

AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY APPLICATION FOR FINANCIAL ASSISTANCE

Form Adopted: July 20, 2016

IMPORTANT NOTICE: The answers to the questions contained in this Application are necessary to determine the Applicant's eligibility for financing, tax exemptions and other assistance from the Auburn Industrial Development Authority (the "Authority"). These answers will also be used in the financial preparation of legal documents for this transaction. Accordingly, all questions should be answered accurately and completely by an officer or other employee of this Applicant 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 Authority.

Instructions

1. The Authority will not approve any application unless, in the judgment of the Authority, this Application contains sufficient information upon which to base a decision whether to approve or tentatively approve the project contemplated herein (the "Project").
2. Fill in all blanks, using "none" or "not applicable" or "N/A" where the question is not appropriate to 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 two (2) signed copies of this application to the Authority at 2 State Street, Auburn, New York 13021.
6. A completed Environmental Assessment Form (EAF) concerning the Project must be submitted with the Application. A Short Form EAF should be provided by staff with this Application. Depending on the nature of the Project, the Authority may require a Long Form EAF.
7. Please note that Article 6 of the New York Public Officers Law provides that all records in the possession of the Authority (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 Authority all actual costs incurred in connection with this application and the Project, including fees and expenses of the Authority's legal counsel.
9. The Authority has established an administrative fee to be paid by the Applicant upon successful conclusion of the sale of the bonds or the leaseback transaction, as applicable, said fee being intended to cover the indirect expenses incurred by the Authority in administering the Project. The administrative fees are outlined in Section I of this application or such other amount as is agreed to by the Authority on a case-by-case basis. Unless the Authority agrees in writing to the contrary, the administrative fee is required to be paid at or prior to the issuance of bonds or the granting of any financial assistance, as applicable.
10. The Authority has established an application fee of five hundred and 00/100 dollars (\$500) to cover the anticipated costs of the Authority in processing this application. A check or money order made payable to the Authority must accompany each application. This application will not be accepted by the Authority unless accompanied by the application fee.

I. Authority Administrative Fee Policy

The Auburn Industrial Development Authority (the "**Authority**") shall calculate Project administrative fees as follows:

For Projects with a Total Project Cost in excess of \$750,000:

- (i) Bond transactions shall incur a fee of 0.75% of the aggregate principal amount of the bonds issued with respect to the Project ("**Bond Fees**"). Legal fees shall be paid in addition to the Bond Fees and such other fees as is agreed to by the Authority Board on a case-by-case basis.
- (ii) Leaseback transactions shall incur a fee of 1% of the Total Project Costs ("**Leaseback Fees**"). Legal fees shall be paid in addition to the Leaseback Fees and such other fees as is agreed to by the Authority Board on a case-by-case basis.
- (iii) Due to the Authority's interest in promoting and contributing to public benefit, in the sole discretion of the Authority's Board, Leaseback Fees shall not exceed ten percent (10%) of the total benefit approved for the Project.

For Projects with a Total Project Cost between \$100,000 and \$750,000:

- (i) Application for Sales & Use Tax Exemption only shall incur a fee of \$500 and a flat rate legal fee of \$2,500.
- (ii) Application for exemption of Mortgage Recording Tax only shall incur a fee of \$500 and a flat rate legal fee of \$2,500.
- (iii) Application for both (i) and (ii) shall be a fee of \$1000 and a flat rate legal fee of \$3,000.

For purposes of this Policy, Total Project Costs shall be based upon the information in Article III, Section 9 of this Application for Financial Assistance.

II. Applicant Information

Company Name: **21 Allen, LLC (lessee Bo-Mer Plastics LLC)**

Address 1: 13 Pulaski Street

Address 2:

City/State/ZIP: Auburn NY 13021

Contact Person: Brian Colella Title: Controller

Contact 315-252-7216 Contact Fax: 315-252-7450

Telephone:

Contact Email: bcolella@bo-mer.com

Attorney: David Holstein

Firm: Bosquet and Holstein

Phone: 315-701-6423

Email: dholstein@bhlawpllc.com

Accountant: Bill Kriesel
Phone: 315-472-6221

Firm: Bowers
Email: wtk@bcpllc.com

Business Type: Privately Held Corporation
If other, describe: LLC

If a corporation, date of establishment? TBD

If a corporation, incorporated in NY
which state?

Principal Officers, Partners or Shareholders with 15% or greater interest in Applicant organization:

Name	Mailing Address	Telephone #	Percentage Ownership
Thomas Herbert	13 Pulaski Street, Auburn	315-252-7216	100

Attach additional sheets if necessary.

III. Project Information

1. Provide a narrative description of your project. Include major elements such as new construction, acquisition of existing building, acquisition of equipment, and proposed product lines. Also, indicate square feet by usage (e.g., office, laboratory, manufacturing), type construction, etc. In the case of pollution control project, also indicate the type of pollutants to be treated or removed and the type of process to be employed. *Attach additional sheets if necessary.*

Purchase and renovate a building to be used for expanded manufacturing space. This project will include upgraded electrical, gas and water service throughout; sprinkler system installation; add or replace heating/cooling systems; phone and network upgrades; installation of compressed air and vacuum systems; and general building and site repairs. Approximate square footage of building is 33,000 with land at 3.03 acres. Roughly 50% of the square footage will be used for manufacturing, 40% for storage of raw and finished product, and 10% as office space.

a. Location of project:

b. Address, including the City, Town, or Village:

Street Address: 21 Allen Street

City/State/ZIP: Auburn, NY 13021

Tax Map ID (if 108.81-1-6
available):

Zoning of Project Site: Industrial

Zoning Change Needed?: No

- c. Attach map showing the general location of the project.
- d. If this project will result in closing or relocating from an existing facility, is the move necessary in order to remain competitive? N/A
- e. Describe existing improvements, if any: existing building structure

2. Project User:

- a. Will the Applicant be the User of the facility that is the subject of the proposed Project?
Yes

- b. If no, please submit the following information about the user:

Company Name: **Bo-Mer Plastics, LLC**

Address 1: 13 Pulaski St

Address 2:

City/State/ZIP: Auburn NY 13021

Contact Person: Brian Colella Title: Controllor

Contact 315-252-7216 Contact 315-252-7450

Telephone: Fax:

Contact Email: bcolella@bo-mer.com

Business Type: Privately Held Corporation

If other, describe: LLC

If a corporation, date of 11/2001
establishment?

If a corporation, incorporated in which NY
state?

- c. Select the type of operations of all end users at the project site (check all that apply):

- Industrial
- Warehousing
- Back Office
- Commercial
- Retail
- Housing
- Mixed Use
- Facility for Aging
- Civic Facility
- Other

- d. Does the Project include facilities or property that are used in making retail sales of goods or services to customers who personally visit such facilities? No
- If yes, what percentage of the cost of the Project will be expended on such facilities or property used in making retail sales of goods or services to customers who personally visit such facilities?
 - If more than 33.33%, please check all that apply from the following list:
 - The Project will be operated by a not-for-profit corporation.
 - The Project is likely to attract a significant number of visitors from outside of the economic development region (defined as the counties of Cayuga, Onondaga, Madison, Cortland, and Oswego).
 - The Project occupant, if not for the proposed financial assistance from the Authority, would locate the Project and related jobs outside of New York State.
 - The predominant purpose of the Project is 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 due to a lack of accessible retail trade facilities offering such goods or services.
 - The Project will be located in an area designated as an Empire Zone pursuant to Article 18-B of the General Municipal Law.
 - The Project will be located in a census tract, or census tract contiguous thereto, which, according to the most recent census data has (a) a poverty rate of at least 20% or at least 20% of households receiving public assistance for the year in which the data relates, **and** (b) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates.

3. Utilities on Site:

- | | | |
|------------------------|-----------|---|
| a) Water Supply | Municipal | Describe source / supplier: City of Auburn |
| b) Sewer | Municipal | Describe other: City of Auburn |
| c) Electricity Utility | NYSEG | Describe other: |
| d) Gas Utility | NYSEG | Describe other: |

4. Attach copies of preliminary plans or sketches of proposed construction, site plans or floor plans of existing facility.

5. Who presently is legal owner of the project building or site described in # 2 above? 21 Allen, LLC has negotiated a purchase offer on the property and intends to close before year end.

6. Is there an existing or proposed lease for the project? No. If yes, attach a copy of the lease.

7. Existing Facilities within New York State:

- a. Are other facilities owned, leased or used by the Owner or User (or any related entity/person) within the State? Yes
- b. If there are other facilities within the state, is it expected that any of these other facilities will close or be subject to reduced activity as a result of the proposed Project? No
- c. If yes, is the Project reasonably necessary to discourage the Owner or User from removing activities in the State to a location outside of the State? N/A If yes, please explain.

Note: The Authority is required to notify the chief executive officer of the municipality from which your facility is being relocated or abandoned. This notification will be sent prior to the Authority's conduct of required public hearing(s).

CERTIFICATION: Based upon the answers provided within question 8 above, the Company hereby certifies to the Authority that the undertaking of the proposed project and provision of financial assistance to the Company by the Authority will not violate Section 2306 of the New York Public Authorities Law.

1. Project Costs (Estimates):

Category	Amount
Land/Building acquisition	\$923,600
Building Construction/Renovation	\$1,108,334
Site Work	\$120,500
Machinery & Equipment	\$848,000
Furniture & Fixtures	
Soft Costs (Architect, Legal and Engineering)	\$43,900
Financial Charges (loan or bond fees and interest)	
Authority Fee	
Other (Describe:)	
Other (Describe:)	
Total Project Cost:	\$3,044,334

2. Sources of Funds for Project Costs:

Source	Amount
Bank Financing:	
Equity (excluding equity attributed to grants/tax credits):	\$2,435,467
Tax Exempt Bond Issuance:	
Taxable Bond Issuance:	
Public Sources (total pf all state and federal grants and tax credits):	\$608,867
Identify each state and federal grant/credit:	
NYS ESD	\$608,867
Total Sources of Funds for Project Costs:	\$3,044,334

10. Have any of the above costs been paid or incurred as of the date of this Application? No If yes, describe particulars.

IV. Permitting and Environmental Requirements

1. Does the project require local planning or permitting approvals? No
2. Will a site plan application be filed? No
3. Has another entity been designated as lead agent under the State Environmental Quality Review Act (“SEQRA”)? No
 - a. If yes, attach copy of Negative Declaration if completed, or a copy of submitted Environmental Assessment Form if Negative Declaration has not yet been issued.
 - b. If no, attach a completed Environmental Assessment Form.

V. Employment and Payroll Projections

1. Job Creation:
 - a. Anticipated construction jobs created by the Project:10
Anticipated Dates of Construction: October 2024 – March 2025
 - b. Permanent Full Time Equivalent (FTE)* Jobs to be Created and Retained by the Project

Column A: Insert the job titles or types that exist within the company at the time of application, as well as any job titles that will be established as a result of the Project.

Column B: Indicate the average wage for each listed job title/type in terms of annualized wages.

Column C: Indicate the wage range for each listed job title/type in terms of annualized wages.

Column D: Indicate the average amount of fringe benefits for each listed job title/type.

Column E: For each listed job title insert the number of FTEs that exist at the time of application.

Column F: Insert the number of FTE jobs to be created during year one of the Project for each listed job title.

Column G: Insert the number of FTE jobs to be created during year two of the Project for each listed job title.

Column H: Insert the number of FTE jobs to be created during year three of the Project for each listed job title.

(A) Job Title/Type	(B) Average Annual Wages	(C) Annual Wage Range	(D) Average Fringe Benefits	(E) Current Number of FTEs	F) Jobs Created: Year One	(G) Jobs Created: Year Two	(H) Jobs Created: Year Three
Production	\$40,000	\$36k - \$60k	\$12k	39	3	2	2
Quality Tech.	\$56,000	\$44k - \$70k	\$12k	3			1
Maintenance Tech.	\$52,000	\$42k - \$80k	\$12k	4		1	
Shipping/Receiving	\$44,000	\$42k – \$60k	\$12k	2			
Engineering	\$70,000	\$60k- \$130k	\$12k	3			
Toolmaker	\$65,000	\$60k - \$80k	\$12k	3			
Management	\$70,000	\$50k- \$120k	\$12k	6			
Office Support	\$46,000	\$42k - \$62k	\$12k	2			
Sales/Marketing	\$70,000	\$60k- \$130k	\$12k	3			
TOTALS:				65	3	3	3

*Definition of Full Time Equivalent (FTE) Job: For the purposes of this application, any employee working 30 hours or more per week is considered 1 FTE. Any employee working fewer than 30 hours per

week is counted as a proportion of an FTE equal to the number of hours worked per week divided by 30. For example, an employee working 20 hours per week equals .67 FTE (20 divided by 30). Please contact Authority Staff if you have questions about calculating FTE. **[NEEDS TO MATCH WITH RECAPTURE POLICY]**

1. What percentage of jobs to be created are estimated to be filled by residents of the Labor Market Area, defined by the Authority as the Counties of Cayuga, Cortland, Onondaga, Ontario, Oswego, Seneca, Tompkins, and Wayne? 100%

2. Payroll Projections:

- a. Current Annual Payroll: \$4,016,000
- b. First Year After Completion of Project: \$4,136,000
- c. Second Year After Completion of Project: \$4,268,000
- d. Third Year After Completion of Project: \$4,404,000

II. Estimate of Potential Benefits

1. Please indicate the type(s) of Financial Assistance sought for the Project:

Yes	Sales and Usage Tax Exemption
No	Mortgage Tax Exemption
Yes	Real Property Tax Abatement (PILOT Agreement)
No	Issuance by the Authority of Industrial Development Revenue Bonds

2. Estimated Project Benefits

Note to Applicant: AIDA staff will work with applicants to identify potential IDA benefits upon receipt of a completed draft application, using the information contained in the draft application and discussions with the applicant. Therefore, please do not complete this section or sign and certify application until AIDA staff has reviewed a draft application and assisted in the calculation of estimated benefits.

A. Sales and Use Tax Exemption

a. Amount of Project Cost Subject to Tax:	\$1,831,067
Applicable sales and use tax rate:	x .08
b. Financial benefit if fully exempt:	\$146,485.38

B. Mortgage Recording Tax Exemption

a. Projected amount of Mortgage:	\$
Mortgage recording tax rate:	x .0075
b. Financial benefit if fully tax exempt:	\$

C. Payment of Lieu of Taxes (PILOT) *

a. Investment in real property	\$1,228,834
b. Equalization rate	

c. Current, pre-project assessment \$523,400
 d. Probable post-project assessed value \$1,000,000

e. PILOT Schedule

Year	f. Abatement on Added Value	g. Abated Taxable Value	h. Total Tax Rate	i. PILOT Payment	j. Full Taxes	k. Net Exemption
<i>Calc.</i>		$c + [(d-c) \times f]$		$(g/1000) \times h$	$(d/1000) \times h$	$j - i$
1	100%	\$523,400	36.055286	\$18,871.34	\$36,055.29	\$67,676.27
2	90%	\$571,060	36.415838	\$20,795.63	\$36,415.84	\$83,296.48
3	80%	\$622,720	36.779997	\$22,903.64	\$37,515.60	\$97,908.43
4	70%	\$672,380	37.147796	\$24,977.44	\$37,890.75	\$110,821.75
5	60%	\$722,040	37.519276	\$27,090.42	\$38,269.66	\$122,000.99
6	50%	\$771,700	37.894468	\$29,243.16	\$38,652.36	\$131,410.19
7	40%	\$833,600	38.273412	\$31,904.72	\$39,819.66	\$139,325.13
8	30%	\$885,300	38.656147	\$34,222.29	\$40,217.86	\$145,320.70
9	20%	\$937,000	39.429270	\$36,945.23	\$41,022.21	\$149,397.69
10	10%	\$988,700	40.217855	\$39,763.39	\$41,842.66	\$151,476.95

i. Total PILOT Net Exemption: \$151,476.95

D. Interest Exemption – Bond transactions only

a. Total Estimated Interest Expense Assuming Taxable Interest: \$
 b. Total Estimated Interest Expense Assuming Tax-exempt Interest Rate: \$
 c. Interest Exemption (a - b): \$

E. Total Estimated Exemptions

a. Sales & Use Tax Exemption \$146,485.38
 b. Mortgage Recording Tax Exemption \$
 c. PILOT Real Property Net Exemption \$100,984.63
 d. Interest Exemption from Bond Issuance \$
 e. TOTAL EXEMPTION \$247,470.01

3. Is it likely that the Project would be undertaken without the provision of the above financial assistance? Yes, but likely a scaled-back plan over an extended time period.
 If yes, describe how the Project would be impacted if these benefits were not provided. We are seeking IDA incentives because the renovations required to bring this new building up to code and provide the utilities required for our manufacturing operation are expected to far exceed our original estimates and our ability to self-fund the project in a timely manner. We have moved forward with the purchase of the building since another party was quite interested, thus we wanted to avoid a bidding war. We would like to set the wheels in motion to provide the necessary resources (water for sprinklers, natural gas, and electricity required for heating and processing equipment), and improving the overall aesthetics of this location prior to the upcoming winter months. The bones of this building are good,

however, it has lacked necessary maintenance for years and needs full-scale improvements to bring it from a warehousing building to a completely employable, manufacturing facility. If we can secure these incentives, our goal would be to have production up and running during the first quarter of 2025 rather than 2-3 years out.

VII. Supplemental Materials

1. Map showing project location included
2. Preliminary plans or sketches of proposed construction N/A
3. Copies of two most recent annual financial statements and unaudited year to date financial statements included
4. Copy of most recent Annual Report (for established businesses) or Business Plan (for new businesses) unavailable
5. Sales and income projections for next three years included
6. Environmental Assessment Form of Negative Declaration TBD
7. \$500 application fee included
8. Other attachments (please specify):
 - a.
 - b.
 - c.
 - d.
 - e.
 - f.
 - g.

VIII. Application Submission

Once the application has been reviewed by Authority staff and Section VI has been completed, please sign, certify and submit the completed application along with Supplemental Materials to:

AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY

2 State Street

Auburn, NY 13021

Email Applications (scanned PDFs) may be sent to: tracy.verrier@mrbgroup.com

Telephone: (315) 362-1088

Administrative fees in the amount outlined in Section I will be collected at the time of closing.

Representations by the Applicant

The Applicant understands and agrees with the Authority as follows:

- A. Job Listings:** In accordance with Section 2329 of the New York Public Authorities Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, 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 2329 of the New York Public Authorities Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, 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 2326(3) 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 Authority, 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.
- D. Annual Employment Reports:** The applicant understands and agrees that, if the Project receives any Financial Assistance from the Authority, the applicant agrees to file, or cause to be filed, with the Authority, on an annual basis, reports regarding the number of people employed at the project site.
- E. Absence of Conflicts of Interest:** The applicant has received from the Authority a list of the members, officers, employees and Counsel of the Authority. No member, officer, employee, or Counsel of the Authority has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

**HOLD HARMLESS AGREEMENT AND APPLICATION DISCLAIMER
CERTIFICATION PURSUANT TO NEW YORK STATE
FREEDOM OF INFORMATION LAW (“FOIL”)**

Applicant hereby releases the AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY and the members, officers, servants, agents and employees thereof (the "Authority") from, agrees that the Authority shall not be liable for and agrees to indemnify, defend and hold the Authority harmless from and against any and all liability arising from or expense incurred by (A) the Authority's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Authority, (B) the Authority's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Authority with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Authority or the Applicant are unable to reach final agreement with the respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Authority, its agents or assigns, all costs incurred by the Authority in the processing of the Application, including attorneys' fees, if any.

Through submission of this Application for Financial Assistance (this “Application”), the Company acknowledges that the Authority, as a public benefit corporation, is subject to the New York State Freedom of Information Law (“FOIL”) and Open Meetings Law (“OML”), as codified pursuant to the Public Officers Law (“POL”) of the State of New York (the “State”). Accordingly, unless portions hereof are otherwise protected in accordance with this Certification, this Application, including all Company-specific information contained herein, is subject to public disclosure in accordance with applicable provisions of the POL, Title 15 of Article 8 of the Public Authorities Law (“PAL”), Article 18-A of the General Municipal Law (“GML”) (to the extent applicable) and the Public Authorities Accountability Act of 2005, as codified within the PAL. Specifically, this Application may be disclosed by the Authority to any member of the public pursuant to a properly submitted request under FOIL and the Authority is further required to affirmatively disclose certain provisions contained herein pursuant to the GML and PAL, including the identification of the Company, general project description, location proposed capital investment and job estimates.

Notwithstanding the foregoing, the Company, pursuant to this Certification, may formally request that the Authority consider certain information contained within this Application and other applicable supporting materials proprietary information and “trade secrets”, as defined within POL Section 87(2)(d). To the extent that any such information should qualify as trade secrets, the Company hereby requests that the Authority redact same in the event that formal disclosure is requested by any party pursuant to FOIL. Application Sections or information requested by Company for Redaction*:

(* - Please indicate specific sections within Application that the Company seeks to qualify as “trade secrets”. Additional correspondence or supporting information may be attached hereto. Please also note that notwithstanding the Company’s request, the Authority shall make an independent determination of the extent to which any information contained herein may be considered as such)

In the event that the Authority is served with or receives any subpoena, request for production, discovery request, or information request in any forum that calls for the disclosure of the Application, in entirety, specifically including but not limited to any demand or request for production or review of Company-designated trade secrets, the Authority agrees to notify the Company as promptly as is reasonably possible, and to utilize its best efforts to: oppose or decline any such request; preserve the confidentiality and non-disclosure of such requested confidential material; and maintain such information and prevent inadvertent disclosure in responding to any such discovery or information request. The Company understands and agrees that all reasonable costs, including attorney’s fees, associated with any such formal undertaking by the Authority to protect the trade secrets from disclosure shall be reimbursed by the Company to the Authority.

The undersigned officer of the applicant deponent acknowledges and agrees that the applicant shall be and is responsible for all costs incurred by the Authority and legal counsel for the Authority, 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 Authority shall not be liable for and agrees to indemnify, defend and hold the Authority harmless from and against any and all liability arising from or expense incurred by (A) the Authority’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 Authority, (B) the Authority’s acquisition, construction and/or installation of the proposed project described herein and (C) any further action taken by the Authority 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.

By executing and submitting this Application, the applicant covenants and agrees to pay the following fees to the Authority, the same to be paid at the times indicated:

- (a) The sum of **\$500** as a non-refundable application fee, to be paid upon submission of the Application;
- (b) An Administrative Fee amounts to be determined using the schedule in Section I on page 2 hereof for all other projects for which the Authority provides financial assistance, to be paid at transaction closing;
- (c) An amount to be determined by Authority Staff payable to the Authority’s bond/transaction counsel for the preparation and review of the inducement resolution, the environmental compliance resolution, TEFRA hearing proceedings and the tax questionnaire assuming no further activity occurs after the completion of the inducement proceedings, to be paid within ten (10) business days of the receipt of bond/transaction counsel’s invoice;

- (d) All fees, costs and expenses incurred by the Authority for (1) legal services, including but not limited to those provided by the Authority's general counsel or bond/transaction counsel, and (2) other consultants retained by the Authority in connection with the proposed project; with all such charges to be paid by the applicant at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Authority's invoices therefore please note that the applicant is entitled to receive a written estimate of fees and costs of the Authority's bond/transaction counsel;
- (e) The cost incurred by the Authority and paid by the applicant, including bond/transaction counsel and the Authority's general counsel's fees and the processing fees, may be considered as a costs 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.

The applicant further covenants and agrees that the applicant is liable for payment to the Authority of all charges referred to above, as well as all other actual costs and expenses incurred by the Authority in handling the application and pursuing the proposed project notwithstanding the occurrence of any of the following:

- (a) The applicant's withdrawal, abandonment, cancellation or failure to pursue the Application;
- (b) The inability of the Authority or the applicant to procure the services of one or more financial institutions to provide financing for the proposed project;
- (c) The applicant's failure, for whatever reason, to undertake and/or successfully complete the proposed project; or
- (d) The Authority's failure, for whatever reason, to issue tax-exempt revenue bonds in lieu of conventional financing.

The applicant and the individual executing this Application on behalf of applicant acknowledge that the Authority and its counsel will rely on the representations 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.

Company Acknowledgment and Certification:

The undersigned, being a duly authorized representative of the Company, hereby and on behalf of the Company, certifies to the best of his or her knowledge and under the penalty of perjury that all of the information provided by the Company within this Application for Financial Assistance is true, accurate and complete.

The Company, on behalf of itself and all owners, occupants and/or operators receiving or that will receive financial assistance from the Authority (collectively, the "Recipients") hereby certifies that the Recipients are in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

The Company, on behalf of itself and all Recipients, hereby further acknowledges that the submission of any knowingly false or knowingly misleading information herein or within any agreement with the Authority may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of the Authority's involvement in the project, including all costs of the agency relating to same. The Company has reviewed and accepts the terms of the Authority's Project Recapture and Termination Policy.

By:



Name:

Thomas R. Herbert

Title:

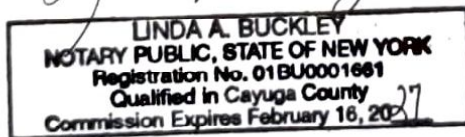
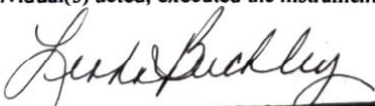
Sole Member

State of New York)

County of Cayuga) ss.:

On the 11th day of September in the year 2024, before me, the undersigned, personally appeared Thomas R. Herbert, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public



Appendix 2:

LOCAL LABOR POLICY AGREEMENT
Auburn Industrial Development Authority
Adopted: September 16, 2020

Project Applicants, as a condition to receiving Financial Assistance (including sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Auburn Industrial Development Authority (the “Authority”) will be required to use local labor for 100% of the construction of new, expanded, or renovated facilities. Local labor is defined as an individual that resides within the Cayuga County, an adjacent county, or New York State as stated in the percentages below:

- 65% of all project employees of the general contractor, subcontractor, or subcontractor to the subcontractor (collectively, the “Workers”) must reside within Cayuga County, including the City of Auburn.
- An additional 20% of Workers must reside in Cayuga County or an adjacent county (Oswego, Onondaga, Ontario, Cortland, Tompkins, Seneca, or Wayne).
- An additional 15% of Workers must reside within Cayuga County, an adjacent county, or New York State.

The Authority may determine on a case-by-case basis to waive all or a portion of the local labor policy for a project or a portion of a project where consideration of warranty issues, necessity of specialized skills, cost differentials of at least 10% between local and non-local services, documented lack of Workers meeting the local labor requirement, or other compelling circumstances exist.

In consideration of the extension of Financial Assistance by the Authority, _____ (Applicant) understands the Local Labor Policy and agrees to submit a Local Labor Utilization Report Form (attached) to the Authority every 90 days after authorization of the Financial Assistance, and/or at the completion of the construction portion of _____ (the Project). The Applicant further understands any request for a waiver to this policy must be submitted in writing using the Local Labor Policy Waiver Request form (attached) and approved by the Authority prior to hiring any Workers that do not satisfy the local labor requirements laid out above. If Financial Assistance has already been approved, the Applicant must submit documentation of a good faith effort to procure local labor with the Waiver Request Form. A “good faith effort” means that the Applicant has submitted bids, requests for proposals, or other procurement documents to local contractors and suppliers on the same terms and at the same time as submitted non-local contractors and suppliers. Evidence of the Applicants “good faith effort” shall include, without limitation documentation of the companies receiving bid documents, information regarding their proposal or decision not to bid, and/or a list of companies and unions contacted in an effort to identify local firms and workers for the Project. The Applicant further understands that if the required forms are not submitted to the Authority, then the Authority shall have the right to immediately terminate any and all Financial Assistance being provided to the Project.

An extensive list of local resources, labor unions, contractors is available on the Authority’s website, <https://takerootinauburn.org/potential-applicants/>.

Auburn Industrial Development Authority Local Labor Policy Certification

I agree to the conditions of this agreement and certify all information provided regarding the construction and employment activities for the Project as of _____ (date).

Applicant: _____

Representative for Contract Bids/Awards: _____

Vendor Address: _____

City: _____ State: _____ Zip Code: _____

Email: _____

Project Address: _____

Authorized Representative: _____

Title: _____

Signature: _____

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

(Notary Public)

Local Labor Policy Waiver Request

Applicant: Bo-Mer Plastics LLC

Project Address: 21 Allen Street, Auburn, NY 13021

Describe the portion(s) of the project for which you would like the Local Labor requirements waived:

We are requesting an adjustment to the local labor schedule to 30% Cayuga County, 60% Regional, and 10% NYS because we do not have local contractors necessary to complete this project (i.e. sprinkler system and supporting structures). We will do our best to stay local as we have in the past.

Reason for waiver request:

- Warranty requirements- Attach supporting documentation
- Necessity of specialized skills- Attach description of need and documentation of unavailability of Workers with needed skills
- Cost differential of at least 10%- Attach supporting quotes, including at least two using local labor
- Unavailability of Workers meeting local labor requirement- Attach supporting documentation
- Other compelling circumstances- Attach description of circumstances

If for a reason other than warranty requirements, attach a list and/or other documentation of efforts made to identify Workers meeting the Local Labor Policy Requirements.

I Tom Herbert (Authorized Representative) hereby request a waiver from the Authority’s Local Labor Policy for the above mentioned portions of Bo-Mer Plastics Expansion (the project). I understand that the submission of this form does not guarantee a waiver from the Authority and that hiring Workers that do not meet the Local Labor requirements prior to receiving written approval of this Waiver from the Authority could disqualify the project from receiving financial assistance from the Authority and/or could cause the Authority to terminate existing financial assistance.

Authorized Company Representative: Thomas R. Herbert

Signature: _____

Date: 9/05/2024

Auburn Industrial Development Authority

Application for Financial Assistance

VII. Supplemental Materials, Item 1. Map showing project location (21 Allen Street)

