

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY**

**APPLICATION**

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IMPORTANT NOTICE: The answers to the questions contained in this application are necessary to determine your firm's eligibility for financing and other assistance from the City of Albany Industrial Development Agency. These answers will also be used in the preparation of papers in this transaction. Accordingly, all questions should be answered accurately and completely by an officer or other employee of your firm who is thoroughly familiar with the business and affairs of your firm and who is also thoroughly familiar with the proposed project. This application is subject to acceptance by the Agency.  
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TO: CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY  
c/o Department of Economic Development  
21 Lodge Street  
Albany, New York 12207

This application by applicant respectfully states:

APPLICANT: **Harmony Mills South LLC**

APPLICANT'S ADDRESS: **90 State Street**

CITY: **Albany** STATE: **New York** ZIP CODE: **12207**

PHONE NO.: **917-453-3384** E-MAIL: [urikaufman50@gmail.com](mailto:urikaufman50@gmail.com)

NAME OF PERSON(S) AUTHORIZED TO SPEAK FOR APPLICANT WITH RESPECT TO THIS APPLICATION: **Uri Kaufman, Nadine Shadlock, Esq.**

IF APPLICANT IS REPRESENTED BY AN ATTORNEY, COMPLETE THE FOLLOWING:

NAME OF ATTORNEY: **Nadine F. Shadlock, Esq.**

ATTORNEY'S ADDRESS: **12 Van Rensselaer Blvd.**

CITY: **Albany** STATE: **New York** ZIP CODE: **12204-1609**

PHONE NO.: **518-432-3310** E-MAIL: [nadine@nadineshadlock.com](mailto:nadine@nadineshadlock.com)

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NOTE: PLEASE READ THE INSTRUCTIONS ON PAGE 2 HEREOF BEFORE FILLING OUT THIS FORM.  
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## INSTRUCTIONS

1. The Agency will not approve any application unless, in the judgment of the Agency, said application and the summary contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Fill in all blanks, using “none” or “not applicable” or “N/A” where the question is not appropriate to the project which is the subject of this application (the “Project”).
3. If an estimate is given as the answer to a question, put “(est)” after the figure or answer which is estimated.
4. If more space is needed to answer any specific question, attach a separate sheet.
5. When completed, return one (1) copy of this application to the Agency at the address indicated on the first page of this application.
6. The Agency will not give final approval to this application until the Agency receives a completed environmental assessment form concerning the Project which is the subject of this application.
7. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant’s competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law.
8. The applicant will be required to pay to the Agency all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency’s bonds issued to finance the Project). The applicant will also be expected to pay all costs incurred by general counsel and bond counsel/special counsel to the Agency. The costs incurred by the Agency, including the Agency’s general counsel and bond counsel, may be considered as a part of the Project and included as a part of the resultant bond issue.
9. The Agency has established an application fee of One Thousand Five Hundred Dollars (\$1,500) to cover the anticipated costs of the Agency in processing this application. A check or money order made payable to the Agency must accompany each application. **THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.**
10. The Agency has also established an administrative fee equal to (A) one percent (1%) of the cost of the Project in the case of an Agency Straight Lease Transaction, and (B) one percent (1%) of the aggregate principal amount of the bonds to be issued by the Agency in the case of an Agency Bond Transaction. The Agency has also established

an administrative fee for the issuance of refunding bonds for Agency Bond Transactions. The formula for the calculation of the administrative fee for the issuance of refunding bonds is outlined in the Agency's Policy Manual. THESE FEES ARE PAYABLE ON THE CLOSING DATE.

FOR AGENCY USE ONLY

1. Project Number	_____
2. Date application Received by Agency	_____, 20____
3. Date application referred to attorney for review	_____, 20____
4. Date copy of application mailed to members	_____, 20____
5. Date notice of Agency meeting on application posted	_____, 20____
6. Date notice of Agency meeting on application mailed	_____, 20____
7. Date of Agency meeting on application	_____, 20____
8. Date Agency conditionally approved application	_____, 20____
9. Date scheduled for public hearing	_____, 20____
10. Date Environmental Assessment Form ("EAF") received	_____, 20____
11. Date Agency completed environmental review	_____, 20____
12. Date of final approval of application	_____, 20____

## SUMMARY OF PROJECT

**Applicant: Harmony Mills South LLC, Uri Kaufman, Manager**

Contact Person: **Nadine Shadlock, Esq.**

Phone Number: **518-432-3310**

Occupant: **Harmony Mills South LLC and tenants**

Project Location (include Tax Map ID): **76.42-1-5**

**Approximate Size of Project Site: 16,728 square feet, which is the footprint of the project site.**

Description of Project: See Attachment "A": "Description of Project".

Type of Project: ☐ Manufacturing ☐ Warehouse/Distribution  
☐ Commercial ☐ Not-For-Profit  
☒ Other-Specify **Residential Conversion of 148,489 square feet of existing Central Business District Office Space**

Employment Impact: Existing Jobs **See Attachment “B”: “Summary of Employment Impact”.**

New Jobs

Project Cost: **\$23,135,000**

Type of Financing: ☐ Tax-Exempt ☐ Taxable ☒ Straight Lease

Amount of Bonds Requested: \$N/A

Estimated Value of Tax-Exemptions:

N.Y.S. Sales and Compensating Use Tax:	\$ <u>925,400</u>
Mortgage Recording Taxes:	\$ <u>173,512</u>
Real Property Tax Exemptions:	\$ <u>6,930,175</u>
Other (please specify):	\$ <u>N/A</u>

Provide estimates for the following: **Please see Attachment “B”.**

Number of Full Time Employees at the Project Site before IDA Status:	<u>4</u>
Estimate of Jobs to be Created:	<u>1</u>
Estimate of Jobs to be Retained:	<u>4</u>
Average Estimated Annual Salary of Jobs to be Created:	<u>\$34,800</u>

## Attachment “A”

### Description of Project

This Project proposes to convert the upper 11 stories of this 15-story structure into 154 residential dwelling units. This property is presently primarily used for office space, with commercial/ retail space at the street level floors. Post conversion, a portion of the office space as well as the existing commercial uses will remain. The residential units will be a mix of 22 two (2) bedroom, 88 one (1) bedroom and 44 studio units of between 450 and 1,295 square feet. Each floor of residential units will be substantially identical to the other in layout. The conversion will be phased, and will occur on a floor by floor basis, working around existing lease expirations, with the conversion to be substantially complete by not later than December 31, 2022.

This Project represents the first high rise residential conversion in the City of Albany and first substantial conversion of downtown office space into residential. This transformative Project will not only bring the residents of these 154 units into the very center of the Central Business District, it will also remove 148,489 square feet of office space from the Downtown market, which presently has vacancy rate in excess of 20%.

This concentration of residents, at the center of Downtown, will provide the necessary numbers to support the establishment of new retail, as well as goods and services Downtown. With such a substantial enhancement in amenity, a live/ work environment will at last exist, thereby encouraging a thriving and vibrant 24/7 Downtown Albany.

This Project's conversion of 148,489 square feet of office space to residential dwellings will shift the Downtown office space equilibrium and enhance the opportunity for competing office space to be rented. This will create an impetus for landlords to make improvements to existing space, both vacant and occupied. By reducing office space vacancy, the value of these office properties will be enhanced, benefitting the property owners as well as enhancing the City of Albany tax base.

This Project will change everything Downtown, and will place Albany on the trajectory to be a vibrant and thriving Capital of the State of New York.

## Attachment “B”

### Summary of Employment Impact

This Project will create direct new jobs at 90 State Street in construction activities, and thereafter positions in property management, leasing, facilities and maintenance support. Numerous construction and project development related positions have been, and will continue to be, directly generated by this residential conversion, as well as not less than 4 permanent positions.

Additionally, we anticipate the strongest employment impact will result from bringing the residents of these 154 units into the heart of Downtown, plus this Project’s removal of nearly 150,000 square feet of downtown office space from the market, which presently has a vacancy rate in excess of 20%.

This Project, and its residents, will be fundamentally transformative in for Downtown, and will drive the need for retail including, for example: grocery stores, specialty shops, wine and liquor stores, restaurants, including breakfast, and access to goods and personal services. This population will support the strong need for retail, causing retail establishments to open and expand, with the result being stable and permanent job creation.

Likewise, this Project’s impact on existing office space, removing 148,489 square feet of office space from the market, will facilitate a re-population of long vacant office space in other Downtown buildings. Increases in rent will be supported by a reduction in supply, competition for tenants will encourage landlord investment in their properties. Such investment will enhance values and City tax base. Jobs will be created in support of these efforts as well as the employment of individuals in these formerly vacant offices.

This Project will spark these fundamental changes, all of which will make the difference driving the evolution of Downtown Albany.

Annualized Salary Range of Jobs to be Created:

**\$22,000-\$50,000**

Estimated Average Annual Salary of Jobs to be Retained:

**\$ 40,000.**



I. INFORMATION CONCERNING THE PROPOSED OCCUPANT OF THE PROJECT (HEREINAFTER, THE "COMPANY").

A. Identity of Company:

1. Company Name: **Harmony Mills South LLC**

Present Address: **90 State Street, Albany, New York**

Zip Code: **12207**

Employer's ID No.: **43-1964982**

2. If the Company differs from the Applicant, give details of relationship:

**The Company is the applicant**

3. Indicate type of business organization of Company:

a. \_\_\_\_\_ Corporation (If so, incorporated in what country?  
What State? \_\_\_\_\_ Date Incorporated? \_\_\_\_\_ Type of  
Corporation? \_\_\_\_\_ Authorized to do business in New York?  
Yes \_\_\_\_; No \_\_\_\_).

b. \_\_\_\_ Partnership (if so, indicate type of partnership \_\_\_\_\_,  
Number of general partners \_\_\_\_, Number of limited partners \_\_\_\_).

c. NY Limited liability company,  
Date created? **June 20, 2002**.

d. \_\_\_\_\_ Sole proprietorship

4. Is the Company a subsidiary or direct or indirect affiliate of any other organization(s)? If so, indicate name of related organization(s) and relationship: **No**

B. Management of Company:

1. List all owners, officers, members, directors and partners (complete all columns for each person):

NAME (First, Middle, Last) HOME ADDRESS	OFFICE HELD	OTHER PRINCIPAL BUSINESS
<b>Uri Kaufman</b>	<b>Manager</b>	<b>Developer of Historic Residential Multifamily properties.</b>

2. Is the Company or management of the Company now a plaintiff or a defendant in any civil or criminal litigation\*? Yes **X** ; No \_\_\_\_.

\* **The response is Yes, but no criminal litigation, only civil litigation, as per Attachment “C”.**

3. Has any person listed above ever been convicted of a criminal offense (other than a minor traffic violation)? Yes \_\_\_\_; No **X**.

4. Has any person listed above or any concern with whom such person has been connected ever been in receivership or been adjudicated a bankrupt? Yes \_\_\_\_; No **X**.  
(If yes to any of the foregoing, furnish details in a separate attachment).

5. If the answer to any of questions 2 through 4 is yes, please, furnish details in a separate attachment. **See Attachment “C”: “Notes on Pending Litigation”.**

C. Principal Owners of Company:

1. Principal owners of Company: Is Company publicly held? Yes \_\_\_\_; No **X**.  
If yes, list exchanges where stock traded:

2. If no, list all stockholders having a 5% or more interest in the Company:

NAME	ADDRESS	PERCENTAGE OF HOLDING
<b>Mohawk Trust</b>	<b>191 Harbor View South Lawrence, NY 11559</b>	<b>50%</b>
<b>HM Trust</b>	<b>220-46 73<sup>rd</sup> Avenue Queens, NY 11364</b>	<b>50%</b>

## Attachment "C"

### Notes on Pending Litigation

#### NOTES ON PENDING LITIGATION

Uri Kaufman is being sued in two actions:

1. Grant McKay – Uri Kaufman represented, Evergreen Power LLC and Asnat Realty LLC ("E&A"), the owners of a former power plant called English Station, located in New Haven, Connecticut. E&A hired the Grant McKay Demolition Company ("GM") to demolish the buildings on the site. The GM remediation job was shut down by the Connecticut Department of Energy and Environmental Protection ("DEEP") for various alleged regulatory violations. The GM job was insured with a payment and performance bond. To date, the bonding company has paid over \$750,000 to satisfy a subcontractor. E&A brought action against GM and its bonding company for breach of contract and negligence in the remediation of the English Station site. The bonding company and GM have counterclaimed against E&A as well as Uri Kaufman personally for various causes of action sounding in fraud. It is the position of E&A and Uri Kaufman that the counterclaims are frivolous. Recently, the parties arrived verbally at a settlement. The papers are being finalized at the present time. GM has agreed to issue a general release in favor of Uri Kaufman and to pay an undisclosed sum E&A. There is almost no chance that Uri Kaufman will be found liable.
2. Rockaway ASC – Uri Kaufman has been sued together with the sponsor entity of the Courthouse project, Harmony Rockaway LLC ("HR"), by a group of doctors for various causes of action related to the termination of a lease. HR in turn is suing the doctors to enforce the lease. Following a trial held in the summer of 2017, a decision was handed down in favor of the doctors against HR, but not Kaufman. HR is appealing the decision. The entire judgment amount together with projected statutory interest, has been filed with the Court.

I hereby certify that the above is true to best of my knowledge.

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URI KAUFMAN

D. Company's Principal Bank(s) of account:

**TD Bank**

II. DATA REGARDING PROPOSED PROJECT

A. Summary: (Please provide a brief narrative description of the Project.)

**This Project convert the upper 11 stories of this 15 story concrete and masonry structure, presently used as office space into 154 residential dwelling units. This phased conversion would occur on a floor by floor basis, working around existing leases expirations, with conversion to be substantially complete by 2022.**

B. Location of Proposed Project:

1. Street Address **90 State Street**
2. **City of Albany**
3. Town of **N/A**
4. Village of **N/A**
5. **County of Albany**
6. Tax Map ID(s): **76.42-1-5**

C. Project Site:

1. Approximate size (in acres or square feet) of Project site:  
Is a map, survey, or sketch of the project site attached? Yes X; No \_\_\_\_.
2. Are there existing buildings on project site? Yes X; No \_\_\_\_.

**See Attachment "D": Survey & Legal Description.**

- a. If yes, indicate number and approximate size (in square feet) of each existing building: **90 State Street is the sole existing building and is a 15 story concrete and masonry structure of 233,753 gross square feet.**

- b. Are existing buildings in operation? Yes X; No \_\_\_\_.  
If yes, describe present use of present buildings:

**Office: 196,848 gross square feet**  
**Retail: 36,905 gross square feet**

- c. Are existing buildings abandoned? Yes \_\_\_\_; No X. About to be abandoned? Yes \_\_\_\_; No \_\_\_\_\_. If yes, describe:

- d. Attach photograph of present buildings.  
**See Attachment "E": Photographs.**

## Attachment “D”

### Survey and Legal Description



## 90 State Street

### Legal Description

#### LEGAL DESCRIPTION

ALL that tract, piece or parcel of land, situate, lying and being in the Fifth Ward in the City of Albany, County of Albany and State of New York, more particularly bounded and described as follows:

BEGINNING at the intersection of the Southerly line of State Street with the Westerly line of South Pearl Street; and

RUNNING THENCE Southerly along the Westerly line of South Pearl Street 128.95 feet (actual 129.20 feet) to the intersection of said line with the Northerly line of Howard Street;

THENCE along said Northerly line of Howard Street Westerly 124.43 feet (actual 124.49 feet) to the corner of the lot now or formerly owned by the City and County Savings Bank;

THENCE Northerly along the Easterly boundary line of the property now or formerly of the said City and County Savings Bank 164.22 feet (actual 164.98 feet) to the Southerly line of State Street;

THENCE Easterly along the Southerly line of State Street 108.06 feet (actual 108.10 feet) to the point or place of BEGINNING.

The premises are also described as all that parcel of land situated in the City of Albany, County of Albany and State of New York bounded and described as follows:

BEGINNING at the intersection of the Southerly bounds of State Street with the Westerly bounds of South Pearl Street;

THENCE Southerly along said Westerly bounds a distance of 129.20 feet to the intersection with the Northerly bounds of Howard Street;

THENCE Westerly along said Northerly bounds, making an interior angle of 101 degrees 33 minutes 38 seconds, a distance of 124.49 feet to a point;

THENCE Northerly along the common bounds with lands now or formerly of the City of Albany Industrial Development Agency as described in Book 2311 of Deeds at Page 779, making an interior angle of 73 degrees 27 minutes 08 seconds a distance of 164.98 feet to a point in the Southerly bounds of State Street;

THENCE Easterly along said Southerly bounds, making an interior angle of 89 degrees 34 minutes 09 seconds with the last described course, a distance of 108.10 feet to the point of beginning, the last course making an interior angle of 95 degrees 25 minutes 05 seconds with the first course herein described.

Subject to all easements, restrictions and rights-of-way of record

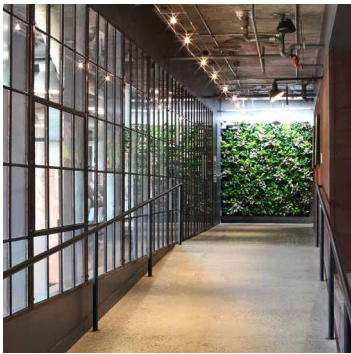
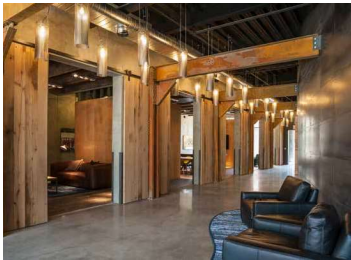
## Attachment “E”

### Photographs





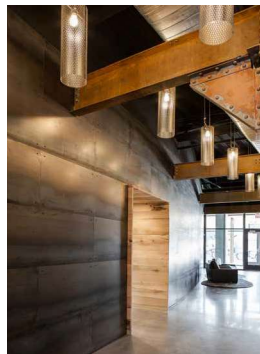




FOYER



COMMON ROOMS





BROWN STAIN CABINETS



BACKSPLASH



COUNTERTOPS



CONCRETE FLOORING



ISLAND PENDANTS



GENERAL UNIT LIGHTING



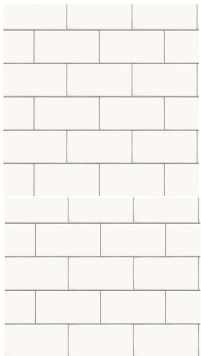
BEDROOM PENDANT



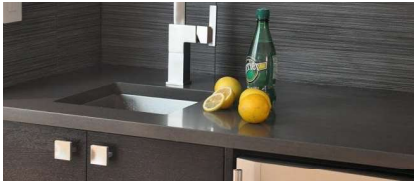
KITCHEN FAUCET



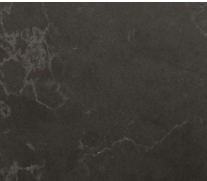
SHOWER SURROUND



BATHROOM CABINET



COUNTERTOPS



FLOORING



MEDICINE CABINET AND WALL SCONCES



CURVED SHOWER ROD



TOWEL BAR



TOILET PAPER HOLDER



GRAB BAR



FAUCET



ROUND SHOWER TRIM





GREY STAIN CABINETS



BACKSPLASH



COUNTERTOPS



MID LIMED OAK FLOORING



ISLAND PENDANTS



GENERAL UNIT LIGHTING



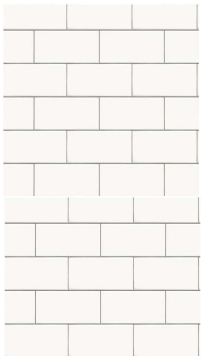
BEDROOM PENDANT



KITCHEN FAUCET



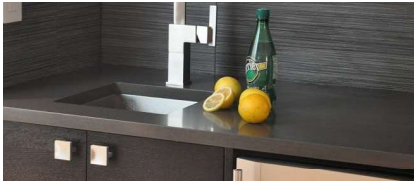
SHOWER SURROUND



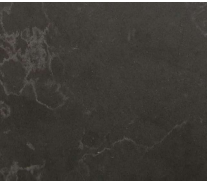
BATHROOM CABINET



MEDICINE CABINET AND WALL SCONCES



COUNTERTOPS



FLOORING



CURVED SHOWER ROD



TOWEL BAR



TOLIET PAPER HOLDER



GRAB BAR



FAUCET



SQUARE SHOWER TRIM







3. Utilities serving project site:  
**Water-Municipal: Yes**  
 Other (describe)  
**Sewer-Municipal: Yes**  
 Other (describe)  
**Electric-Utility: Yes**  
 Other (describe)  
**Heat-Utility: Yes**  
 Other (describe)
4. Present legal owner of project site: **Harmony Mills South LLC**
  - a. If the Company owns project site, indicate date of purchase:  
**January 24, 2007**; Purchase price: **\$9,750,000**.
  - b. If Company does not own the Project site, does Company have option signed with owner to purchase the Project site? Yes \_\_\_\_; No N/A.  
 If yes, indicate date option signed with owner: \_\_\_\_, 20\_\_; and the date the option expires: \_\_\_\_, 20\_\_.
  - c. If the Company does not own the project site, is there a relationship legally or by common control between the Company and the present owners of the project site? Yes \_\_\_\_; No N/A. If yes, describe:
5.
  - a. Zoning District in which the project site is located:  
**MU-DT: Mixed Use Downtown**
  - c. Are there any variances or special permits affecting the site? Yes **X**; No \_\_\_\_.  
 If yes, list below and attach copies of all such variances or special permits:  
**See Attachment "F": Use Variances for: Child Day Care and Adult Day Care.**

D. Buildings:

1. Does part of the Project consist of a new building or buildings? Yes \_\_\_\_; No **X**\_\_\_\_. If yes, indicate number and size of new buildings:
2. Does part of the Project consist of additions and/or renovations to the existing buildings? Yes **X**\_\_\_\_; No \_\_\_\_\_. If yes, indicate the buildings to be expanded or renovated, the size of any expansions and the nature of expansion and/or renovation:  
**Residential Conversion of 148,489 square feet of existing Central Business District Office Space.**
3. Describe the principal uses to be made by the Company of the building or buildings to be acquired, constructed, or expanded: **The upper 11 floors of 90 State Street will be converted into 154 multifamily residential dwelling units, with this conversion to occur on a phased floor by floor basis, working around existing leases expirations.**

## Attachment “F”

Use Variances for:  
Child Day Care & Adult Day Care

- Use Variance Child Day Care: July 25, 2012
- Use Variance Adult Day Care: January 8, 2014

- *See Attached* -

# NOTIFICATION OF LOCAL ACTION

## DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS

► Important Note: This is not a building permit. All building permits must be approved and issued by the Division of Building & Codes prior to the start of any construction.

ADDRESS OF SUBJECT PROPERTY: 90 State St.

IN THE MATTER OF: Use Variance to allow for the establishment of a day care center.

APPLICANT: Harmony Mills, LLC c/o Kurzon Architects

ADDRESS: 90 State St., Albany, NY 12207

CASE NUMBER: 7-12, 3076

DATE APPLICATION RECEIVED: 6/13/12

DATE OF HEARING: 7/11/12

DATE OF DECISION: 7/25/12

WARD: 3

DECISION: Approved

N.A.: N/A

HISTORIC/ SPECIAL DISTRICT(S): Downtown Albany Historic District; Downtown Albany Business Improvement District

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The request is Approved, by the following vote:

For: 4	Apostol: Y	Ray: Y
Against: 0	Cronin: N/A	Tucker-Ross: Y
Abstain: 0	Moran: Y	Viele: N/A

### Site Description

The site in question is located at the southwest corner of State and North Pearl Streets in a C-3 Central Business zoning district, the Downtown Albany Historic District and the Downtown Albany Business Improvement District. The 114' x 147' lot is improved with a fifteen-story, 212,528 square foot commercial office structure.

### Relevant Considerations

The applicant is proposing to operate a day care center in a former bank located on the first and second floor of the subject building. The building is currently occupied by offices, personal and business service outlets and a restaurant/tavern. The City Zoning Ordinance permits day-care centers as an accessory use in the applicable C-3 zoning district. However, an accessory use is defined in the ordinance as follows:

*ACCESSORY USE OR STRUCTURE -- A structure or use which:*

- (1) Is subordinate to and serves a principal building or principal use;*
- (2) Is subordinate in area, extent and purpose to the principal structure or principal use served;*
- (3) Contributes to the comfort, convenience and/or necessity of the occupants; and*
- (4) Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by provisions stated herein.*

The proposed day care center is proposed to be open to the public and therefore will not be operating as a defined accessory use. Being that day care centers are not a principal or special permit use in the C-3 district, a Use Variance is required in order to permit the use.

The applicant indicates that the building was constructed in 1929 for National Savings Bank and features a

magnificent, 12,142 square foot, bank space with abundant natural light and high ceilings on the ground floor. The space is no longer utilized as a bank, having been last occupied by the New York State Comptroller's Office. It has since been vacant for over two years. The applicant has aggressively marketed the space through Weichert Realtors along with 3,728 square feet of additional space on the second floor, which has been vacant for 5 ½ years. The applicant has received only a single offer to lease the ground floor space since it was vacated in February 2010. That offer was for a banquet facility that did not come to fruition. The applicant purchased the property for \$9,570,000 in January of 2007.

The applicant is currently evaluating an offer to lease the aforementioned floor space for use as a day care center. The applicant believes that despite the zoning prohibition of the day care center operating as an independent use, it will fulfill a need within the central business district. There are currently no children's day care centers located within the downtown area that are open to the public. Given the existing circumstances relating to the banking sector, the applicant does not foresee the space being reoccupied by a bank branch in the near future.

The proposed day care center would operate from 7AM – 6PM, Monday – Friday. The day care is to be licensed by the New York State Office of Child and Family Services (NYSOCFS) and will accommodate 22 infants and toddlers (6 wks – 2 ½ yrs) as well as 24 children (2 ½ - 5 yrs), with an option of an additional 32 children. The latter would occupy the second floor space and be subject to additional demand. The facility would be staffed at levels mandated by NYSOCFS. The applicant believes that the proposed use will provide a desirable service for downtown workers in the adjacent vicinity and will enhance the appeal of surrounding properties. He states that prepaid parking meter spaces will be reserved for parents wishing to drop off children directly rather than walk from their parking spaces.

The building at 90 State Street currently has a vacancy rate of 22.5% and operates at a negative rate of return. The day care center would occupy approximately 9% of the space within the building thereby decreasing the vacancy rate to a more fiscally manageable 13.5%. The applicant cites a loss of \$526,984 related to the space in question since his purchase of the building in 2007. The tenant fit-up is expected to cost \$22,000.

### Findings

*When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:*

*[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.*

The applicant is contending with an unreasonable high vacancy rate at the property in question that is at least partially related to the historic configuration of the ground level building space. Being unable to find a suitable tenant to occupy the space, the property owner is subject to a hardship of being unable to achieve revenue for a significant area of the floor area within the building.

*[2] The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or the neighborhood.*

The hardship in question is unique as it relates to a portion of the floor area within the building at the premise that is uniquely designed for a particular use that no longer demands the location of the space or level of ornate detail contained within it. The former bank space is historically significant and relatively

unique in the context of the district in question.

*[3] The requested use variance, if granted, will not alter the essential character of the neighborhood.*

The proposed use will not alter the character of the neighborhood in a negative way. To a certain degree the use is prohibited only as a result of a certain technical specificity of the language contained within the City Zoning Ordinance.

*[4] The alleged hardship has not been self-created.*

The hardship is not self-created and is a result of unique circumstances relating to this particular property.

*The Board, when granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.*

The variance granted is the minimum variance and will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Board finds that, in accordance with §375-26(B)(2)(a), the variance granted is the minimum necessary, and that:

- a. The applicant has demonstrated an unnecessary hardship, in that they cannot realize a reasonable return with a permitted use of the building.
- b. This hardship is unique to this property.
- c. Granting the variance will not alter the essential character of the neighborhood.
- d. The hardship was not self-created.

The Board hereby issues a negative declaration under SEQOR for this unlisted action, as the proposed construction will not result in any significant adverse environmental impacts.

I, G. Michael Apostol, representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board made at a meeting thereof duly called and held on July 25, 2012.

Signed: G. Michael Apostol Date: 7/25/12

► Important Note: Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building, or other permits or comply with the conditions of such decision within six (6) months of the date of signature.

## NOTIFICATION OF LOCAL ACTION DECISION OF THE CITY OF ALBANY BOARD OF ZONING APPEALS

► Important Note: This is not a building permit. All building permits must be approved and issued by the Division of Building & Codes prior to the start of any construction.

ADDRESS OF SUBJECT PROPERTY: 90 State St.

IN THE MATTER OF: Special Use Permit to allow an adult day care center to occupy +/- 2,100 square feet of floor space of the 11<sup>th</sup> floor of the building at the premises.

APPLICANT: Harmony Mills South, LLC c/o Nadine Feiden Shadlock, Esq.

ADDRESS: 12 Van Rensselaer Blvd., Albany, NY 12204

CASE NUMBER: 11-13, 4148

DATE APPLICATION RECEIVED: 10/18/13

DATE OF HEARING: 11/13/13

DATE OF DECISION: 1/8/14

WARD: 3

DECISION: Approved

N.A.: N/A

HISTORIC/ SPECIAL DISTRICT(S): Downtown Albany Historic District; Downtown Albany Business Improvement District

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The request is Approved, by the following vote:

For: 5	Apostol: Y	Ray: Y
Against: 0	Cronin: Y	Tucker-Ross: Y
Abstain: 1	Moran: AB	Viele: Y

### Site Description

The property in question is located on the southwest corner of State and South Pearl Streets in a C-3 Central Business zoning district, the Downtown Albany Historic District and the Downtown Albany Business Improvement District. The 114' x 147' lot is improved with a 14-story, 212,528 square foot commercial structure.

### Relevant Considerations

The applicant is seeking to operate an adult day care facility at the subject property. It is proposed that the adult day care would occupy +/- 2,100 square feet within the building, either on the ground level or the 11<sup>th</sup> floor of the building. The Administrator has determined that the proposed use requires a Special Use Permit in the applicable C-3 zoning district.

The applicant states that the "purpose of this use is to provide peer interaction and engagement for seniors, with stimulating daily activities to enhance their quality of life." Activities will include a "book club, fitness / exercise, crafts, painting, knitting / needlework, speakers on nutrition or current events, or storytelling." The intent is to begin by enrolling forty individuals in the program and thereafter increase to as many as sixty individuals. The program will be staffed by an Adult Care Director and five additional employees. Hours of operation will be 7AM – 6AM, Monday – Friday, identical to those of a children's day care center recently established within the building. The practice of having clients walk from adjacent parking garages or drop off in designated areas will continue, as is currently practiced with the day care.

The applicant feels that the use will provide an added service to the downtown area and will be wholly compatible with surrounding uses and not more objectionable than permitted uses. It states: "It is believed that adult care would likely be included as a principal permitted use, were the Zoning Law revised in

consideration of the realities of the present day, including not just the aging population, but also that both working age adults in a family now work.”

**Findings**

The Board finds that the special use is in accordance with the following standards set forth in §375-27(B)(1):

- a. Is as a permitted special use in the appropriate zoning district., as determined by the administrator.
- b. Will conform to the standards and conditions specified in §375 for that use.
- c. Will not have an undue adverse affect upon adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities or other matters affecting the public health, safety, welfare or convenience.
- d. Operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, illumination, etc., than the operations of any permitted use not requiring a special use permit.
- e. Will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such additional services as the board deems appropriate.
- f. Complies with all additional requirements imposed on it by the provisions of §375.
- g. Will be in harmony with the applicable zoning district and will not adversely affect the neighborhood and the surrounding areas.

The Board hereby issues a negative declaration under SEQR for this unlisted action, as the proposed construction will not result in any significant adverse environmental impacts.

I, G. Michael Apostol, representing the Board of Zoning Appeals of the City of Albany, hereby certify that the foregoing is a true copy of a decision of the Board made at a meeting thereof duly called and held on January 8, 2014.

Signed: G. Michael Apostol Date: 1/8/14

► Important Note: Unless otherwise specified by the Board, this decision shall expire and become null and void if the applicant fails to obtain any necessary zoning, building, or other permits or comply with the conditions of such decision within six (6) months of the date of signature.

E. Description of the Equipment:

1. Does a part of the Project consist of the acquisition or installation of machinery, equipment or other personal property (the "Equipment")? Yes X; No \_\_\_\_\_. If yes, describe the Equipment:

**Diesel fire pump for sprinkler system, heating and cooling system infrastructure upgrade and replacement/ redesign, expansion of sprinkler system, expansion and upgrade of fire and building security/ access systems and elevator upgrades.**

2. With respect to the Equipment to be acquired, will any of the Equipment be Equipment which has previously been used? Yes \_\_\_\_; No X. If yes, please provide detail:

3. Describe the principal uses to be made by the Company of the Equipment to be acquired or installed:

**Supportive of the use of the property for residential multifamily dwelling units.**

F. Project Use:

1. What are the principal products to be produced at the Project?

**Products to be produced will be the conversion of established office space in the Central Business District into residential dwelling units.**

2. What are the principal activities to be conducted at the Project? **The 154 residential dwelling units will be home to the tenants residing there. In addition to residential dwelling units, 90 State Street will include state of the art exercise facilities, Co-Work space, and gathering areas, with this in addition to the remaining office and established retail uses presently in place.**

3. Does the Project include facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities? Yes X; No \_\_\_\_\_. If yes, please provide detail:

4. If the answer to question 3 is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? 100 %

5. If the answer to question 3 is yes, and the answer to question 4 is more than 33.33%, indicate whether any of the following apply to the Project:

- a. Will the Project be operated by a not-for-profit corporation? Yes \_\_\_\_; No X. If yes, please explain:



b. Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes X; No \_\_\_\_\_. If yes, please explain: **This is the first high rise residential conversion in the Region. We expect that 90 State's intrinsic beauty, panoramic views and high-end finishes will attract visitors from outside the area. Such visitors will include developers, to see an example of what can be achieved with an aging office tower, with vision and commitment, as well as tenant prospects considering moving to the NYS Capital. Quality high end, market rate housing is essential to support the housing needs of this growing City.**

d. Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York? Yes X; No \_\_\_\_\_. If yes, please explain:

**Absent IDA assistance, this building will not be converted from office space to high end residential. Key to this is the fact 90 State is the only residential conversion or housing project proposed in the City which will remove 148,489 SF of existing office space from the market due. This very significant elimination of office space from the City office rental market will drive upgrades and re-occupancy of now vacant and under-utilized offices, thereby bringing jobs and employees to the City's revitalized office accommodations. This will enhance office rental values per SF, and, in so doing, increase assessments and City tax base. Additionally, live/ work will take root.**

d. 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 city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes X; No \_\_\_\_\_. If yes, please provide detail:

e. Will the Project be located in one of the following: (i) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law; or (ii) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (x) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of households receiving public assistance, and (y) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates? Yes X; No \_\_\_\_\_. If yes, please explain: \_\_\_\_\_

6. If the answers to any of subdivisions c. through e. of question 5 is yes, 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 X; No \_\_\_\_\_. If yes, please explain:

**This is the first high rise residential conversion in Albany as well as the very first substantial residential conversion of existing office space. To eliminate 148,489 SF of existing Downtown office space, creating a stimulus to Downtown office vacancy and jobs, plus bringing the residents of these 154 apartments to downtown to live, shop and work, thereby driving retail. The synergies and impact of this Project will be significant.**

7. Will the completion of the Project result in the removal of a plant or facility of the Company or another proposed occupant of the Project (a "Project Occupant") from one area of the State of New York to another area of the State of New York? Yes\_\_\_\_; No X\_\_\_\_. If yes, please explain:

8. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Company located in the State of New York? Yes\_\_\_\_; No X\_\_\_\_. If yes, please provide detail:

9. If the answer to either question 7 or question 8 is yes, indicate whether any of the following apply to the Project:

a. Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry? Yes\_\_\_\_; No N/A\_\_\_\_. If yes, please provide detail:

b. Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes\_\_\_\_; No N/A\_\_\_\_. If yes, please provide detail:

G. Other Involved Agencies:

1. Please indicate all other local agencies, boards, authorities, districts, commissions or governing bodies (including any city, county and other political subdivision of the State of New York and all state departments, agencies, boards, public benefit corporations, public authorities or commissions) involved in approving or funding or directly undertaking action with respect to the Project. For example, do you need a municipal building permit to undertake the Project? Do you need a zoning approval to undertake the Project? If so, you would list the appropriate municipal building department or planning or zoning commission which would give said approvals.

**City of Albany Planning Board (Major Development Plan Approval granted November 16, 2017): City Buildings and Regulatory Compliance: City Water & Water Supply.**

2. Describe the nature of the involvement of the federal, state, or local agencies described above:

**City Planning Board: Major Development Plan Review and Approval of this project renovation and change in use. City Building Department: Building Permits. City Water Department approved the Project Sewer Engineer's Report and the Project Stormwater Management Report.**

H. Construction Status:

1. Has construction work on this Project begun? Yes X\_\_\_\_; No \_\_\_\_\_. If yes, please discuss in detail the approximate extent of construction and the extent of completion. Indicate in your answer whether such specific steps have been completed as site clearance and preparation; completion of foundations; installation of footings; etc.:

**Demolition activities on the 11<sup>th</sup> floor, which is the first floor to be converted to residential dwelling commenced in early January 2018, with the City Building Department's issuance of a demolition permit. The building permit for the 11<sup>th</sup> Floor was issued on April 18, 2018, with preliminary work and MEP drawings in process.**

2. Please indicate amount of funds expended on this Project by the Company in the past three (3) years and the purposes of such expenditures: **This Project secured its Major Development Plan Approval on November 16, 2017 from the City Planning Board. Therefore, expenditures commenced in 2017 in connection with the approval process for the residential conversion, including preparation of all documents and materials for the approvals and this IDA Application, as well as preliminary infrastructure and construction activities, \$253,800 (including architect, engineer, consultants, demolition, legal, materials).**

3. Please indicate the date the applicant estimates the Project will be completed: **The applicant anticipates this 154 unit residential conversion will be substantially completed by December 31, 2022.**

I. Method of Construction After Agency Approval:

1. If the Agency approves the Project which is the subject of this application, there are two methods that may be used to construct the Project. The applicant can construct the Project privately and sell the Project to the Agency upon completion. Alternatively, the applicant can request to be appointed as "agent" of the Agency, in which case certain laws applicable to public construction may apply to the Project. Does the applicant wish to be designated as "agent" of the Agency for purposes of constructing the Project? Yes X; No \_\_\_\_.

2. If the answer to question 1 is yes, does the applicant desire such "agent" status prior to the closing date of the financing? Yes X; No \_\_\_\_.

III. INFORMATION CONCERNING LEASES OR SUBLEASES OF THE PROJECT. (PLEASE COMPLETE THE FOLLOWING SECTION IF THE COMPANY INTENDS TO LEASE OR SUBLEASE ANY PORTION OF THE PROJECT).

A. Does the Company intend to lease or sublease more than 10% (by area or fair market value) of the Project? Yes X; No \_\_\_\_\_. If yes, please complete the following for each existing or proposed tenant or subtenant: **The Company intends to lease 100% of the 154 residential dwelling units which comprise this Project. The tenants will be identified at completion and rent-up of the dwelling units.**

1. Sublessee name:  
Present Address:  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Employer's ID No.: \_\_\_\_\_  
Sublessee is: \_\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship  
Relationship to Company:  
Percentage of Project to be leased or subleased:  
Use of Project intended by Sublessee:  
Date of lease or sublease to Sublessee:  
Term of lease or sublease to Sublessee:  
Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project?

Yes\_\_\_\_; No\_\_\_\_. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.

2. Sublessee name: **Please see above explanation.**  
Present Address:

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Employer's ID No.: \_\_\_\_\_  
Sublessee is: \_\_\_\_\_  
\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship  
Relationship to Company: \_\_\_\_\_  
Percentage of Project to be leased or subleased: \_\_\_\_\_  
Use of Project intended by Sublessee: \_\_\_\_\_  
Date of lease or sublease to Sublessee: \_\_\_\_\_  
Term of lease or sublease to Sublessee: \_\_\_\_\_

Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes\_\_\_\_; No\_\_\_\_. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.

3. Sublessee name: **Please see above explanation.**  
Present Address:  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Employer's ID No.: \_\_\_\_\_  
Sublessee is: \_\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship  
Relationship to Company: \_\_\_\_\_  
Percentage of Project to be leased or subleased: \_\_\_\_\_  
Use of Project intended by Sublessee: \_\_\_\_\_  
Date of lease or sublease to Sublessee: \_\_\_\_\_  
Term of lease or sublease to Sublessee: \_\_\_\_\_

Will any portion of the space leased by this sublessee be primarily used in making retail sales of goods or services to customers who personally visit the Project? Yes\_\_\_\_; No **X**\_\_\_\_. If yes, please provide on a separate attachment (a) details and (b) the answers to questions II(F)(4) through (6) with respect to such sublessee.

- B.** What percentage of the space intended to be leased or subleased is now subject to a binding written lease or sublease? **The residential conversion from office will be completed in a phased manner on a floor by floor basis, working around the natural expiration of existing office leases.**

IV. Employment Impact

- A. Indicate the number of people presently employed at the Project site and the **additional** number that will be employed at the Project site at the end of the first and second years after the Project has been completed, using the tables below for (1) employees of the Applicant, (2) independent contractors, and (3) employees of independent contractors. (Do not include construction workers). Also indicate below the number of workers employed at the Project site representing newly created positions as opposed to positions relocated from other project sites of the applicant. Such information regarding

relocated positions should also indicate whether such positions are relocated from other project sites financed by obligations previously issued by the Agency.

<b>TYPE OF EMPLOYMENT Employees of Applicant</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals
Present Full Time	1	1	1	1	4
Present Part Time					
Present Seasonal					
First Year Full Time	1	1	1	2	5
First Year Part Time					
First Year Seasonal					
Second Year Full Time	1	1	1	2	5
Second Year Part Time					
Second Year Seasonal					

<b>TYPE OF EMPLOYMENT Independent Contractors</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals

Present Full Time		0			0
Present Part Time					
Present Seasonal					
First Year Full Time					
First Year Part Time		2			2
First Year Seasonal					
Second Year Full Time					
Second Year Part Time		2			2
Second Year Seasonal					
<b>TYPE OF EMPLOYMENT</b> <b>Employees of Independent Contractors</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals
Present Full Time					
Present Part Time					
Present Seasonal					
First Year Full Time					
First Year Part Time					
First Year Seasonal					
Second Year Full Time					
Second Year Part Time					

Second Year Seasonal					

- B. Indicate below (1) the estimated salary and fringe benefit averages or ranges and (2) the estimated number of employees residing in the Capital Region Economic Development Region for all the jobs at the Project site, both retained and created, listed in the tables described in subsection A above for each of the categories of positions listed in the chart below.

RELATED EMPLOYMENT INFORMATION				
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled
Estimated Salary and Fringe Benefit Averages or Ranges	<b>\$47,500</b>	<b>\$38,333</b>	<b>\$25,000</b>	<b>\$22,000</b>
Estimated Number of Employees Residing in the Capital Region Economic Development Region <sup>1</sup>	<b>All</b>	<b>All</b>	<b>All</b>	<b>All</b>

- C. Please describe the projected timeframe for the creation of any new jobs with respect to the undertaking of the Project:

**The jobs will be created on an ongoing basis from the time of commencement of issuance of the project approvals, with design work and planning commencing in Fall of 2017, with job creation to be ongoing and stabilize as the conversion and renovations continue floor by floor, with additional jobs to be created with unit rent up and management thereafter.**

- D. Please prepare a separate attachment describing in detail the types of employment at the Project site. Such attachment should describe the activities or work performed for each type of employment.

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<sup>1</sup> The Capital Region Economic Development Region consists of the following counties: Albany, Schenectady, Rensselaer, Greene, Columbia, Saratoga, Warren and Washington.

V. Project Cost and Financing Sources

- A. Anticipated Project Costs. State the costs reasonably necessary for the acquisition of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

<u>Description of Cost</u>	<u>Amount</u>
Land	<u>\$177,600</u>
Buildings	<u>\$20,822,400</u>
Machinery and equipment costs	<u>\$</u>
Utilities, roads and appurtenant costs	<u>\$20,000</u>
Architects and engineering fees	<u>\$400,000</u>
Costs of Bond Issue (legal, financial and printing)	<u>\$</u>
Construction loan fees and interest (if applicable)	<u>\$800,000</u>
Other (specify)	
FF&E	<u>\$365,000</u>
Permit Fees and Related Costs	<u>\$300,000</u>
Other Soft Costs	<u>\$200,000</u>
Accounting/Legal	<u>\$50,000</u>
<b>TOTAL PROJECT COSTS</b>	<b><u>\$23,135,000</u></b>

- B. Anticipated Project Financing Sources. State the sources reasonably necessary for the financing of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

<u>Description of Sources</u>	<u>Amount</u>
Private Sector Financing	<u>\$17,351,250</u>
Public Sector	
Federal Programs	<u>\$</u>
State Programs	<u>\$</u>



Local Programs	\$ _____
Applicant Equity	<b><u>\$5,783,750</u></b>
Other (specify, e.g., tax credits)	
_____	\$ _____
<b>TOTAL AMOUNT OF PROJECT FINANCING SOURCES</b>	<b><u>\$23,135,000</u></b>

- C. Have any of the above expenditures already been made by the applicant?  
Yes X; No \_\_\_\_\_. If yes, indicate particulars.

**Architects: both design architects and landscape architects, engineers: civil, structural, electrical and mechanical, attorneys, construction consultants and estimators, environmental consultants, plus extensive MEP work regarding building infrastructure/ systems and general construction on the 11<sup>th</sup> floor.**

- D. Amount of loan requested: **\$17,351,250**; The applicant is currently attempting to procure financing. As this will be a phased project, the exact amount of financing to be obtained by applicant at this time is not quantified. We are currently reaching out to lenders.

Maturity requested: 30 years.

- E. Has a commitment for financing been received as of this application date, and if so, from whom?

Yes \_\_\_\_; No X. Institution Name: \_\_\_\_\_

Provide name and telephone number of the person we may contact.

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

- F. The percentage of Project costs to be financed from public sector sources is estimated to equal the following: 0%

- G. The total amount estimated to be borrowed to finance the Project is equal to the following **\$17,351,250**

#### VI. BENEFITS EXPECTED FROM THE AGENCY

##### A. Financing

1. Is the applicant requesting that the Agency issue bonds to assist in financing the Project?  
Yes \_\_\_\_; No X. If yes, indicate:

- a. Amount of loan requested: \_\_\_\_\_Dollars;
  - b. Maturity requested: \_\_\_\_\_Years.
2. Is the interest on such bonds intended to be exempt from federal income taxation? Yes \_\_\_\_; No N/A.
3. If the answer to question 2 is yes, will any portion of the Project be used for any of the following purposes: N/A
- a. retail food and beverage services: Yes\_\_\_\_; No \_\_\_\_
  - b. automobile sales or service: Yes\_\_\_\_; No \_\_\_\_
  - c. recreation or entertainment: Yes\_\_\_\_; No \_\_\_\_
  - d. golf course: Yes\_\_\_\_; No \_\_\_\_
  - e. country club: Yes\_\_\_\_; No \_\_\_\_
  - f. massage parlor: Yes\_\_\_\_; No \_\_\_\_
  - g. tennis club: Yes\_\_\_\_; No \_\_\_\_
  - h. skating facility (including roller skating, skateboard and ice skating): Yes\_\_\_\_; No \_\_\_\_
  - i. racquet sports facility (including handball and racquetball court): Yes\_\_\_\_; No \_\_\_\_
  - j. hot tub facility: Yes\_\_\_\_; No \_\_\_\_
  - k. suntan facility: Yes\_\_\_\_; No \_\_\_\_
  - l. racetrack: Yes\_\_\_\_; No \_\_\_\_
4. If the answer to any of the above questions contained in question 3 is yes, please furnish details on a separate attachment. N/A
5. Is the Project located in the City's federally designated Enterprise Zone? Yes\_\_\_\_; No X.
6. Is the applicant requesting the Agency to issue federally tax-exempt Enterprise Zone bonds? Yes\_\_\_\_; No X.

**B. Tax Benefits**

1. Is the applicant requesting any real property tax exemption that would not be available to a project that did not involve the Agency? Yes\_\_\_\_; No X.
2. Is the applicant expecting that the financing of the Project will be secured by one or more mortgages? Yes X; No \_\_\_\_\_. If yes, what is the approximate amount of financing to be secured by mortgages? \$17,351,250.
3. Is the applicant expecting to be appointed agent of the Agency for purposes of avoiding payment of N.Y.S. Sales Tax or Compensating Use Tax? Yes X; No \_\_\_\_\_. If yes, what is the approximate amount of purchases which the applicant expects to be exempt from the N.Y.S. Sales and Compensating Use Taxes? \$11,567,500.
4. What is the estimated value of each type of tax-exemption being sought in connection with the Project? Please detail the type of tax-exemption and value of the exemption.
  - a. N.Y.S. Sales and Compensating Use Taxes: \$925,400
  - b. Mortgage Recording Taxes: \$173,512
  - c. Real Property Tax Exemptions: \$6,930,175
  - d. Other (please specify): N/A

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5. Are any of the tax-exemptions being sought in connection with the Project inconsistent with the Agency's Uniform Tax Exemption Policy? Yes \_\_\_\_; No X. If yes, please explain. **This Project is requesting relief consistent with the Uniform Tax Exemption Policy.**

6. Does the project involve a minimum investment of \$25 million dollars, a minimum of fifteen (15) acres or a full service hotel? Yes \_\_\_\_; No X. If yes, please provide Detail and whether the applicant is seeking a real property tax abatement outside of the Agency's Project Evaluation and Assistance Framework.

7. Is the Project located in the City's state designated Empire Zone? Yes \_\_\_\_; No X.

C. Project Cost/Benefit Information. Complete the attached Cost/Benefit Analysis so that the Agency can perform a cost/benefit analysis of undertaking the Project. Such information should consist of a list and detailed description of the benefits of the Agency undertaking the Project (e.g., number of jobs created, types of jobs created, economic development in the area, community benefits (including community commitment as described in the Agency's Project Evaluation and Assistance Framework), etc.). Such information should also consist of a list and detailed description of the costs of the Agency undertaking the Project (e.g., tax revenues lost, buildings abandoned, etc.).

VII. REPRESENTATIONS BY THE APPLICANT. The applicant understands and agrees with the Agency as follows:

A. Job Listings. 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 "DOC") and with the administrative entity (collectively with the DOC, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA"), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), 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. City Human Rights Law. The applicant has reviewed the provisions of Chapter 48, Article III of the City Code, entitled "The Omnibus Human Rights Law" and agrees to comply with such provisions to the extent that such provisions are applicable to the applicant and the Project.

D. 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.

E. Annual Employment Reports. The applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site, including (1) the NYS-45 – Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return – for the quarter ending December 31 (the “NYS-45”), and (2) the US Dept. of Labor BLS 3020 Multiple Worksite report if applicable. The applicant also agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the participation of individuals from minority groups as employees or applicants for employment with regard to the project.

F. Local Labor Information. The applicant is aware of and understands the provisions of Part 24 of the Policy Manual of the Agency. Pursuant to Part 24 of the Policy Manual of the Agency, the applicant agrees to provide information, in form and substance satisfactory to the Agency, relating to construction activities for projects; specifically: (i) the Company’s contact person responsible and accountable for providing information about the bidding for and awarding of construction contracts relative to this Application and the Project, (ii) the nature of construction jobs created by the Project, including the number, type, and duration of construction positions; and (iii) submit to the Agency a “Construction Completion Report” listing the names and business locations of prime contractors, subcontractors, and vendors who were engaged in the construction phase of the Project.

G. Additional Fee for Low Income Housing/Tax Credit (9% only) Projects. An annual administrative fee equal to \$10,000 shall be payable annually by the applicant on each January 1 for a term equal to ten (10) years. This annual administrative fee is in addition to the standard administrative fee for Agency Straight Lease Transactions and Agency Bond Transactions and is applicable to Projects which provide for low income housing/tax credit (9% only) projects.

H. Project Benefits Agreement. The applicant agrees to enter into a project benefits agreement with the Agency where the applicant agrees that (1) the amount of Financial Assistance to be received shall be contingent upon, and shall bear a direct relationship to the success or lack of success of such project in delivering certain described public benefits (the “Public Benefits”) and (2) the Agency will be entitled to recapture some or all of the Financial Assistance granted to the applicant if the project is unsuccessful in whole or in part in delivering the promised Public Benefits.

I. Assignment of Agency Abatements. In connection with any Agency Straight Lease Transaction or Agency Bond Transaction, the Agency may grant to the applicant certain exemptions from mortgage recording taxes, sales and use taxes and real property taxes. The applicant understands that the grant of such exemptions by the Agency is intended to benefit the applicant. Subsequently, if the applicant determines to convey the Project and, in connection with such conveyance to assign such exemptions to the purchaser, the applicant understand that any such assignment is subject to review and consent by the Agency, together with the satisfaction of any conditions that may be imposed by the Agency.

J. Post Closing Cost Verification. The applicant agrees (1) the scope of the Project will not vary significantly from the description in the public hearing resolution for the project and (2) to deliver to the Agency within sixty (60) days following the completion date of a project an affidavit providing the total costs of the project. In the event that the amount of the total project costs

described in the affidavit at the completion date exceeds the amount described in an affidavit provided by the applicant on the closing date of the project, the applicant agrees to adjust the amounts payable by the applicant to the Agency by such larger amount and to pay to the Agency such additional amounts. In the event that the amount described is less, there shall not be any adjustment to the Agency fees.

K. Representation of Financial Information. Neither this Application nor any other agreement, document, certificate, project financials, or written statement furnished to the Agency or by or on behalf of the applicant in connection with the project contemplated by this Application contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. There is no fact within the special knowledge of any of the officers of the applicant which has not been disclosed herein or in writing by them to the Agency and which materially adversely affects or in the future in their opinion may, insofar as they can now reasonably foresee, materially adversely affect the business, properties, assets or condition, financial or otherwise, of the applicant.

L. Agency Financial Assistance Required for Project. The Project would not be undertaken but for the Financial Assistance provided by the Agency or, if the Project could be undertaken without the Financial Assistance provided by the Agency, then the Project should be undertaken by the Agency for the following reasons: This Project is a fundamentally transformative project for the City of Albany. It not only removes 148,489 SF of office space from the Central Business District, which presently has a combined office vacancy rate in excess of 20%, but also brings 154 sets of tenants to the first substantial office conversion and first high rise residential conversion in the City. The combination of these factors will not only drive the upgrade and rent up of the remaining downtown office space, but also bring a substantial population of individuals into the Central Business District providing the impetus for reestablishment of retail there by creating a 24/7 livable downtown. With retail back in place, supported by the population living downtown a vibrant community will evolve, property values and tax base will increase, to the benefit of the entire City of Albany and surrounding region.

M. Compliance with Article 18-A of the General Municipal Law: The Project, as of the date of this Application, is in substantial compliance with all provisions of article 18-A of the General Municipal including, but not limited to, the provisions of Section 859-a and subdivision one of Section 862; and the provisions of subdivision one of Section 862 of the General Municipal Law will not be violated if Financial Assistance is provided for the Project.

N. Compliance with Federal, State, and Local Laws. The applicant is in substantial compliance with applicable local, state, and federal tax, worker protection, and environmental laws, rules, and regulations.

O. False or Misleading Information. The applicant understands 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 exemptions claimed by reason of Agency involvement in the Project.

P. Absence of Conflicts of Interest. The applicant acknowledges that the members, officers and employees of the Agency are listed on the Agency's website. No member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described: Not applicable.

Q. Additional Information. Additional information regarding the requirements noted in this Application and other requirements of the Agency is included the Agency's Policy Manual which can be accessed at [www.albanyida.com](http://www.albanyida.com).

I affirm under penalty of perjury that all statements made on this application are true, accurate and complete to the best of my knowledge.

Applicant: **Harmony Mills South LLC**

By:

Title:

  
\_\_\_\_\_  
**Uri Kaufman, Manager**

-----  
NOTE: APPLICANT MUST ALSO COMPLETE THE APPROPRIATE VERIFICATION APPEARING  
ON PAGES 27 THROUGH 30 HEREOF BEFORE A NOTARY PUBLIC AND MUST SIGN AND  
ACKNOWLEDGE THE HOLD HARMLESS AGREEMENT APPEARING ON PAGE 31.  
-----

VERIFICATION

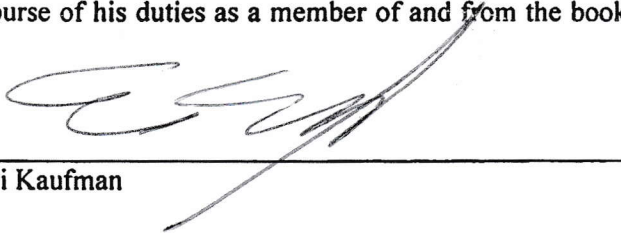
(If applicant is limited liability company)

STATE OF NEW YORK)  
COUNTY OF NASSAU) SS.:

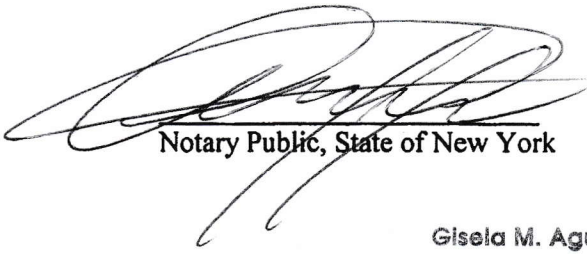
Uri Kaufman, deposes and says

(Name of Individual)

that he is the manager of the firm of Harmony Mills South LLC, the limited liability company named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said limited liability company.

  
Uri Kaufman

Sworn to before me this  
06<sup>th</sup> day of June, 2019

  
Notary Public, State of New York

Gisela M. Aguilar  
Notary Public - State of New York  
Reg. # 01AG6076533  
Qualified in Nassau County  
My Commission Expires 06/24/2022



## HOLD HARMLESS AGREEMENT

Applicant hereby releases City of Albany Industrial Development Agency and the members, officers, servants, agents and employees thereof (hereinafter collectively referred to as 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 (i) 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 issue of bonds requested therein are favorably acted upon by the Agency, and (ii) the Agency's financing of the Project described therein; 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 find buyers willing to purchase the total bond issue requested, then, and in that event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

(Applicant)  
Harmony Mills South LLC

BY:   
Uri Kaufman, Manager

Sworn to before me this  
06<sup>th</sup> day of June, 2019

  
Notary Public, State of New York

Gisela M. Aguilar  
Notary Public - State of New York  
Reg. # 01AG6076533  
Qualified in Nassau County  
My Commission Expires 06/24/2022

TO: Project Applicants  
FROM: City of Albany Industrial Development Agency  
RE: Cost/Benefit Analysis

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In order for the City of Albany Industrial Development Agency (the “Agency”) to prepare a Cost/Benefit Analysis for a proposed project (the “Project”), the Applicant must answer the questions contained in this Project Questionnaire (the “Questionnaire”) and complete the attached Schedules. This Questionnaire and the attached Schedule will provide information regarding various aspects of the Project, and the costs and benefits associated therewith.

This Questionnaire must be completed before we can finalize the Cost/Benefit Analysis, please complete this Questionnaire and forward it to us at your earliest convenience.

### **PROJECT QUESTIONNAIRE**

1. Name of Project Beneficiary (“Company”):	<b>Harmony Mills South LLC</b>
2. Brief Identification of the Project:	<b>90 State Street-Residential Conversion</b>
3. Estimated Amount of Project Benefits Sought:	
A. Amount of Bonds Sought:	<b>\$0</b>
B. Value of Sales Tax Exemption Sought	<b>\$925,400</b>
C. Value of Real Property Tax Exemption Sought	<b>\$6,930,175</b>
D. Value of Mortgage Recording Tax Exemption Sought	<b>\$173,512</b>
4. Likelihood of accomplishing the Project in a timely fashion (please explain):	Yes <u>X</u> No ____. _____ _____ _____

### **PROJECTED PROJECT INVESTMENT**

A. Land-Related Costs	
1. Land acquisition	<b>\$177,600</b>
2. Site preparation	\$
3. Landscaping	\$
4. Utilities and infrastructure development	<b>\$20,000</b>
5. Access roads and parking development	\$
6. Other land-related costs (describe)	\$

B.	Building-Related Costs	
1.	Acquisition of existing structures	<u>\$5,422,400</u>
2.	Renovation of existing structures	<u>\$7,700,000</u>
3.	New construction costs	\$
4.	Electrical systems	<u>\$2,002,000</u>
5.	Heating, ventilation and air conditioning	<u>\$2,618,000</u>
6.	Plumbing	<u>\$3,080,000</u>
7.	Other building-related costs (describe)	\$
C.	Machinery and Equipment Costs	
1.	Production and process equipment	\$
2.	Packaging equipment	\$
3.	Warehousing equipment	\$
4.	Installation costs for various equipment	\$
5.	Other equipment-related costs (describe)	\$
D.	Furniture and Fixture Costs	
1.	Office furniture	<u>\$100,000</u>
2.	Office equipment	<u>\$100,000</u>
3.	Computers	<u>\$15,000</u>
4.	Other furniture-related costs (describe)	<u>\$150,000</u>
	Upgrades: Elevator, HVAC, boiler, diesel fire pump, sprinkler.	
E.	Working Capital Costs	
1.	Operation costs	\$ <u>158,100</u>
2.	Production costs	\$
3.	Raw materials	\$
4.	Debt service	\$ <u>455,000</u>
5.	Relocation costs	\$ <u>106,000</u>
6.	Skills training	\$
7.	Other working capital-related costs (describe) insurance	\$ <u>80,900</u>
F.	Professional Service Costs	
1.	Architecture and engineering	<u>\$400,000</u>
2.	Accounting/legal	<u>\$50,000</u>
3.	Other service-related costs (describe)	\$
G.	Other Costs	
1.	Permits, Fees and Related Costs	<u>\$300,000</u>
2.	Soft Costs	<u>\$200,000</u>
H.	Summary of Expenditures	
1.	Total Land-Related Costs	<u>\$197,600</u>
2.	Total Building-Related Costs	<u>\$20,822,400</u>
3.	Total Machinery and Equipment Costs	\$
4.	Total Furniture and Fixture Costs	<u>\$365,000</u>
5.	Total Working Capital Costs	<u>\$800,000</u>
6.	Total Professional Service Costs	<u>\$450,000</u>
7.	Total Other Costs	<u>\$500,000</u>

### **PROJECTED PROFIT**

- I. Please provide projected profit as defined by earnings after income tax but before depreciation and amortization:

YEAR		Without IDA benefits	With IDA benefits
2023	1	(\$1,288,673)	(\$870,911)
2024	2	(\$886,994)	(\$464,957)
2025	3	(\$245,490)	\$184,988
2026	4	(\$221,744)	\$217,343
2027	5	(\$197,527)	\$250,342

### **PROJECTED CONSTRUCTION EMPLOYMENT IMPACT**

- I. Please provide estimates of total construction jobs and the total annual wages and benefits of construction jobs at the Project:

Year	Number of Construction Jobs	Total Annual Wages and Benefits	Estimated Additional NYS Income Tax
Current Year	30	\$ TBD	\$ TBD
Year 1	20	\$ TBD	\$ TBD
Year 2	20	\$ TBD	\$ TBD
Year 3	19	\$ TBD	\$ TBD
Year 4	0	\$ TBD	\$ TBD
Year 5	0	\$ TBD	\$ TBD

Total: 89

### **PROJECTED PERMANENT EMPLOYMENT IMPACT**

- I. Estimates of the total number of existing permanent jobs to be preserved or retained as a result of the Project are described in the tables in Section IV of the Application.
- II. Estimates of the total new permanent jobs to be created at the Project are described in the tables in Section IV of the Application.
- III. Please provide estimates for the following:
- A. Creation of New Job Skills relating to permanent jobs. Please complete Schedule A.

- IV. Provide the projected percentage of employment that would be filled by City of Albany residents: **Applicant will use best efforts to full all available positions with as many City of Albany residents as possible.**

A. Provide a brief description of how the project expects to meet this percentage:

**PROJECTED OPERATING IMPACT**

- I. Please provide estimates for the impact of Project operating purchases and sales:

Additional Purchases (1 <sup>st</sup> year following project completion)	\$ <u>  <b>TBD</b>  </u>
Additional Sales Tax Paid on Additional Purchases	\$ <u>  <b>TBD</b>  </u>
Estimated Additional Sales (1 <sup>st</sup> full year following project completion)	\$ <u>  <b>TBD</b>  </u>
Estimated Additional Sales Tax to be collected on additional sales (1 <sup>st</sup> full year following project completion)	\$ <u>  <b>TBD</b>  </u>

- II. Please provide estimates for the impact of Project on existing real property taxes and new payments in lieu of taxes (“Pilot Payments”):

**See Attachment “G”**

Year	Existing Real Property Taxes (Without IDA involvement)	New Pilot Payments (With IDA)	Total (Difference)
Current Year			
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			
Year 6			
Year 7			
Year 8			
Year 9			
Year 10			

		Attachment "G"		
06.05.19	<u>Comparison of Taxes without IDA PILOT and with IDA PILOT</u>			
		PILOT COMMENCING 1/1/23		
	<u>Estimate Total Taxes W/O PILOT</u>	<u>New PILOT Payments with IDA</u>		<u>Difference</u>
	758,562	344,801		413,761
	773,733	351,697		422,036
	789,208	358,731		430,477
	804,992	365,905		439,086
	821,092	373,223		447,868
	837,513	380,688		456,826
	854,264	388,302		465,962
	871,349	396,068		475,281
	888,776	452,468		436,308
	906,552	461,517		445,034
	924,683	495,966		428,716
	943,176	557,331		385,845
	962,040	620,953		341,087
	981,281	660,134		321,146
	1,000,906	727,932		272,974
	1,020,924	798,177		222,747
	1,041,343	870,941		170,402
	1,062,170	946,297		115,873
	1,083,413	965,222		118,191
	1,105,081	984,527		120,554
	1,127,183	1,127,183		-
	18,431,056	11,500,880		6,930,175

III. Please indicate which of the below described community commitments (as defined in the Agency's Project Evaluation and Assistance Framework) will be provided as a result of the Project, and please provide a detailed description of such commitments, together with any other economic benefits and community benefits expected to be produced as a result of the Project (attach additional pages as needed for a complete and detailed response):

☒ **MWBE/DBE Participation**

☒ **Regional Labor**

☒ **City of Albany Labor**

## CERTIFICATION

I certify that I have prepared the responses provided in this Questionnaire and that, to the best of my knowledge; such responses are true, correct, and complete.

I understand that the foregoing information and attached documentation will be relied upon, and constitute inducement for, the Agency in providing financial assistance to the Project. I certify that I am familiar with the Project and am authorized by the Company to provide the foregoing information, and such information is true and complete to the best of my knowledge. I further agree that I will advise the Agency of any changes in such information, and will answer any further questions regarding the Project prior to the closing.

I affirm under penalty of perjury that all statements made on this application are true, accurate and complete to the best of my knowledge.

Date Signed: June 5, 2019

Name of Person Completing Project Questionnaire on behalf of the Company.

Name: Nadine F. Shadlock, Esq.

Title: Attorney for the Project

Phone Number: 518-432-3310

Address: 12 Van Rensselaer Blvd., Albany, NY 12204-1609

Signature: 

Nadine F. Shadlock, Esq.



## SCHEDULE A

## CREATION OF NEW JOB SKILLS

Please list the projected new job skills for the new permanent jobs to be created at the Project as a result of the undertaking of the Project by the Company.

[illegible]

Should you need additional space, please attach a separate sheet.