



### Application for Financial Assistance

#### 1. Applicant Information

Company Name: BGW Properties, LLC.  
Address: 413 Garden Drive  
Batavia, NY 14020

Phone No.: (585) 343-1966  
Fax No.: (585) 343-1966  
Email Address: christinecerce@bhotmail.com  
Fed. Id. No.: #16-1608335  
Contact Person: Brian Wormley

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

Brian Wormley 100%

\_\_\_\_\_

\_\_\_\_\_

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

Form of Entity:

- C Corp
- S Corp
- Partnership (General \_\_\_\_\_ or Limited \_\_\_\_\_; number of general partners \_\_\_\_\_ and, if applicable, number of limited partners \_\_\_\_\_).
- LLC (number of members 1)
- LLP (number of members \_\_\_\_\_)
- Sole Proprietorship
- Not for Profit

If a corporation, partnership, limited liability company/partnership or Not for Profit:

What is the date of the establishment \_\_\_\_\_.

Place of organization \_\_\_\_\_ and,

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

emailed to  
R6  
12/1/09  
(PB)

Applicant's Counsel:

Name: Bonarrigo & McCutcheon  
 Address: 18 Ellcott St.  
BATAVIA, NY 14020  
 Phone No.: 344-1994  
 Fax No.: 344-1996

2. Project Information

A) Detailed Description of Project:

Build a 40'x100' Pole Barn  
Building for Fastenall -  
Wholesale (80%) + Retail (20%)  
Distribution Business

Project Code \_\_\_\_\_ (for GCEDC's Use)

B) Project Address: 5596 E. Main St. Rd.  
BATAVIA, NY 14020

C) Current Assessed Value of Property 0 vacant land being separated  
(not required if project is for equipment purchases only)

D) Are utilities on Site:  
Water X Electric \_\_\_\_\_  
Gas \_\_\_\_\_ Sanitary/Storm Sewer \_\_\_\_\_

E) Present legal owner of site Same  
If other than Applicant by what means will the site be acquired for this Project:

F) Zoning of Project Site: Current: CM Proposed: \_\_\_\_\_

G) Are any variances Needed: NO

H) Principal Use of Project upon completion: Wholesale Business

I) Will the Project result in the removal of a facility of the Applicant from one area of the State of New York to another? NO

Will the Project result in the removal of a facility of another proposed occupant of the Project from one area of the State of New York to another area of the State of New York?  Yes  No

Will the Project result in the abandonment of one or more facilities located in the State of New York?  Yes  No

J) Current Employment  
a. At Project Location: Full time 0 Part time 0 Full Time Equivalents 0  
b. At Previous Genesee County Location (if applicable): Full time 2 Part time 2 FTE 3

K1) Estimate how many jobs will be retained as a result of this Project over the next three years: 3

K2) What is the average estimated salary range of jobs to be retained \$40K - 45K w/ benefits

(at current market rates) \_\_\_\_\_ to \_\_\_\_\_ ?

L1) Estimate how many full time/ part-time jobs will be created as a result of this Project over the next three years: Full Time (FT) 1 Part-Time (PT) 0

\*\* Total Full Time Equivalents (FTE) 1

\*\*Note: An FTE is the average number of full time, full year employees based upon averaging Part-Time positions into full time positions. The Total FTE calculation would = FT + PT converted to FTE's = Total FTE

L2) What is the planned average hourly wage for the FTE jobs to be created \$15.00?

L3) What is the average estimated annual salary range of FTE jobs to be created \$30 to \$45K?

L4) What is the planned average annual benefits paid in \$\$ per FTE job to be created \$5K?

M) Estimate how many construction jobs will be created by this Project: 4  
Estimate average length of employment for each construction job for this Project: 4 months

N) Is the Project Commercial in nature (Sales Tax Generating for Community)?  Yes  No

O) What is the estimated annual total Sales Tax to be generated from this project at full build-out? tsd

P) Expected Break ground date for project (if any) Dec 15, 2009 (mo / year)

Q) Expected timeframe for project to achieve full build-out? Mar 1, 2010 (in months)

R) Estimated Project Costs / Project Capital Investment:

Land and Building \$ \_\_\_\_\_ (Purchase Value of land and/or building)  
Building Cost \$ 110,000 (New Building Construction cost or Existing building expansion construction costs including engineering and / or architect and blue print fees)  
Prodn Equipment \$ \_\_\_\_\_ (\$ Value of Production Equipment – not sales taxable)  
Other Equipment \$ \_\_\_\_\_ (\$ Value of sales taxable equip = Furniture/Fixtures, Computers, Lockers..)

Other \$ \_\_\_\_\_ describe: \_\_\_\_\_

Tot. Cap Invest: \$ 110,000 (Sum all lines above)

Note: Mortgage Amount on this Project? \$ 110,000

S) Detailed Company Info: (Confidential – will not be shared publicly) – information required in order to perform direct economic impact analysis as justification for GCEDC participation in this project - FASTENALL

S1) Current Annual Wages / Payroll (w/n Genesee County): \$ 160,000

S2) Current Annual Benefits Paid (w/n Genesee County): \$ 0

S3) Average annual growth rate of annual wages: % 0

S4) Average annual growth rate of benefits costs: % 0

S5) Current Year expected annualized Full Time Equivalent (FTE) Employees before impacts from this project (Genesee County Ops):

S6) Next 5 years planned / conservative estimates for capital investment beyond this project (if available)

Year 1	Year 2	Year 3	Year 4	Year 5
\$	\$	\$	\$	\$

S7) Company Average Yearly Production Related Purchases (COGS/Inventory) from vendors within NYS (Gen County Ops): \$ 0 TSD

S8) Average annual growth rate of production related purchases: % 0

S9) Company Average Yearly Non-Production Purchases (Supplies, Materials, Equipment) non-capitalized from vendors within NYS (Gen County Ops): \$ 0 TSD

S10) Average annual growth rate of non-production related purchases: % 0

S11) Company Average Annual Sales / Use Taxes paid (Gen County Ops): \$ TSD

S12) Company Average annual growth rate of Sales / Use Taxes (Genesee County Ops): % TSD

S13) Company Planned Property Taxes Paid for current calendar year (Genesee County Ops): \$ 0 TSD

S14) Company Annual PILOT payments made for current calendar year (Genesee County Ops) excluding this project: \$ 0 TSD

S15) Company Current Year Expected EBT (Earnings B4 Taxes or Profit B4 Taxes) for Genesee County Ops: \$ 0

S16) Company expected average annual growth rate for EBT: % 0

S17) Company Current Year Expected NYS Income Taxes paid for Genesee County Ops: \$ 0

**"U" and "V" to be completed / calculated by GCEDC**

U) Estimated Financial Assistance to be provided via GCEDC participation – subject to GCEDC Board Approval

1) Estimated Sales Tax Exemption (8%)	\$ 5600
2) Estimated Mortgage Tax Exemption (1.25%)	\$ 1375
3) Estimated Property Tax Abatement	\$ 29,862
4) Estimated Total Tax Savings (1+3):	\$ 36,837
5) Estimated Tax-Exempt Interest Cost Savings	\$ _____ (via Tax-Exempt Bond)
6) Estimated total Company Savings (4+5):	\$ 36,837

Describe nature of Property Tax Abatement (PILOT)

Proposed PILOT structure:

traditional pilot (60%)

V) Fees to be Paid by the Applicant:

Genesee County EDC \$ 1100 (The Center will collect a 1% fee if this transaction was consummated through direct interaction between the Applicant and GCEDC. A 1.25% fee applies if this project was referred to GCEDC from a designated GCEDC partner entity. The GCEDC will collect its participation fee at the time of closing, based upon the company provided realistic capital investment costs of this project stated in this application. If bond financing is being enabled through GCEDC in addition to tax incentives – an additional 0.5% fee on the value of bond financing applies. (Should the actual costs exceed those estimates by more than 25%, an additional fee will apply.)

Harris Beach, LLP \$ 2000 (Estimated fee for legal services required in connection with the financial assistance provided by the Genesee County Economic Development Center) Applicant may be required to pay additional out-of-pocket expenses and applicable filing or recording fees.

3. **Representations by the Applicant**

The Applicant understands and agrees with the Center as follows:

*Please initial each item where indicated*

**Job Listings** - In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Center, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located. B.M.  
**Applicant's Initials**

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

\_\_\_\_ Applicant's Initials

**Annual Sales Tax Filings** - In accordance with Section 874(8) of the 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 Center, 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, an Annual Report of Sales and Use Tax Exemptions (Form ST-340) by the last day of February following applicable calendar year (with a copy to the Genesee County Economic Development Center), describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant. BW Applicant's Initials

**Employment Reports** - The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Center, the Applicant agrees to file, or cause to be filed, with the Center, on quarterly basis, copies of form NYS-45-MN Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Returns filed with the Department of Labor applicable to the project site. BW Applicant's Initials

**GCEDC Reports** - The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Center, the Applicant agrees to file, or cause to be filed with the Center, a certified Annual Project Report (to be mailed to the Applicant) due by the last day of January following applicable calendar year. BW Applicant's Initials

**Absence of Conflicts of Interest** - The Applicant has received from the Center a list of the members, officers, and employees of the Center. No member, officers or employee of the Center has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described: BW Applicant's Initials

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

The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that:

- A) The Center 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.
- B) Failure of the Applicant to file appropriate Sales Tax and Employment reports will result in the revocation of tax benefits and require repayment of benefits previously claimed.

Brian Womack  
(Applicant)

By: BGW Properties LLC  
Name:  
Title:

This Application should be submitted with:

- A) A \$250 Application fee to: Genesee County Economic Development Center  
One Mill Street  
Batavia, New York 14020  
(Attn: President & Chief Executive Officer).

- B) A certificate of insurance as follows: ON File
  1. Worker's Compensation Insurance (Center named as additional insured).
  2. General Liability Insurance with limits not less than \$1,000,000 per occurrence /accident and a blanket excess liability not less than \$3,000,000 (Center named as additional insured).
  3. Insurance against loss/damage by fire, lightning or other casualties with a uniform standard extended coverage endorsement in an amount not less than the full replacement value of the Facility. (Center named as named insured).

The GCEDC encourages the use of Genesee County contractors/suppliers and asks that they be allowed to bid your project!

## Hold Harmless Agreement

Applicant hereby releases Genesee County Economic Development Center and the members, officers, servants, agents and employees thereof (the "Center") from, agrees that the Center shall not be liable for and agrees to indemnify, defend and hold the Center harmless from and against any and all liability arising from or expense incurred by (A) the Center'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 Center, (B) the Center's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Center 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 Center or the Applicant are unable to reach final agreement with the respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Center, its agents or assigns, all costs incurred by the Center in the processing of the Application, including attorneys' fees, if any.

Brian Wawuley  
(Applicant)

By: Brian Wawuley  
Name:  
Title: owner

Sworn to before me this  
18th day of November, 2009

Christina M. Trezzo  
Notary Public

**Christina M. Trezzo**  
**Notary Public, State of New York**  
**Qualified in Genesee County**  
**Commission Expires October 29, 2011**

Prior to the closing of this transaction applicant shall deliver the following documentation (*where applicable to project*) to GCEDC's legal counsel

1. Insurance Certificates – *please see the following page for the exact coverage requirements.*
2. Certificate of Incorporation/Articles of Organization together with all amendments or restatements thereto.
3. By-Laws/Operating Agreement together with any amendments thereto
4. Good Standing Certificate(s) issued by the State of Incorporation/Organization of the Company AND New York State.
5. Resolutions of the Board of Directors/Members of the Company approving the Project.
6. List of all Material Pending Litigation of the Company.
7. List of all Underground Storage Tanks containing Hazardous Materials at the Project.
8. List of all Required Environmental Permits for the Project.
9. Legal Description of the Project Premises.
10. Name and title of Person signing on behalf of the Company.
11. Copy of the proposed Mortgage (*if any*).
12. Company's Federal Tax ID Number (EIN).
13. Tax Map Number of Parcel(s) comprising the Project.

*A copy of this list should be provided to applicant's legal Counsel*

## INSURANCE COVERAGE

1. Requirements. The Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereof, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Project, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Company may insure the Project under a blanket insurance policy or policies covering not only the Project but other properties as well.

(b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

2. Additional Provisions Respecting Insurance. (a) All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 hereof shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days' prior written notice of the cancellation thereof to the Company and the Agency.

(b) All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agent Agreement.



## Appendix C

## State Environmental Quality Review

## SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

## PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR B&W Properties LLC	2. PROJECT NAME Fastual
3. PROJECT LOCATION: Municipality _____ County <u>Genesee</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Corner of Rt 5 (S/E) + Fargo RD	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Build 40'x100' Pole Barn for Retail use	
7. AMOUNT OF LAND AFFECTED: Initially <u>3.5</u> acres    Ultimately <u>1/8</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:  <u>IN the process</u>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <u>Brian Womley</u>	Date: <u>10-30-09</u>
Signature: <u>Brian Womley</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

1

Reset

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
NO

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
NO

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
NO

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
NO

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
NO

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?  
 Yes  No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  
 Yes  No If Yes, explain briefly:

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency	Date
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (If different from responsible officer)