

APPLICATION FOR FINANCIAL ASSISTANCE



County of Cattaraugus Industrial Development Agency
P. O. Box 1749
9 East Washington Street
Ellicottville, New York 14731
Phone (716) 699-2005
fax (716) 699-2942
e-mail info@cattcoida.com
web www.cattcoida.com

CCIDA FINANCIAL ASSISTANCE APPLICATION INSTRUCTIONS

I. Application Submission and Application Fees

The following directions will assist you (the "Applicant") in completing this application for Financial Assistance (the "Application"). Please note that all applications will be subject to approval of the County of Cattaraugus Industrial Development Agency (the "Agency") and that no Financial Assistance can be provided, including a sales tax exemption on purchases made prior to Agency approval, until your application has been so approved and *after* a Financial Assistance agreement with the Agency has been executed.

If your project involves the relocation of a facility within Cattaraugus County, the abandonment of an existing facility, involves a tenant that is abandoning an existing facility, or is retail in nature, additional documentation is required. Please contact an Agency business development specialist as soon as possible.

Upon review of the application, the Agency may find it necessary to request additional information. Should additional information be required, the Agency will not consider the request for assistance until all such additional information is received in its entirety.

All projects receiving a benefit greater than \$100,000 are required to have a public hearing inclusive of a ten (10) day notice before any approval can be granted by the Agency. The Agency will charge an administrative fee of 1.0625% of the project amount. Upon project approval, an Administrative Fee Agreement must be entered into. The Agency's legal fees are in addition to the administrative fees noted.

A non-refundable \$1,500.00 application processing and publication fee is due upon submission of your application.

As required by statute, applicants receiving Financial Assistance will be subject to the Agency's Policy Respecting Recapture of Agency Benefits (the "Recapture Policy"). The Recapture Policy provides for a partial or full recapture and/or termination or modification of state and local sales tax, mortgage recording tax, and/or real property tax abatement benefits upon a determination by the Agency that the Company has failed to meet and/or maintain the thresholds and requirements representing certain material terms and conditions required by the Agency. The Recapture Policy is located on the Agency's webpage.

II. Application Component Parts and Exhibits

The following items are included in the Application package. These are required documents that must be completed and submitted to the Agency in order for your Application to be considered. Please make every effort to provide all of the information as soon as possible. Failure to do so may result in your project not being considered at the next regularly scheduled meeting of the Agency.

1. Section I & II - Eligibility Questionnaire: This form must be completed in its entirety and submitted to the ECIDA prior to beginning the public hearing process.
2. Section III – Single -Multi Tenant Facility: Only complete if applicable.
3. Section IV- Retail Questionnaire: To ensure compliance with the provisions of Section 862 of the New York General Municipal Law, the Agency has prepared certain questions within

this section of the Application with respect to those projects where customers personally visit the Project site to make a retail sale transaction or obtain a service. Complete only if applicable.

4. Section V. Inter-Municipal Move Determination. Only complete if applicable.
5. Section VI. Estimate of Real Property Tax Abatements: This section of the Application will be completed by Agency staff, and inserted as a component part of the Application.
6. Attachment A. Representations, Certifications and Indemnification Form: This form requires an original signature, must be notarized, and must be submitted with the completed Application form.
7. Attachment B. Insurance Specifications. The Agency's insurance requirements, as amended from time to time, are contained herein. Note that insurance is to be provided after Agency approval and prior to the provision of Agency Financial Assistance, and shall be maintained during the term of any applicable Agent Agreement and/or Lease Agreement by and between the Agency and the Applicant. Please provide these requirements to your insurance agent to facilitate satisfaction of these requirements.
8. Attachment C. Agency Counsel Fee. The company will be required to pay for CCIDA general/transaction counsel fees and/or bond counsel fees also as a condition of providing Financial Assistance.

III. Submission and Acceptance of the Application for Financial Assistance

The Agency's acceptance of this Application for consideration does not constitute a commitment on the part of the Agency to undertake the proposed Project, to grant any Financial Assistance with respect to the proposed Project or to enter into any negotiations with respect to the proposed Project.

Information provided herein may be subject to disclosure under the New York Freedom of Information Law ("FOIL"). If the Applicant believes that a portion of the Application or materials submitted in support of the Application is protected from disclosure under FOIL, the Applicant should mark the applicable sections(s) or pages(s) as "confidential" and state the applicable exception to disclosure under FOIL.

I. Eligibility Questionnaire - Applicant Background Information

Answer all questions. Use "None" or "Not Applicable" where necessary.

A) Applicant Information-company receiving benefit:

Applicant Name: Kinley Contractors LLC/Kinley Investments

Applicant Address: 3295 Maple Ave

City/Town: Allegany State: NY Zip: 14706

Phone: 716-372-4534

E-mail: mgiardini@kinleycontractors.com

B) Business Organization (check appropriate category):

Corporation ☐

Partnership ☐

Public Corporation ☐

Joint Venture ☐

Sole Proprietorship ☐

Limited Liability Company ☒

Other (specify) _____

Year Established: 1895 State in which Organization is established: Delaware

C) Individual Completing Application:

Name: Mike Giardini

Title: Chief Operating Officer

Address: 3295 Maple Ave

City/Town: Allegany State: NY Zip: 14706

Phone: 716-372-4534 E-Mail: mgiardini@kinleycontractors.com

D) Company Contact (if different from individual completing application):

Name: _____

Title: _____

Address: _____

City/Town: _____ State: _____ Zip: _____

Phone: _____ E-Mail: _____

E) Company Counsel:

Name of Attorney: Edgar McQueen

Firm Name: FrostBrown Todd LLP

Title: Attorney

Address: Rosewood Court 2102 Cedar Springs Road, Suite 900

City/Town: Dallas State: TX Zip: 75201

Phone: 214-580-8634 E-Mail: emcqueen@fbtlaw.com

F) Benefits Requested (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)

G) Applicant Business Description:

Describe in detail company background, history, products and customers. Description is critical in determining eligibility. Please see the attached page

Estimated % of sales within Cattaraugus County: 73%
Estimated % of sales outside Cattaraugus County but within New York State: 22%
Estimated % of sales outside New York State but within the U.S.: 5%
Estimated % of sales outside the U.S.: 0%
(*Percentage to equal 100%)

For your operations, company, and proposed project, what percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Cattaraugus County 85% %

Identify vendors within Cattaraugus County for major purchases:
Home depot of Olean, Closes Lumber, Worth Smith, Hanson Aggregates

II. Eligibility Questionnaire - Project Description & Details

A) Project Location

Address of Proposed Project Facility: 2383 West 5 Mile Road
City/Town: Allegany School District: Allegany Limestone
SBL Number(s) for proposed Project 93.002-2-5

Current Address (if different): 3295 Maple Ave
City/Town: Allegany

What are the current real estate taxes on the proposed Project site? \$10,271.70
If amount of current taxes is not available, provide assessed value for each
Land: \$ \$19,500.00 Buildings(s): \$ \$280,500.00 *If available include a copy of current tax receipt.*

Are Real Property Taxes current at project location? ☒ Yes or ☐ No. If no, explain: _____

Does the Applicant or any related entity currently hold fee title have an option/contract to purchase the Project site? ☒ Yes or ☐ No If No, indicate name of present owner of the Project site:
Events Center

Describe the present use of the proposed Project site (vacant land, existing building, etc.):

B) Project Description

Provide a narrative of the purpose of the proposed Project (new build, renovations, expansion), square footage of existing buildings (if any) and new construction contemplated and/or equipment purchases. Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility. Add an attachment if necessary.):

Please see attached page.

Will the completion of the Project 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? ☐ Yes or ☒ No

If the Proposed Project is located in a different municipality within New York State in which current operations are being undertaken, is it expected that any of the facilities in any other municipality will be closed or be subject to reduced activity? ☐ Yes or ☒ No. If Yes, you will need to complete Section V, *The Inter-municipal Move Determination*

Is the project reasonably necessary to prevent the project occupant from moving out of New York State? ☒ Yes or ☐ No. If yes, explain and identify out-of-state locations investigated, type of assistance offered and what competitive factors led you to inquire about sites outside of New York State? Provide supporting documentation if available:

It helps us to keep jobs and business competitive in New York with ever increasing cost.

Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies? ☐ Yes or ☒ No. If yes, indicate the Agency and nature of the inquiry below:

Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary):

See attached page.

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:

It helps us to keep jobs and business competitive in New York with ever increasing cost.

If the Applicant is unable to obtain financial assistance for the Project, what will be the impact on the Applicant and Cattaraugus County? Project would be scaled back significantly.

C) Site Characteristics

Will the Project meet zoning/land use requirements at the proposed location? ☒ Yes or ☐ No

Describe the present zoning/land use: COM 1

If a change in zoning/land use is required, provide details/status of any request for change of zoning/land use requirements: _____

Has a project related site plan approval application been submitted to the appropriate planning department?
☐ Yes or ☒ No

If Yes, include the applicable municipality's and/or planning department's approval resolution, the related State Environmental Quality Review Act ("SEQR") "negative declaration" resolution, if applicable, and the related Environmental Assessment Form (EAF), if applicable.

If No, list the CCIDA as, or ensure that the CCIDA is listed as, an "Involved Agency" on the related EAF that will be submitted to the appropriate municipality and/or planning department for site plan approval and provide to the EAF to the lead agency and to the CCIDA.

If No, because site plan approval is not otherwise required, complete and submit the EAF along with this Application to the CCIDA.

Is the proposed project located on a site where the known or potential presence of contaminants is complicating the development/use of the property? ☐ Yes or ☒ No If yes, explain:

Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? ☐ Yes or ☒ No If yes, provide a copy.

D) Project Type

Select Project Type/Use for all end users at project site (you may check more than one)

Acquisition of Existing Facility	☐	Life Care Facility (CCRC)	☐
Affordable/Workforce Housing	☐	Market Rate Housing	☐
Assisted Living	☐	Mixed Use	☐
Back Office	☐	Multi-Tenant	☐
Civic Facility (not for profit)	☐	Renewable Energy	☐
Commercial	☒	Research/Design	☐
Senior Housing	☐	Retail	☐
Facility for Aging	☐	Warehousing	☐
Industrial/Manufacturing	☐	Other _____	☐
Tourism Facility/Project	☐		

Will customers personally visit the Project site for either of the following economic activities indicated below? If yes with respect to either economic activity indicated below, complete Section IV, Retail Questionnaire.

Retail Sales: ☐ Yes or ☒ No

Services: ☒ Yes or ☐ No

*For purposes of this question, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the New York Tax Law (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

For the proposed Project Facility, indicate the square footage for each of the uses outlined below:

****If applicant is paying for FFE for tenants, include in cost breakdown**

	Square Footage	Cost	% of Total Cost of Project
Manufacturing/Processing			
Warehouse	5,000	\$820,000	36%
Research & Development			
Commercial			
Retail (see retail questionnaire)			
Office	10,120	\$1,486,000	64%
Renewable Energy			
Specify Other			

What is the estimated project timetable (provide dates):

1. Start date: acquisition of equipment or construction of facilities: September 2023
2. Estimated completion date of project: September 2025
3. Project occupancy – estimated starting date of occupancy: January 1st, 2024

E) Overall Project Costs

Estimated costs in connection with Project:

1. Land and/or Building Acquisition 9.36 acres 10,120 square feet \$ \$725,000.00
2. New Building Construction 5,000 square feet \$ \$750,000.00
3. New Building Addition(s) _____ square feet \$ N/A
4. Infrastructure Work \$ \$200,000.0
5. Reconstruction/Renovation 10,120 square feet \$506,000.00
6. Manufacturing Equipment \$ \$50,000.00
7. Non-Manufacturing Equipment (furniture, fixtures, etc.) \$ \$100,000.00
8. Soft Costs: (Legal, architect, engineering, etc.) \$ \$25,000.00
9. Other, Specify: _____ \$ _____

TOTAL Costs: \$ \$2,356,000.00

Construction Cost Breakdown:

Total Cost of Construction \$ \$1,256,000.00 (sum of 2,3,4 and 5 above)
 Cost of materials: \$ \$565,000.00
 % sourced in Cattaraugus County 80% %

Have any of the above costs been paid or incurred as of the date of this application? ☒ Yes or ☐ No
 If yes, describe: Purchased land and building.

Sources of Funds for Project:

Bank Financing	\$	TBD
Equity (excluding equity that is attributed to grants/tax credits)	\$	
Public Sources (Include sum total of all state and federal grants and tax credits)	\$	
Identify each state and federal grant/credit: (i.e. Historic Tax Credit, New Market Tax Credit, Brownfield Cleanup Program, ESD, other public sources)		
	\$	
	\$	
	\$	
Total Sources of Funds for Project Costs:	\$	

Have you secured financing for the project? ☐ Yes ☐ No. If yes, provide a copy of the loan commitment to the Agency.

Project refinancing estimated amount, if applicable (for refinancing of existing debt only): \$ _____

Sales and Use Tax Benefit: 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 (multiply 8.0% by the figure, above): \$ _____

*** Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate above represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application, unless otherwise amended and approved by the Agency. The Agency may utilize the estimate above as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.*

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

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ \$2,356,000.00

Estimated Mortgage Recording Tax Exemption Benefit (multiply the mortgage amount as indicated above by 1.25 %): \$ 29,450.00

Real Property Tax Benefit:

Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency's PILOT benefit (487, 485-b, other): _____

IDA PILOT Benefit: See Section VI of this Application. Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT.

F) Job Retention and Job Creation

Is the project necessary to expand project employment? ☒ Yes or ☐ No

Is project necessary to retain existing employment? ☒ Yes or ☐ No

Employment Plan (Specific to the proposed project location):

	Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion	Estimate number of residents of the Labor Market Area in which the project is located that will fill the FT and PT jobs to be created upon 24 months (2 years) after project completion **
Full time (FT)	41	41	15	15
Part Time (PT)	3	3	3	3
Total ***	44	44	18	18

** The Labor Market Area includes the Counties of Cattaraugus, Erie, Allegany, Chautauqua and Wyoming. For purposes of this question, estimate the number of FT and PT jobs that will be filled, as indicated in the third column, by residents of the Labor Market Area, in the fourth column.

*** By statute, Agency staff must project the number of FT jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the two-year time period following Project completion. Agency staff converts PT jobs into FT jobs by dividing the number of PT jobs by two (2).

Salary and Fringe Benefits for Jobs to be Retained and Created:

Category of jobs to be retained and/or created	# of employees retained and/or created	Average salary for Full Time	Average fringe benefits for full time	Average salary for part time, if applicable	Average fringe benefits for part time, if applicable
Management	6	110k	40k		
Professional	15	85k	30k		
Administrative	5	40k	15k		
Production	17	55k	15k		
Independent Contractor					
Other					

** Note that the Agency may utilize the foregoing employment projections, among other items, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

Payroll Information:

Annual Payroll at proposed project site upon project completion	\$	633,600.00	
Estimated average annual salary of jobs to be retained (full time)	\$	60,000.00	
Estimated average annual salary of jobs to be retained (part time)	\$	0	
Estimated average annual salary of jobs to be created (full time)	\$	63,000.00	
Estimated average annual salary of jobs to be created (part time)	\$	0	
Estimated salary range of jobs to be created			
From (full time)	\$	41,600.00	To (full time) \$ 93,600.00
From (part time)	\$	0	To (part time) \$ 0

III. Part A: Facility Type - Multi-Tenant Determination

If this is a Single-Use facility fill in section A. If this is a Multi-Tenant fill in section B.

A) For Single Use Facility (to be filled out by developer):

Occupant Name: _____
 Address: _____
 City/Town: _____ State: _____ Zip: _____
 Contact Person: _____
 Phone: _____ Fax: _____
 E-Mail: _____
 Federal ID #: _____ NAICS Code: _____

B) Multi-Tenant Facility (to be filled out by developer):

Have any tenant leases been entered into for this project ☐ Yes or ☐ No.

If yes, list below and provide square footage to be leased to tenant and NAICS Code for tenant and nature of business.

Tenant Name	Current Address (city, state, zip)	# of sq. ft. and % of total to be occupied at new project site	Briefly describe type of business, products services

Part B: Tenant Form

**** This section must be completed for each proposed tenant ****

A Retail Questionnaire will need to be prepared for each proposed tenant if customers will personally visit the tenant to either participate in a retail sale transaction or pay for a service.

An Inter-Municipal Move Determination will need to be completed for each proposed tenant that is relocating from another municipality or abandoning an existing facility.

Property Address: _____
City/Town: _____

Tenant Name: _____

Amount of space to be leased: _____ SF. What percentage of the building does this represent? _____ %

Are terms of the lease: GROSS ☐ or NET ☐

If GROSS lease, explain how Agency benefits are passed to the tenant: _____

Estimated date of occupancy: _____, 20____

Company Name: _____

Current Address: _____

City/Town: _____ State: _____ Zip: _____

Local Contact Person: _____ Title: _____

Phone: _____ E-mail: _____

Company President/General Manager: _____

Number of employees to be relocated to new project location:

Full-Time: _____ Part-Time: _____ Total: _____

List the square footage which the proposed tenant will lease at the Project location: _____ SF

List the square footage which the proposed tenant leases at its present location(s): _____ SF

Will the project result in relocation from one municipality to another and/or abandonment from other tenant/user(s) facilities in New York State?

☐ Yes or ☐ No.

If Yes, fill out Inter-Municipal-Move Determination form.

What will happen to the existing facility once vacated? _____

If leased, when does lease expire? _____, 20____

Are any of the proposed tenant's current operations located in facilities which have received an Industrial Development Agency benefit? ☐ Yes or ☐ No. If yes, provide details as to location, and amount of leased space, how long leased? _____

IV. Retail Questionnaire

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Answer the following:

A. Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

☐ Yes or ☐ No. If the answer is yes, continue below. If no, proceed to next section

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? ____%. If the answer is less than 33% do not complete the remainder of the retail determination and proceed to Inter-Municipal Move Determination.

If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:

1. Will the project be operated by a not-for-profit corporation ☐ Yes or ☐ No.
2. Is the Project location or facility likely to attract a significant number of visitors from outside the economic development region (Cattaraugus, Erie, Allegany, Chautauqua and Wyoming counties) in which the project will be located? ☐ Yes or ☐ No
3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services? ☐ Yes or ☐ No
4. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? ☐ Yes or ☐ No.

If yes, explain _____

5. Is the project located in a Highly Distressed Area? ☐ Yes or ☐ No

V. Inter-Municipal Move Determination

If completion of a Project benefiting from Agency Financial Assistance results 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, then it must be shown that Agency Financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

Current Address: _____
City/Town: _____ State: _____ Zip: _____

Will the Project 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? ☐ Yes or ☐ No

Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the state? ☐ Yes or ☐ No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required 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: _____

Does the Project involve relocation or consolidation of a project occupant from another municipality?

Within New York State ☐ Yes or ☐ No
Within Cattaraugus County ☐ Yes or ☐ No

If Yes to either question, explain: _____

What are some of the key requirements the project occupant is looking for in a new site (for example minimum of number of sq. ft., 12 foot ceilings, truck loading docks, thruway accessibility. etc.)

If the project occupant is currently located in Cattaraugus County and will be moving to a different municipality within Cattaraugus County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located? ☐ Yes or ☐ No

What factors have led the project occupant to consider remaining or locating in Cattaraugus County? _____

If the current facility is to be abandoned, what is going to happen to the current facility that the project occupant is located in? _____

Provide a list of properties considered, and reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.)

Property (Address)

Reason

VI. Estimate of Real Property Tax Abatement Benefits* and Percentage of Project Costs financed from Public Sector sources**

**** This Section of the Application will be: (i) completed by CCIDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.**

PILOT Estimate Table Worksheet

CCIDA Staff will insert and/or prepare appropriate PILOT Benefit information.

Percentage of Project Costs financed from Public Sector Table Worksheet:

Total Project Cost	Estimated Value of PILOT	Estimated Value of Sales Tax Incentive	Estimated Value of Mortgage Tax Incentive	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)

Calculate % (Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: _____%

Attachment A: Representations, Certifications and Indemnification

Michael W. Giardini (name of CEO or other authorized representative of Applicant) confirms and says that he/she is the Chief Operating Officer (title) of Kinley Contractors, LLC (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, 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. 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 JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C. Annual Sales Tax Filings: In accordance with Section 874(8) of the New York 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. Copies of all filings shall be provided to the Agency.
- D. 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, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent 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.
- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05 and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.

- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.
- G. Hold Harmless Provision: The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and 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: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents 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 the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.
- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency:
- (i) a non-refundable \$1,500.00 application processing and publication fee (the "Application Fee") at time of application submission payable CCIDA;
 - (ii) Unless otherwise agreed to by the Agency, an amount equal to one and one quarter percent (1.0625%) of the total project costs, at the time of issuance of Financial Assistance/closing;
 - (iii) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's

bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.

- J. If the Applicant fails to conclude or consummate the 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 Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.
- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- M. 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.
- N. The Applicant has read and understands the Agency's Policy Respecting Recapture of Agency Benefits (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 or modification of Agency financial assistance so provided and/or previously granted.
- O. 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.
- P. 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.
- Q. 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.

- R. 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.
- S. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents 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 CATTARAUGUS) ss.:

Michael W. Giardini

, being first duly sworn, deposes and says:

1. That I am the COO (Corporate Office) of Kinley Contractors, LLC (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.

Michael W. Giardini
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 25th day of July, 2023

Charlene M Rhodes
(Notary Public)

CHARLENE M. RHODES
Notary Public, State of New York
No. 01RH6247778
Qualified in Cattaraugus County
Commission Expires 9/6/2023

Attachment B: CCIDA Insurance Requirements

COUNTY OF CATTARAUGUS INDUSTRIAL DEVELOPMENT AGENCY (Insurance Specifications as of June 8, 2021)

A summary of CCIDA insurance requirements follows. Please note that insurance is to be provided by the Company and/or Project owner after Board approval and prior to utilization of CCIDA financial assistance, and shall be maintained during the term of any applicable Agent Agreement and/or Lease Agreement by and between the CCIDA and the Company.

During the term of an Agent Agreement and/or a Lease Agreement entered into with the County of Cattaraugus Industrial Agency an ACORD 25-Certificate of Liability Insurance and ACORD 855 NY-New York Construction Certificate of Liability Addendum shall be provided evidencing the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing County of Cattaraugus Industrial Development Agency as Certificate Holder. It is our suggestion that you share these requirements with your current insurance agent, broker or insurance company.

Acceptable Certificates of Insurance shall indicate the following minimal coverage, limits of insurance, policy numbers and policy effective and expiration dates.

Commercial General Liability: Agent and subcontractors shall provide such coverage on an occurrence basis for the named insured's premises & operations and products-completed operations. Blanket Contractual Liability provided within the "insured contract" definition may not be excluded or restricted in any way. Property damage to work performed by subcontractors may not be excluded or restricted nor shall the Additional Insured's coverage for claims involving injury to employees of the Named Insured or their subcontractors be excluded or restricted. The "insured contract" exception to the Employers Liability exclusion also may not be removed or restricted in any way.

These coverages are to be properly evidenced by checking the appropriate box(es) on the ACORD 855-NY Construction Certificate of Liability Addendum's Information Section, Items G, H, I and L. Policy shall have attached Designated Location(s) General Aggregate Limit CG 25 04 endorsement.

Limits expressed shall be no less than:

General Aggregate	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Per Occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Fire Damage Liability	\$ 100,000
Medical Payments (per person)	\$ 5,000

County of Cattaraugus Industrial Development Agency shall be named as Additional Insured per ISO Form CG 20 26-Additional Insured Designated Person or Organization to provide coverage for the Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis. All insurance required of the Company shall waive any right of subrogation of the insurer against any person insured under such policy, and waive any right of the insurer to any off-set or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

ACORD 855 NY-New York Construction Certificate of Liability Insurance: It is not uncommon for insurers to modify the standard ISO policy language with endorsements that result in modifications to language preferred by the insurer. This addendum is required to supplement the ACORD 25-Certificate of Liability Insurance with additional information that provides a more detailed expression of the types of coverage required. Specifically required coverages may be excluded or limited by the attachment of exclusionary or limitation endorsements. This

addendum provides the insurer the ability to certify coverage provided by the absence of such exclusionary or limiting modifications.

Blanket Additional Insured endorsement to include — Owner, Lessees or Contractors - Automatic Status For Other Parties When Required in Written Construction Agreement — Wording should include any other person or organization you are required to add as an additional insured under the contract or agreement (Paragraph 2 of CG 20 38 04 13 or equivalent).

Any scheduled person or organization section of the additional insured endorsement containing wording other than designated names shall not be accepted.

Umbrella/Excess Liability: Commercial Umbrella or excess liability for a limit of at least \$5,000,000 per occurrence with a \$5,000,000 Aggregate. Coverage should respond on a follow-form basis and excess over the aforementioned underlying policy limits. County of Cattaraugus Industrial Development Agency shall be named as Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis.

Workers Compensation/Disability Insurance:

- i) The Company and/or Project Owner shall provide evidence of insurance and maintain Workers Compensation/Disability insurance as required by statute. County of Cattaraugus Industrial Development Agency shall be named as the Certificate Holder.
- ii) **Accepted Forms:**

Workers Compensation Forms

DBL (Disability Benefits Law) Forms

CE-200	Exemption	CE-200	Exemption
C-105.2	Commercial Insurer	DB-120.1	Insurers
S1-12	Self-Insurer	DB-155	Self-Insured
GS1-105.2	Group Self-Insured		
U-26.3	New York State Insurance Fund		

If the Company and/or Project owner have no employees, the Company and/or Project owner shall provide a completed and signed Form CE-200 or later revision, which is found on the New York State Workers Compensation Board website: www.wcb.ny.gov/. This form is to be completed on-line, printed, and signed.

CCIDA Address: All evidence of insurance shall be sent to:

County of Cattaraugus Industrial Development Agency
9 East Washington Street
Ellicottville, NY 14731

Attachment C: CCIDA Attorney Fee Schedule

CCIDA Attorney Fees:

Project Amount	Standard Agency Counsel Fee
<=\$499,000	\$5,000
<=\$500,000 - < \$999,999	\$7,500
>\$1M - <\$1,999,999	\$9,000
>\$2M - <\$3,999,999	\$15,000
>\$4M - < \$5,799,000	\$20,000
>\$5,800,00	1/3 of Agency Administrative Fee (currently 1.0625% of the Project Amount)

If a project application is withdrawn or does not close, the applicant is responsible for any costs incurred by the agency on behalf of the project.

G) Applicant Business Description:

Describe in detail the company's background, history, products, and customers. The description is critical in determining eligibility:

- Kinley Contractors has deep roots in Cattaraugus County, dating back six generations to 1895. Kinley started in tanneries and timber, transitioning to gas and oil in the early 1900s. In the 1980s, Kinley expanded oil and gas operations outside of NYS (Nebraska, Oklahoma, and Texas), leading to the acquisition and fuel terminal management in Texas and the establishment of Kinley Construction Group (KCG). KCG is a nationally recognized general contractor serving the industrial and mechanical fueling industries. In the late 1990's Kinley Contractors, a general contracting company serving Western NY and Northwestern Pennsylvania was established and based in Allegany, NY. Since the early 1990's Kinley Contractors has been on a growing trajectory with expanded service areas and increased employment opportunities. Kinley Contractors' goal is to be the premium General Contractor in the country. It has recently expanded by adding a KATS (Kinley Applied Service Technologies) and a General Contracting division that travels nationwide. We intend to increase our annual sales by 250% by 2028 and 500% by 2033. Our current growth trajectory requires more space. Locally, we specialize in Preconstruction Consulting, Design-Build Construction, Pre-Engineered Metal Buildings, and General Contracting Services with plans to expand into renewable energy, service and maintenance, and construction management. In the Cattaraugus County area, we service and support multiple clients, subcontractors, and vendors, helping to support local jobs and commerce in the area. Some of our partners include Iroquois Insurance, Napoleon Engineering Services, Universal Primary Care, YMCA of the Twin Tiers, ACME Business Solutions, and Allegany Crossings LLC, Olean BOCES, Allegany-Limestone Central Schools, Olean Schools, Intandem, Jamestown Community College Olean, Mazza, Kel Kur Electric, Paint Medics, Close's Lumber, Home Depot of Olean, Worth Smith, and many more.

b) Project Description

1.) We will make approximately 10,120 sq feet of renovations for new office space, with exterior improvements and roughly a 5,000 sq foot new metal building for a shop. Possible future fabrication of multi-use units.

- 2.) Agency's Financial Assistance: Kinley Contractors is requesting assistance to help offset the extensive cost of the expansion/relocation, required renovations, and new construction for our new Corporate Headquarters in Allegany, NY. Kinley has outgrown our current location, and our communication and collaboration, internal and external, are limited due to a prohibitive layout and existing design. Additionally, we require more offices and meeting space for our growing business. We need to add several offices, two conference rooms, and other meeting areas for our company to function proficiently. We intend to renovate the existing open floor plan and renovate the existing facility into a modern and more efficient office space. Additionally, we plan to construct a 5,000-square-foot workshop for equipment storage and manufacturing and fabrication of modular multi-use buildings. This will allow our current and future employees more accessible access to their Team leaders and supervisors and will enable us to organize our

internal teams (Project Management, Operations, Accounting, and Administration) in closer proximity. This will permit more effective and timely communication, helping us to provide our services more competently to our clients and increase production. Assisting Kinley in relocating and expanding our headquarters will allow us to continue and accelerate our growth, allowing for additional opportunities for employment and additional revenue being infused into the local economy through expanded and more efficient service being provided to our clients and partners. By financially assisting us, it will allow us to invest additional money into our company sooner rather than later and accelerate our growth potential.