



Application for Financial Assistance

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Note: All of the above forms must be completed in their entirety to be considered an acceptable application.

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(Required if over \$5 million in capital investment of facility construction)

I. Applicant Information

Company Name:		
Address:		
City / Town	State:	Zip:
Phone No.:	Fax No.:	
Email Address:	Fed. Id. No.:	
Applicant's Counsel:		
Address:		
City / Town	State	Zip
Phone No.:	Fax No.:	

Type of Business: _____

SIC Code (<https://www.osha.gov/pls/imis/sicsearch.html>): _____

NAICS Code (<http://www.naics.com>): _____

Contact Person: _____

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

Name & Title

Name & Title

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

Form of Entity: ☐ C Corp ☐ S Corp ☐ Partnership ☐ LLC
 ☐ LLP ☐ 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?

Yes No N/A (circle)

II. Project Information

A) Location of Project / Project Address: _____
Address _____
Town _____ Zip _____

B) Current Assessed Value of Property \$ _____ Tax Map # _____
(not required if project is for equipment purchases only)

C) Square footage of existing building _____ S/F
Square footage of new / renovated build _____ S/F
Total Square Footage _____ S/F

D) Detailed Description of Project (Including type and purpose of project, (Solar Projects - add mWac projected):

E) Please explain how the requested financial assistance impacts the feasibility of this project in Genesee County versus outside of Genesee County. Would the project be viable without these incentives? Provide a detailed statement addressing the necessity of financial assistance for proceeding with this development in Genesee County.

F) Is the Project Commercial in nature (Sales Tax Generating for Community)? Yes No (circle)
If yes, what is the estimated annual total Sales Tax to be generated from this project at full build-out? \$ _____

G) Expected Start Date of Project Construction (mo / year) _____

H) Time Expected to Complete Project Construction (in months) _____

I) Estimated Project Certificate of Occupancy Date _____
(This date will be used for the PILOT start date)

Please answer all questions. Use "None" or Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

Estimated Project Costs / Project Capital Investment:

Construction Cost:
\$ (New Building Construction or Existing building renovation/expansion construction costs)

Land and/or Existing Building:
\$ (Purchase Value of land and/or building incl. engineering, architect and blueprint fees)

Other / Sales Taxable Equipment:
\$ (Furniture/Fixtures, Computers, Lockers...) Used for calculating Sales Tax Exemption

Production Equipment / Non-Sales Taxable:
\$ (Exempt by NYS – excluded from benefitted project amount)

Other:
\$ Describe:

Total Capital Investment:
\$ (Sum all lines above)

Estimated Public and Private Sources of Funds for Project Costs:

Grants: \$

Bonds: \$

GCEDC/GGLDC loan fund: \$

Bank Financing: \$

Other: \$ Describe:

Equity: \$

Total of all sources of funds: \$

Mortgage Amount on this Project: \$
Subject to Mortgage Tax Exemption

Total Amount Financed \$ Describe:

Estimated percentage of costs financed from public sector (grants, bonds, and GCEDC/GGLDC loan fund divided by total of all sources of funds):

III. Project Employment Information

****Note:** Please use full-time equivalents (FTE), full-time jobs plus any combination of 2 or more part-time jobs that, when combined constitute the equivalent hours of a full-time position. (Attach additional sheets as necessary).

Do you have a previous project(s) with the GCEDC: Yes No (circle)

If YES, please consult with staff when filling out this section.

E1) **Current** number of full time equivalent employees (prior to project): _____

E2) Estimate how many full time equivalent jobs will be **retained** (Current employment):

Full Time (FT) _____ Part-Time (PT) _____ ** Total Full Time Equivalents (FTE) _____

*Please note retained jobs should be based upon the most recent NYS MN-45 quarterly report, a copy of which should be attached to this application.

E3) What is the average estimated (annual) salary of jobs to be **retained** _____

E4) Estimate how many full-time equivalent employees (FTE) will be **created** as a result of this Project:

Years after Construction is Complete	Estimate of (FTE) Created <small>**Please note FTE definition above</small>	Average Annual Salary	Average Annual Salary and Benefits	Estimated Hours per week
1				
2				
3				
Total FTE's After 3 Years				

E5) What is the average estimated (annual) salary range of jobs to be **created** from _____ to _____

E6) Estimate of the number of residents of the Labor Market Area (as defined in N.Y. GML Sec. 859-a(4)(f)) to fill created jobs? _____

Please answer all questions. Use "None" or Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

IV. Representations by the Applicant

- Is the company delinquent in the payment of any state or municipal property taxes? ☐ Yes ☐ No
- Is the company delinquent in the payment of any income tax obligation? ☐ Yes ☐ No
- Is the company delinquent in the payment of any loans? ☐ Yes ☐ No
- Is the company currently in default on any of its loans? ☐ Yes ☐ No
- Are there currently any unsatisfied judgments against the company? ☐ Yes ☐ No
- Are there currently any unsatisfied judgments against any of the company's principals? ☐ Yes ☐ No
- Has the company ever filed for bankruptcy? ☐ Yes ☐ No
- Have any of the company's principals ever personally filed for bankruptcy, or in any way sought protection from creditors? ☐ Yes ☐ No

If the answer to any of the questions above is "Yes," please provide additional comments in the space below and on additional pages if necessary.

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 AGENCY, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JPTA Entities") of the service delivery area created by the federal job training partnership act(Public Law 97-300) ("JPTA") in which the Project is located.

☐_____ **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 AGENCY, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JPTA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the Project.

☐_____ **Applicant's Initials**

Annual Sales Tax Fillings - 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 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, 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 AGENCY), describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.

☐_____ **Applicant's Initials**

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 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.

☐ _____ ***Applicant's Initials***

AGENCY 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, a certified Annual Project Report (to be mailed to the Applicant) due by the last day of February following applicable calendar year, for a period of time not to exceed 4 years post financial assistance.

☐ _____ ***Applicant's Initials***

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

☐ _____ ***Applicant's Initials***

Recapture Provision/Uniform Tax Exemption Policy (“UTEP”) – Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law, that any New York State and local sales and use tax exemption claimed by Applicant and approved by the Agency in connection with the Project may be subject to recapture by the Agency under such terms and conditions as will be set forth in the Agent Agreement to be entered into by and between the Agency and the Applicant. Recapture provisions would be invoked under Section 875(3) of the New York General Municipal Law if it is determined that: (i) the Company is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete, to the best of the Applicant's knowledge. Applicant hereby further represents and warrants that it has reviewed the Agency's UTEP and understands and agrees that under such UTEP, the Agency has the right to recapture all or a portion of any financial assistance provided by the Agency to the Company, including, but not limited to, sales and mortgage tax exemptions and real property tax abatements upon the occurrence of certain events as set forth in the UTEP.

☐ _____ ***Applicant's Initials***

No Violation of Section 862(1) of the General Municipal Law – In accordance with Section 862(1) of the General Municipal Law, the applicant understands and agrees that the Project will not (a) 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 (b) result in the abandonment of one or more plant facilities of the Project occupant located within the state. If the Project will result in (a) or (b), the applicant agrees that the requested financial assistance is necessary to prevent the Project from relocating out of the state, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry.

☐ _____ ***Applicant's Initials***

Financial Assistance Necessary – The applicant represents that the project would not likely occur without the financial assistance provided by the AGENCY.

☐ _____ ***Applicant's Initials***

Compliance – The applicant receiving financial assistance is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

☐ _____ ***Applicant's Initials***

V. Signatory Page

Is any of the information contained herein considered trade secrets?

☐ Yes ☐ No

Note: AGENCY will protect said trade secret information herein but reserves the right to disclose certain summary information from this application (i.e. total facility s/f, total capital investment, total job creation, top level wage information et. Al.) As a part of its project summary disclosure related to the AGENCY board's public vote required and resulting from said application. Please list anything that is considered trade secrets:

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

- A) 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.
- 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.
- C) If the Applicant submits knowingly false or knowingly misleading information this may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of the AGENCY's involvement in the Project and may also lead to potential criminal penalties and/or civil liabilities for perjury.

(Applicant Signature)

(Print Name)

Title

Company Name

This Application should be submitted along with the items listed in Exhibit A to:

Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, New York 14020

Email: gcedc@gcedc.com

VI. Hold Harmless Agreement

Applicant hereby releases Genesee County Economic Development Center and the members, officers, servants, agents and employees thereof (the "AGENCY") from, agrees that the AGENCY shall not be liable for and agrees to indemnify, defend and hold the AGENCY harmless from and against any and all liability arising from 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 the 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.

Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law, that any New York State and local sales and use tax exemption claimed by Applicant and approved by the Agency in connection with the Project may be subject to recapture by the Agency under such terms and conditions as will be set forth in the agreements to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete.

(Applicant Signature)

(Print Name)

Title

Company Name

Sworn to before me this

_____ day of _____, 20____

Notary Public

Exhibit A

Attach to this application the company's certificate of insurance

Yes ☐ No ☐

If No, please state why: _____

Adding the GCEDC as additional insured can be done at closing.

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 thereto, including, but not necessarily limited to:

(a) 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 there from, 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** per accident or occurrence, 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 paragraph 1(a) and 1(c) above 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 is to be provided by the Company and/or Project Owner after Board approval and prior to closing on GCEDC financial assistance, and shall be maintained during the term of any applicable Agent and Financial Assistance Agreement and/or Lease Agreement by and between the GCEDC and the Company.

Exhibit B

To be completed / calculated by AGENCY

Type of Project: ☐ Attraction ☐ Expansion ☐ Retention
☐ Infrastructure ☐ Workforce

Offerings: ☐ SLB ☐ Bond ☐ Grant ☐ Consulting

Estimated Financial Assistance to be provided via AGENCY participation:

(Subject to AGENCY Board Approval)

*1) Estimated Sales Tax Exemption (8%) \$ _____

2) Estimated Mortgage Tax Exemption (1%) \$ _____

3) Estimated Property Tax Abatement \$ _____

4) Estimated Total Tax Savings: \$ _____
(1+2+3)

5) Estimated Tax-Exempt Interest Cost Savings
(via Tax-Exempt Bond) \$ _____

6) Grant
Type or name of grant (_____) \$ _____

7) Estimated total Company Savings: \$ _____
(4+5+6)

8) Bond Amount \$ _____

9) Mortgage Amount \$ _____

10) GCEDC/GGLDC Revolving Loan Fund \$ _____

11) Loan Secured
Source of loan (_____) \$ _____

12) Total Amount Financed / Loan Funds Secured \$ _____

Benefited Project Amount

(the capital investment directly related to the benefits received)

\$ _____
(8+9+10+11)

Proposed PILOT Structure: _____

* Estimated Value of Goods and Services to be exempt from sales and use tax as a result of the Agency's involvement in the Project. PLEASE NOTE: These amounts will be verified and there is a potential for a recapture of sales tax exemptions (see "Recapture Provision" on page 7).

\$ _____ (to be used on the NYS ST-60)

To be completed / calculated by AGENCY

Fees to be Paid by the Applicant:

GCEDC Project Participation Fee \$ _____

Per the attached Pricing & Fee Policy (exhibit D), the AGENCY will collect a _____% Project Participation fee.

The AGENCY will collect its project participation fee at the time of closing, based upon the company provided realistic capital investment costs of this project stated in this application. Should the actual costs exceed those estimated, an additional fee will apply.

GCEDC Annual Administration Fee \$ _____ (Annually in January for the length of the PILOT)

The AGENCY will collect an annual administration fee for all PILOT projects. Projects with a capital investment of less than \$5 million will be charged a \$500 annual fee for each year of benefits provided. For projects with a capital investment of \$5 million or greater, there will be a \$1,000 annual fee charged.

Legal Fee (Harris Beach, LLP) \$ _____

Estimated fee for legal services required in connection with the financial assistance provided by the GCEDC)

- *Applicant may be required to pay additional out-of-pocket expenses, applicable filing or recording fees and public hearing fees incurred.*
- *Applicant will be billed for any legal fees incurred after submitting a signed application with the GCEDC even if the project does not move forward as a result of actions by the company or the GCEDC.*

Local Labor Reporting Deposit \$ _____ (if applicable)

Project applicants, with a capital investment for facility construction of greater than or equal to \$5,000,000 and Solar projects in excess of 5 MW (AC), will be required to utilize qualified Local Labor, as defined in Exhibit E.

GGLDC Workforce Development Fee (Solar Projects) \$ _____ (if applicable)

Solar projects that are 5MW and smaller will pay a fee to the Genesee Gateway Local Development Corp (GGLDC) for workforce development initiatives.

The Applicant agrees to reimburse the Agency for all direct expenses incurred in connection with this Project Application, starting from the submission of the signed application, regardless of project approval or continuation.

*****Financial incentives are public information; information will be disclosed to the public prior to Board consideration and will be released to the media upon board approval*****

(Applicant Signature)

(Print Name)

Title

Company Name

Exhibit C

State Environmental Quality Review (SEQR) Act Compliance

GCEDC, in granting assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act (SEQR).

Does the proposed project require discretionary permit, license or other type of approval by the state or local municipality?

- ☐ YES – Include a copy of any SEQR documents related to this Project including Environmental Assessment Form, Final Determination, Local Municipality Negative Declaration, etc.
- ☐ NO

Exhibit D

Genesee County Economic Development Center Pricing & Fee Policy Effective Date: June 2, 2022

Financial Assistance - Tax Savings***

Offering / Activity	Fees	Comments
Lease - Lease Back (SLB) or similar Including any / all of the following: <ol style="list-style-type: none"> 1. PILOT 2. Sales Tax Exemption 3. Mortgage Tax Exemption Minimum fee of \$2,000	\$250 Non-Refundable Application Fee GCEDC Fees: Direct Sales Project: For projects up to \$450 million in capital investment the fee amount is 1.25% of total capital investment/ benefited project amount. For projects in excess of \$450 million in capital investment the fee can be within a range of .75% and 1.25% of total capital investment/ benefitted amount. Administration fee: For projects with a capital investment of less than \$5 million, there will be a \$500 annual fee charged for each year of benefits provided. For projects with a capital investment of \$5 million or greater, there will be a \$1,000 annual fee charged. Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	Eligible to businesses with Capital Investments of \$50,000 or greater which meet the criteria as set forth in the GCEDC's Uniform Tax Exemption Policy.
Sales Tax Exemption Only Minimum fee of \$1,000	\$250 Non-Refundable Application Fee GCEDC Fees: Direct Sales Project: 1.25% of total capital investment/ benefited project amount Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	Eligible to businesses with Capital Investments of \$50,000 or greater which meet the criteria as set forth in the GCEDC's Uniform Tax Exemption Policy.
Mortgage Tax Exemption Only Minimum fee of \$2,000	\$250 Non-Refundable Application Fee GCEDC Fees: 0.4% of amount financed Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	Eligible to businesses with Capital Investments of \$50,000 or greater which meet the criteria as set forth in the GCEDC's Uniform Tax Exemption Policy.

Financing***

Offering / Activity	Fees	Comments
Bond: Taxable or Tax Exempt <ol style="list-style-type: none"> Financing transaction only Financing included with SLB 	\$250 Non-Refundable Application Fee Financing Transaction Only: Direct Sales Project: 1.25% of total bond amount Applicant must pay NYS Bond Issuance cost plus legal fees. Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	Range varies based on GCEDC involvement, term of bond (equip only vs. real property) and spread between taxable and tax exempt yield curves. The shorter the term and / or lower the spread between yield curves requires lower fees to remain competitive vs. commercial lending sources.

Transfer/Assignment of PILOT

Offering / Activity	Fees	Comments
PILOT <ol style="list-style-type: none"> If a company sells their building, the GCEDC must approve the transfer/assignment of the PILOT to the purchaser. 	No Application Fee GCEDC will calculate a fee based on the value of the remaining incentives as a percentage of the total original incentives awarded, multiplied by the sale price of the facility and a 1.25% origination fee. Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	

*** NOTE – If a company wants to have a lease-leaseback transaction with a tax-exempt financing component the total fee charged would be 1.75% of Capital investment.

Any deviation from the above listed fee schedule must be explained in writing to the Board by the CEO prior to (or simultaneously with) the approval of the Company's application and must be approved by the Board.

Financing/ Grants/ Consulting

Offering / Activity	Fees	Comments
Grants:	\$250 Non-Refundable Application Fee Program Administration Fees: Allowable program administration and delivery fees associated with the grant will be collected by the GCEDC. Legal Fees: Legal transaction fees associated with a project will be estimated to each client on a case by case basis.	Generally established and parameters set by Grantor. Negotiations, based on EDC involvement, occur on occasion. Project fee negotiated between grantee and GCEDC will be agreed to in a memorandum of understanding.

ATTACHMENT TO APPLICATION FOR FINANCIAL ASSISTANCE Local Labor Workforce Certification

(Effective – August 4, 2022)

Project applicants (the “Company”), with projected / committed capital investment for facility construction of greater than or equal to \$5,000,000 (except solar projects as defined later), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the “Agency”), will be required to utilize qualified Local Labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the “Project Site”). Solar projects in excess of 5 MW (AC) will be subject to the Local Construction Labor Policy as well.

Local Labor Defined

Local Labor is defined as individuals residing in the following Counties: Genesee, Orleans, Monroe, Wyoming, Livingston, Wayne, Ontario, Seneca, Yates, Niagara, Erie, Chautauqua, Cattaraugus and Allegany (collectively, the “Local Labor Area”).

Local Labor Requirement

At least 90% of the total number of Project employees, excluding construction project management, of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project Site must reside within the Local Labor Area. Companies do not have to be local companies as defined herein, but must employ local Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”) based on the following circumstances: (i) warranty issues related to installation of specialized equipment or materials whereby the manufacturer requires installation by only approved installers; (ii) specialized construction for which qualified Local Labor Area Workers are not available; (iii) documented lack of Workers meeting the Local Labor Area requirement; or (iv) cost differentials in bids whereby use of local labor significantly increases the construction cost of the project. Prior to the granting of said waiver, the lowest bidding contractor which bid said construction project using local labor would have the right of first refusal to bid and match the lowest bid as a remedy to ensure compliance with this policy. Comprehensive documentation and justification will be required including documented evidence and verification by GCEDC staff or agents that the “right of first refusal” remedy has been effected unsuccessfully.

The Company will be responsible for the costs of an outside consultant who will perform the inspections, monitoring, and waiver processing for the duration of the construction of the project. The GCEDC will require the Company to provide a deposit to be kept in escrow by the Agency. Any unused funds at the end of construction will be returned to the Company.

The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request.

Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required to file or cause to be filed a Local Labor Utilization Report (the “Report”) on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker, the city, town, or village and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency or its designated agents as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following quarterly dates of January 1, April 1, July 1, and October 1 and each quarterly date thereafter through the construction completion date.

The Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and records of the Company and to perform spot checks of all Workers at the Project site to verify compliance with the Local Labor Requirement throughout the construction period.

Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice delivered by Certified Mail of said Local Labor Requirement violation (the “Notice of Violation”) shall be provided to the Company.

The Company shall have 10 business days thereafter to either:

- (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement;
- (ii) submit the Local Labor Waiver Request as described above; or
- (iii) confirm in writing its inability to meet the Local Labor Requirement.

If the Company does not respond to the Agency’s Notice of Violation, or if the Company confirms its inability to meet the Local Labor Requirement, then the Agency shall immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project. If a Local Labor Waiver Request is submitted and the Agency declines to issue the requester waiver, then the Company shall have 10 business days after receipt of the notice of the waiver request denial to provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement. If the Agency does not receive such confirmation, the Agency shall then immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.

The foregoing terms have been read, reviewed and understood by the Company and all appropriate personnel. The undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialmen. Furthermore, the undersigned realized and understands that failure to abide by the terms herein could result in the Agency revoking all or any portion of Financial Assistance, whether already received or to be received by the Company, as it deems reasonable in its sole discretion for any violation hereof.

COMPANY CERTIFICATION

By: _____
Name: _____
Title: _____

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

Notary Public