability Act has enacted new guidelines that require IDAs to follow strict and complicated reporting requirements regarding all financial assistance granted. In an effort to recuperate the costs that the IDA will incur to comply with these new regulations, the City of Utica Industrial Development Agency has adopted a policy that requires each project to pay an annual fee of \$3,000 as part of the lease payments for each and every year of IDA assistance. Those projects that are more complex in nature may require a greater fee but will be evaluated on a project by project basis.

5. Sales Tax Exemption Extension/Increase Fee:

A fee of \$500.00 must be submitted to the UIDA as a processing fee for an agent requesting an extension or increase of the Sales Tax Exemption.

Non-refundable \$300 application fee submitted at time of application.

\*These fees are subject to being reviewed every six months, and the fees may, as economic circumstances dictate, be adjusted.

## INDUSTRIAL REVENUE BOND - FACT SHEET

Bonds issued by City of Utica Industrial Development Agency, a public benefit corporation that issues tax-exempt securities for industrial projects. Acquisition without expansion or renovation is an eligible project.

The Agency finances a project by issuing revenue bonds in its own name. These bonds are secured by a first mortgage on the property. The I.D.A. then leases the facility to the company with the rental revenues being used to pay the principal and interest on the bonds.

When the bond issue is retired, the plant is sold to the firm for a nominal sum. During the lease period, the company may take depreciation on the facility; the building is carried as an asset on its books; and the outstanding debt on the issue as a liability. I.D.A. built facilities are exempt from New York State Mortgage tax and materials used in construction are exempt from the State Sales Tax.

Interest rates and terms are negotiated between the firm and the lender(s). In general, rates are several points lower than conventional financing. The usual bond term is 15 years.

The program is mortgage financing of capital assets, land, building, and equipment. Revenue bond financing cannot provide operating capital refinancing or inventories and receivables.

Security offered for the bonds relates to the credit of the firm plus any other security which may be required by the bond buyer. The rate is basically determined by the feasibility of the project, credit worthiness of the firm, and the state of the market for tax-exempt securities at the time.

There is a bonding limit that a firm cannot spend more than \$10 million on capital expenditures in any one municipality over a six-year period measured three years back or forward from the date of the issue without causing the bonds to lose their tax-exempt status.

I.D.A. owned facilities do not pay property taxes. However, a payment in-lieu of taxes is made by the firm as specified in the I.D.A. Guidelines.

**MEMORANDUM FROM AGENCY BOND COUNSEL FOR BORROWERS AND LENDERS  
PARTICIPATING IN THE CITY OF UTICA  
INDUSTRIAL DEVELOPMENT AGENCY'S  
INDUSTRIAL DEVELOPMENT BOND PROGRAM**

As bond counsel to the City of Utica Industrial Development Agency, we have found it useful to advise borrowers and lenders which are planning to participate in an industrial development bond financing with the Agency as to the services we provide as bond counsel, the general nature of these financings, the probable timetable of events, and potential problem areas. The following information is provided to that end, and hopefully will serve to expedite the bond issue for the benefit of all concerned.

As a matter of custom and prudence, both the Agency and purchasers of municipal securities have come to require an opinion of recognized bond counsel in connection with the issuance of the securities to the effect that (1) the obligations have been properly authorized and issued and are valid, (2) the legal documentation effectively provides the intended security for the obligations, and (3) interest on the obligations is exempt from federal income taxation. It will be our responsibility in this financing to render such an opinion.

In order to establish the factual basis for the legal conclusions expressed in our opinion, we will prepare a record of proceedings which contains all documents and other materials necessary in our view to make certain that the form and substance of the transaction conform to the requirements of the Internal Revenue Code of 1954, the New York State Industrial Development Agency Act and other applicable State laws. Included in the record of proceedings will be a lease agreement, and indenture of mortgage and trust, a bond purchase agreement and a guaranty agreement, the basic documents of the financing more fully described below. These basic documents reflect the specific concerns of the Agency, particularly in the area of assuring that the project will be constructed or acquired and will be properly maintained and operated during the life of the bonds. The documents also contain the contractual assurances concerning the use of the bond proceeds necessary to our bond opinion.

We also as bond counsel participate with the Agency, the company and the bond purchaser in integrating any additional security provisions with the bond format of the financing, such as provisions for a mortgage, security interest or separate guaranty. In connection with public offerings, it is customary for us to assist in preparing the materials used in the offering, to make an examination as to their accuracy, completeness and legal sufficiency, and to render additional opinions on specific matters when requested. There are a number of matters of administrative detail, such as coordinating and making arrangements for the closing, for which we ordinarily assume responsibility. In addition, we are often called upon to consult with the Agency, the company, its accountants and the bond trustee after the transaction has been made.

City of Utica Industrial Development Agency bond financings are normally cast in a lease format. Concurrently with the issuance of the bonds and execution of the lease agreement the real property constituting the site of the project will be conveyed in fee simple to the Agency for nominal consideration. The bond proceeds are deposited to a construction fund for use in the acquisition or construction of the project by the company on behalf on the Agency. The lease agreement further provides for the lease of the project by the Agency to the company for periodic rental payments equal to the debt service payable by the Agency on the bonds. Upon payment of the bonds in full, the company has the option to purchase the project for a nominal sum. In addition, the lease agreement contains provisions concerning the

maintenance and operation of the project, indemnification, federal tax matters, sale and leasing of the project, assignment of the agreement, and defaults and remedies.

The Agency's rights under the lease agreement are pledged under an indenture of mortgage and trust to a trustee for the bondholders selected by the company. Under the indenture, the Agency's interest in the project is mortgaged to the trustee as additional security for the bonds. The trust indenture also contains the form of the bonds and provides for their issuance, exchange and transfer, establishes various funds and accounts, and sets forth the rights and duties of the trustee.

A bond purchase agreement executed by the company, the Agency and the bond purchaser provides formally for the purchase of the bonds. It also sets forth the forms of the various certificates, reports and opinions which are to be delivered at the time of adoption of the Agency's bond resolution and at the bond closing.

Our involvement in a company's proposed financing begins formally with a review of your application for assistance to the Agency. Based upon the description provided to us, we advise the Agency that in our view the proposed project qualifies under the New York State Industrial Development Agency Act as one for which the Agency may issue bonds. The Agency's staff also finds the proposed project to be qualified. On the basis of the staff recommendation and our preliminary opinion, the Agency's board of directors adopts an inducement resolution authorizing the company to proceed with the acquisition or construction of the project.

The resolution indicates the Agency's intention to issue its industrial development bonds to finance the proposed facility. Before this can be accomplished, the arrangements for the purchase of the bonds must be made. Inasmuch as the bonds will be secured not by public credit but solely by a mortgage and the company's corporate credit, this responsibility rests with the company. Depending on the size of the issue, such arrangements may be made with a commercial bank, with an investment banker, with a placement agent or with some other lender.

Our direct involvement in the financing resumes when the company reaches a firm agreement with an investor as to purchase the bonds and reflects the agreement in a commitment letter concurred in by both parties. The commitment letter provides us with the necessary assurance that the project and its financing are viable, and also enables us to prepare materials which reflect the understanding of the company and the lender as to the terms of the issue. If the bonds are to be sold to the public we ask that the company and its investment banker concur as to the feasibility and timing of the bond issue.

The commitment letter should contain at a minimum the following basic information: (1) name of the company; (2) name(s) of the bond purchaser(s); (3) name of the trustee for the bond issue; (4) principal amount of the bonds; (5) principal payment date(s); (6) interest rate(s); (7) interest payment date(s); (8) the company's prepayment rights; (9) whether there will be a mortgage or security interest on the project; (10) whether collateral in addition to the project will be pledged to secure the bonds; (11) whether the payment of the bonds will be guaranteed by the company or a third party. This information may be incorporated in the lender's form of commitment letter in any suitable manner. It is generally most helpful to the transaction if the lender uses a "long form" commitment letter, inasmuch as this allows the lender and borrower to focus and agree on the detailed terms of the business understanding (particularly the business representations and covenants) outside the context of the bond documentation.

Once assembled, copies of the commitment letter are forwarded to the Agency. We then proceed to prepare the documentation for the issue, a process that normally requires about three weeks. Following review of the documentation, a meeting of all parties and their counsel is normally held to discuss any

comments and suggestions. Succeeding drafts are then prepared and additional meetings and conference calls held in order to finalize the documents. This process may take from one to three months, depending upon factors such as the urgency or complexity of the financing. Once agreement is reached on the documentation the Agency adopts a second resolution (the "bond resolution") authorizing the issuance of the bonds and the execution of the various contracts by Agency officials. The closing follows the adoption of the Agency's bond resolution by one to three weeks.

The materials and procedures that are employed in Agency financings have been refined and have been received with general acceptance over several years. Certain requirements imposed by law and by the Agency, however, tend to meet recurrent confusion and difficulty, and therefore perhaps should be briefly highlighted. In order to assure that each project financed will be in compliance with applicable law, the Agency seeks an opinion of your attorney to the effect that all zoning, wetlands, environmental and air and water pollution laws have been complied with and that any necessary permits and approvals have been obtained or have been applied for and are expected to be received. Also required is an accountant's opinion concurring with a company officer's certificate that at least 90% of the bond proceeds have been or will be expended for land or depreciable property within the meaning of the Internal Revenue Code. Finally, for issues of more than \$1,000,000, an accountant's opinion must be furnished concurring with a company officer's certificate listing all capital expenditures paid or incurred in the last three years by the company or any related person with respect to any facilities in City of Utica. These expenditures, together with the bond issue, may not aggregate more than \$10,000,000. Forms of these opinions and certifications are included in the basic documentation which we distribute upon receipt of the commitment letter.

The statement for our services, in accordance with our understanding with the Agency, is presented at the closing. While there will be variations depending upon the circumstances of each transaction, our fee for issues of \$1,000,000 or less is normally between \$8500 and \$12,000 and for issues in excess of \$1,000,000 between \$12,000 and \$20,000. Factors such as the size of the issue, the contribution of other parties, the time required, the nature of the federal tax questions involved, the manner in which the bonds are sold, and the complexity of any additional security and business covenants will affect the size of our fee.

The statement for services will also include our direct, out-of-pocket disbursements. Our disbursements include our copying, telephone, travel and overtime charges. Of these the largest is that for the copying of documents. The copying charge per issue generally ranges from \$1000 to \$1500, depending on the size of the distribution list and the number of drafts involved. Other disbursements average \$500 in the aggregate but also fluctuate considerably.

Finally, it is customary for us to prepare for all parties involved a bound volume containing copies of all of the documents delivered as part of the record of proceedings for the issue. The charges for copying and for binding normally averages \$35 per volume and, depending upon the circumstances, is billed directly to the company either at the closing by us or after the closing by the copying and binding forms we engage.



**City of Utica  
Industrial Development Agency  
Application**

The information required by this form is necessary to determine the eligibility of your project for IDA benefits. Please answer all questions; insert "NONE", or "NOT APPLICABLE", where necessary. If an estimate is given, put "EST." after the figure. Attach additional sheets if more space is needed for a response than is provided. Return three copies of this application to the City of Utica Industrial Development Agency.

Once submitted with the IDA, this Application becomes public information and will be published on the IDA's website. If the applicant deems any information requested to be exempt from FOIL, please answer the question "CONFIDENTIAL" and submit the information on a separate attachment marked confidential and provide the statutory exemption

A project financed through this Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project.

**PART I  
Applicant**

Applicant's legal Name: \_\_\_\_\_

Principal Address: \_\_\_\_\_  
\_\_\_\_\_

Project Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number(s): \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

Company IRS Filing Office Location: \_\_\_\_\_

Company Officer completing this application:

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

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

Phone: \_\_\_\_\_ cell \_\_\_\_\_ office

Email: \_\_\_\_\_

1. A. **Is the applicant a:**

( ) Corporation: If YES, Public ( ) Private ( )  
If a PUBLIC Corporation, on which exchange is it listed?

\_\_\_\_\_

- ( ) Sole Proprietorship
- ( ) Partnership
- ( ) Subchapter S
- ( ) DISC
- ( ) Other (specify) \_\_\_\_\_

B. State of incorporation/organization, if applicable: \_\_\_\_\_

2. **Stockholders, Directors, Officers, Partners or Members**

A. Provide the following information in regard to principal stockholders or parties:

| <u>Name</u> | <u>Home Address</u> | <u>Percentage of Ownership</u> |
|-------------|---------------------|--------------------------------|
| _____       | _____               | _____                          |
| _____       | _____               | _____                          |
| _____       | _____               | _____                          |
| _____       | _____               | _____                          |

B. Provide the following information in regard to officers and directors:

| <u>Company Officer</u> | <u>Name and Home Address</u> | <u>Other Principal Business Affiliation</u> |
|------------------------|------------------------------|---|
| _____                  | _____                        | _____                                       |
| _____                  | _____                        | _____                                       |
| _____                  | _____                        | _____                                       |
| _____                  | _____                        | _____                                       |
| _____                  | _____                        | _____                                       |

- C. Is the applicant or any of the persons listed in 2(A) above related, directly or indirectly, to any other entity by more than 50% common ownership? If also, indicate name of such entity and the relationship.

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- D. Is the applicant affiliated with any other entity, directly or indirectly, other than as indicated in response to paragraph C above? If YES, please indicate name and relationship of such other entity and the address thereof:

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3. **Applicant's accountant**

Name and Title: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

4. **Applicant's attorney**

Name and Title: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

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

\_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

5. **References** (Individuals and institutions in this section may be contacted)

A. Banking/Financial Institution:

| <u>Name of Institution</u> | <u>Address and Phone Number</u> | <u>Account Officer/ Contact Person</u> |
|----------------------------|---------------------------------|--|
|----------------------------|---------------------------------|--|

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B. Business suppliers (list three largest accounts)

| <u>Name of Supplier</u> | <u>Address and Phone Number</u> | <u>Account Officer/ Contact Person</u> |
|-------------------------|---------------------------------|--|
|-------------------------|---------------------------------|--|

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C. Major customers (list three largest)

| <u>Name of Customer</u> | <u>Address and Phone Number</u> | <u>Account Officer/ Contact Person</u> |
|-------------------------|---------------------------------|--|
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6. **Business Description**

A. Describe nature of business and principal products and/or services:

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B. Describe the geographical market(s) served:

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7. **Present location(s) of business operations**

A. List present location(s):

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

B. For what purpose is each of these used?

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

C. For each of your present locations which are RENTED, provide the following information:

D. Name of Landlord                      Landlord's Address                      Landlord's  
Telephone Number

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Amount of Space                      Annual Rental                      Lease Termination Date

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

E. For each of your present locations which you OWN, provide the following information:

|    | <u>Location</u> | <u>Annual Mortgage Payment</u> | <u>Termination Date</u> |
|----|-----------------|--------------------------------|-------------------------|
| 1. | _____           |                                |                         |
| 2. | _____           |                                |                         |
| 3. | _____           |                                |                         |

F. List which of your present locations, if any, will be vacated if IDA approval for your project is given:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If any of these locations will be sublet or sold, provide information concerning your ability to do so:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART II**

**Reasons for Project**

Please explain in detail why you want to undertake this project and define scope of project:

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Why are you requesting the involvement of the IDA in your project?

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How will the applicant's plans be affected if IDA approval is not granted?

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Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

Yes or  No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

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Identify the assistance being requested of the Agency (select all that apply):

1. Exemption from Sales Tax                      \_\_\_\_ Yes or \_\_\_\_ No
2. Exemption from Mortgage Tax                \_\_\_\_ Yes or \_\_\_\_ No
3. Exemption from Real Property Tax           \_\_\_\_ Yes or \_\_\_\_ No
4. Tax Exempt Financing \*                        \_\_\_\_ Yes or \_\_\_\_ No

\* (typically for not-for-profits & small qualified manufacturers)



A. **Type of Project**

Check category or categories best describing your project (O - Owner) and all end-users (T – Tenant(s)) and the square footage of each:

|  |                                  |    |
|--|----------------------------------|----|
|  | Manufacturing                    | sf |
|  | Industrial (Assembly or Service) | sf |
|  | Research and Development         | sf |
|  | Warehousing                      | sf |
|  | Commercial                       | sf |
|  | Pollution Control                | sf |
|  | Housing                          | sf |
|  | Back Office                      | sf |
|  | Facility for Aging               | sf |
|  | Multi-Tenant                     | sf |
|  | Retail                           | sf |
|  | Recreational                     | sf |
|  | Other (specify)                  | sf |
|  | Total                            | sf |

B. **Description of Proposed Project**

Check all appropriate categories which apply to the proposed project:

- |  |        |       |
|--|--------|-------|
| 1. Acquisition of land                           | YES( ) | NO( ) |
| 2. Acquisition of existing building              | YES( ) | NO( ) |
| 3. Renovations to existing building              | YES( ) | NO( ) |
| 4. Construction of addition to existing building | YES( ) | NO( ) |
| 5. Demolition                                    | YES( ) | NO( ) |
| 6. Construction of a new building                | YES( ) | NO( ) |
| 7. Acquisition of machinery and/or equipment     | YES( ) | NO( ) |
| 8. Installation of machinery and/or equipment    | YES( ) | NO( ) |
| 9. Other (specify) _____                         | YES( ) | NO( ) |

C. What is the zoning classification of the proposed site?

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D. For what purpose was the site most recently used (e.g. light manufacturing, heavy manufacturing, assembly, etc.)?

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|    |                    |                       |                                   |
|----|--------------------|-----------------------|-----------------------------------|
| E. | <u>Location(s)</u> | <u>Street Address</u> | <u>Number of Floors/ SF/floor</u> |
|----|--------------------|-----------------------|-----------------------------------|

F. Is the site in an Empire Zone? ( ) Yes ( ) No

Is the business Empire Zone certified at this location: ( ) Yes ( ) No

Attach a copy of the last Business Annual Report filed.

Is the proposed project located within the boundary of a Central New York Regional Transportation (Centro) District? ( ) Yes ( ) No

G. 1. Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings and other existing structures or facilities) and attach plot plans, photos or renderings, if available.

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2. If construction or renovation work on this project has already begun, please describe the work in detail.

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3. What is the estimated useful life of the:

a. Facility: \_\_\_\_\_

b. Equipment: \_\_\_\_\_

H. List the principal items or categories of equipment to be acquired as part of the project.

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I. If any of this equipment has already been purchased or ordered, please attach all invoices and purchase orders and list amounts paid and dates of expected delivery as well as a brief description:

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J. If the construction or operation of the proposed project will require any local ordinance or variance to be obtained or requires a permit or prior approval of any state or federal agency or body (other than normal occupancy/construction permits), please specify:

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K. Will the project have a significant effect on the environment, YES ( ) NO ( ). If YES, please describe the effect. **Important: please attach Environmental Assessment Form to this Application**

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L. Will a related real estate holding company, partnership or other entity be involved in the ownership structure of the Transaction? YES ( ) NO ( ) If YES, please explain:

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M. 1. With regard to the present owner of the project site, please give:

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

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

2. If the applicant already owns the project site, indicate:

a. date of purchase: \_\_\_\_\_

b. purchase price: \_\_\_\_\_

3. If the project site is mortgaged, please indicate:

a. balance of mortgage: \_\_\_\_\_

b. holder of mortgage: \_\_\_\_\_

N. Is there a relationship, legally, by virtue of common control, or through related persons, directly or indirectly, between the applicant and the present owner of the project site?  
YES ( ) NO ( ) If YES, please explain:

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

O. Is the company currently a tenant in the building to be occupied?

YES ( ) NO ( )

P. Are you planning to use/develop the entire proposed facility?

YES ( ) NO ( )

If NO, give the following information with respect to present tenants:

1. Present Tenant Information

| a. | <u>Name of Business</u> | <u>Floors Occupied</u> | <u>Square Feet Occupied</u> | <u>Nature of Tenant's Business</u> |
|----|-------------------------|------------------------|-----------------------------|------------------------------------|
|----|-------------------------|------------------------|-----------------------------|------------------------------------|

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b. Which of the above tenants will be vacating upon your initial use of the facility? How many jobs will be affected?

| <u>Name of Firm</u> | <u>Jobs</u> | <u>Square Footage Now Occupied</u> |
|---------------------|-------------|------------------------------------|
|---------------------|-------------|------------------------------------|

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c. For those tenants who will remain after your initial occupancy of the site, provide the following transaction:

| <u>Name of Tenant</u> | <u>Term of Lease</u> | <u>Renewal Options</u> | <u>Square Footage Now Occupied</u> |
|-----------------------|----------------------|------------------------|------------------------------------|
|-----------------------|----------------------|------------------------|------------------------------------|

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Are any of the above tenants related to the owner of the facility? YES ( ) NO ( )

d. If the applicant will be occupying the premises of any of the tenants listed in (c) when their lease expires, please list.

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e. Please provide copies of all present lease(s) at the proposed project site.

f. Do you propose to lease part of the project facility to firms not presently tenants?

YES ( ) NO ( ) If YES, provide details of your proposals:

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g. Will financing by the Agency for the Project result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area in the State of New York? YES ( ) NO ( )

If the answer is YES, please explain briefly the reasons for the move.

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Is the proposed project reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the State of New York?

YES ( ) NO ( )

Is the proposed project reasonably necessary to preserve the competitive position of the project occupant in its respective industry? YES ( ) NO ( )

h. If any of the parties who will be tenants in this project are related to or affiliated with the applicant, please identify them:

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1. Please attach any written agreements (e.g., options, purchase contracts, invoices, etc.) concerning the acquisition of the real property or equipment for this proposed facility.

2. Employment \*

- a. List your present employment in the City of Utica, if any, and an estimate of the employment at the proposed facility at the end of two years. NOTE: New York State considers Full Time employment as 35 hours or more. Full-time jobs, plus the combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position (35 or more hours).

| Employment      | Current # of applicant's jobs at/or to be located at proposed project location | Number of FTE jobs to be RETAINED | Number of FTE jobs to be CREATED two years after project completion | Estimate number of residents in Labor Market Area that will fill projected jobs two years after project completion |
|-----------------|--|-----------------------------------|---|--|
| Full-Time (FTE) |  |                                   |   |  |

The Labor Market Area consists of the following counties: Oneida, Lewis, Herkimer, Otsego, Madison and Oswego

- b. Characterize the labor force to be associated with this project location according to the following categories:

| Category          | Current/ Anticipated | Avg Salary or Salary Range | Avg Fringe Benefits or Range |
|-------------------|----------------------|----------------------------|------------------------------|
| Officers          |                      |                            |                              |
| Sales/Supervisory |                      |                            |                              |
| Clerical          |                      |                            |                              |
| Plant/Production  |                      |                            |                              |
| Other (specify)   |                      |                            |                              |

Notes:

- c. Estimate the Annual Payroll for the employees associated with the project location.

| Currently | End of Year One | End of Year Two |
|-----------|-----------------|-----------------|
| \$        | \$              | \$              |

**\* Company/Applicant will be required to submit Annual Project Monitoring Reports (attached) along with a copy of the NYS 45 (four quarters) for a minimum of five (5) years for any commercial project and ten (10) years for any industrial/manufacturing project, or for the length of UIDA involvement in the project. Annual Project Monitoring Reports will be compared to employment counts as stated above and companies whose reported counts fall below those levels above will be subject to the Agency's Recapture Provisions Policy.**

**Sources of Funds for Project Costs:**

**% of Total  
project costs**

Bank Financing: \$ \_\_\_\_\_

Equity (excluding equity attributed to grants/tax credits) \$ \_\_\_\_\_

Tax Exempt Bond Issuance (if applicable) \$ \_\_\_\_\_

Taxable Bond Issuance (if applicable) \$ \_\_\_\_\_

Public Sources (Include sum total of all state and federal grants and tax credits) \$ \_\_\_\_\_

Identify each state and federal grant/credit:

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Total Sources of Funds for Project Costs: \$ \_\_\_\_\_

Have any of the above costs been paid or incurred as of the date of this Application?

Yes  No. If Yes, describe particulars:

\_\_\_\_\_

**Mortgage Recording Tax Exemption Benefit:** Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ \_\_\_\_\_

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage \$ \_\_\_\_\_

Amount as indicated above multiplied by 0.75%):

Please Note: The New York State General Municipal Law was recently amended to reflect that industrial development agencies are not exempt from the additional mortgage recording tax of .25% that is assessed to properties that are located within a regional transportation district. Oneida County is located within the Central New York Regional Transportation District; as such, all UIDA projects will be exempt from .75% of mortgage recording tax, but must pay .25% of mortgage recording tax, which will be directed to the Transportation District.



### 3. Estimated Project Cost

Listed the costs necessary for the construction, acquisition or renovation of the project (this should NOT include working capital needs, moving expenses, work in progress, stock in trade, applicant's debt repayment, real estate broker fees or your legal fees):

|   |                 |
|---|-----------------|
| Acquisition of Land   | \$ _____        |
| Acquisition of Building(s)  | \$ _____        |
| Renovation Costs  | \$ _____        |
| New Construction of Buildings                                     | \$ _____        |
| Machinery and Equipment (taxable)<br>(other than furniture costs) | \$ _____        |
| Machinery and Equipment (non-taxable)                             | \$ _____        |
| Furniture and Fixtures  | \$ _____        |
| Installation Costs  | \$ _____        |
| Architectural/Engineering Fees                                    | \$ _____        |
| Fees (other than your own counsel and<br>brokerage fees)          | \$ _____        |
| Interest on Interim Financings                                    | \$ _____        |
| Other (specify) _____<br>_____                                    | \$ _____        |
| <b>Total Project Cost</b>   | <b>\$ _____</b> |

Sales and Use Tax: Gross amount of costs for goods and services that are subject to State and local Sales and Use tax - said amount to benefit from the Agency's Sales and Use Tax exemption benefit:

\$ \_\_\_\_\_

Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):

\$ \_\_\_\_\_

**4. Real Estate Taxes**

List separately the proposed project's Real Estate Taxes and/or Assessed Value as it applies to land and building:

| Project's   | Real Estate Taxes | Assessed Value |
|-------------|-------------------|----------------|
| Land(s)     | \$                | \$             |
| Building(s) | \$                | \$             |
| Total       | \$                | \$             |

Calculate the value of the PILOT exemption anticipated for the project described:

\$ \_\_\_\_\_

**5. Project Schedule**

Indicate the estimated dates for the following:

- a. Construction commencement: \_\_\_\_\_
- b. Construction completion: \_\_\_\_\_
- c. Project financing: List the dates and in what amounts the estimated funds will be required:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- d. Indicate the name of the incorporated municipality in which the facility will be located and the applicant's (or any related entity's) estimated capital expenditures in such municipality during the past three years:  
\_\_\_\_\_  
\_\_\_\_\_
- e. What do you expect the applicant's (or any related entities) capital expenditures to be in the above municipality during the next three years (including this project):  
\_\_\_\_\_

- f. If the applicant or any related entity has previously secured the benefit of tax exempt financing in the City of Utica, whether through IDA, the New York Job Development Authority or any other entity, please explain (indicate date, location of financed facility, and outstanding balance):

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- g. Has the applicant or any related entity received the benefit of tax exempt financing anywhere within the United States within the past 90 days or is the applicant or any related entity contemplating the receipt of such financing assistance within the next 90 days? YES ( ) NO ( ) if YES, please explain.

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6. Project Financing Efforts

IT IS THE APPLICANT'S RESPONSIBILITY TO SECURE A PURCHASER FOR IDA BONDS ISSUED IN CONJUNCTION WITH THIS PROJECT. Below are a series of questions relating to your efforts to secure financing for your project if IDA approval is granted.

- A. Has the applicant contacted any bank, financial/lending institution or private investor in regard to the financing for this project? YES ( ) NO ( ) If YES, please give details:

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B. Have you obtained a financial commitment for this project? YES ( ) NO ( )

1. If YES, please briefly describe this commitment and attach related correspondence:

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2. If NO, please explain how you will be able to finance this project:

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C. Are there any other governmental agencies that you have contacted concerning financial assistance in regard to your proposed project? YES ( ) NO ( ) If YES, please explain:

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D. 1. Will the applicant's obligations be guaranteed, and if so, by whom?

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2. Is the guarantor related to or affiliated with the applicant?

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E. Financial Information (Attach the Following).

1. Financial Statements for the last three fiscal years.
2. Pro forma Balance Sheet as at start of operations at project site.
3. Projected Profit and Loss Statements for first two years of operation at project site.
4. Projected "Cash Flow" Statement, by quarters, for first year of operation at project site.

### **REPRESENTATIONS AND CERTIFICATION BY APPLICANT**

The undersigned requests that this Application be submitted for review to the City of Utica Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

1. **Annual Sales Tax Filings.** 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 sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
2. **Annual Employment Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax benefits received with the action of the Agency. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
3. **Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
4. **Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax

exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
9. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
10. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.

11. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

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

STATE OF NEW YORK )  
COUNTY OF ONEIDA ) ss.:

\_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am the \_\_\_\_\_ (Corporate Office) of \_\_\_\_\_ (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

\_\_\_\_\_  
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury  
this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)

If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

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

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

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

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

**Return the original application and six copies with a check in the amount of \$250.00 made payable to: Utica Industrial Development Agency, 1 Kennedy Plaza, Utica, New York, Attn.: Jack N. Spaeth, Executive Director.**