

NYCIDA Manhattan Commercial Revitalization Program (M-CORE)

Pre-Application

New York City Industrial Development Agency (NYCIDA) is launching the NYCIDA Manhattan Commercial Revitalization Program (“M-CORE”, or the “Program”), under which the NYCIDA Board of Directors (the “Board”) may vote to authorize financial assistance to support building owners and landlords in making capital investments that would support transformative renovations of aging commercial office buildings located in Manhattan south of 59th Street that at least 250,000 gross square feet in size and were built before the year 2000. The Program is intended to help building owners decrease vacancy and attract world class tenant companies, who are increasingly seeking high-quality, amenity-rich office space.

Under the Program, the NYCIDA will consider providing the following benefits to up to ten million square feet of office space.

Type of Financial Assistance Available

Benefits available under the Program will consist of:

- Property Tax Stabilization and Abatement for a period of up to 20 years;
- Exemption from combined 8.875% City and State Sales and Use Tax with respect to eligible materials used for Project Improvements; and
- Partial waiver of applicable City and State Mortgage Recording Tax (2.5% of the 2.8% tax) for financing the proceeds of which are used for the Project Improvements and related costs.

The real property tax stabilization and abatements will take the following form:

- (i) real property taxes on the Project land and the existing building will be stabilized at the real property tax rate and assessment applicable to the land and building, respectively, at the time of closing, for a period lasting up to 20 years (with a phase out of 20% per year over the final four years of such period);
- (ii) real property taxes on Project Improvements will be abated in accordance with the abatement schedule set forth below. The level of abatement for a particular Project will depend upon the total amount of square footage previously authorized for benefits under the Program at the time of authorization of the Project benefits by the NYCIDA Board of Directors (the “Board”). Pursuant to the NYCIDA’s Commercial Uniform Tax Exemption Policy (the “UTEP”), project approvals may include deviations from the UTEP by the NYCIDA Board of Directors, where applicable.

| Property Tax Abatement Terms – Project Improvements | | | | |
|---|---|---------------------------------------|---------------------------------------|---------------------------------------|
| Authorized Project Square Footage | 0-2.5 Million Gross Square Feet | 2.5-5 Million Gross Square Feet | 5-7.5 Million Gross Square Feet | 7.5-10 Million Gross Square Feet |
| Term | 20-Year Term with 4-Year, 20% Annual Phase Out Beginning in Year 17 | | | |
| Abatement Percentage on Project Improvements | 100% Abatement on Project Improvements | 90% Abatement on Project Improvements | 80% Abatement on Project Improvements | 70% Abatement on Project Improvements |

Eligible Locations

The Program is focused on supporting the renovation of commercial office space below 59th Street in Manhattan to ensure that New York City can provide world class office space to innovative companies of all sizes in its primary central business districts of Midtown and Lower Manhattan. Projects will not be eligible if they are located within the Hudson Yards Financing Area (as shown [here](#)) or the Penn Station General Project Plan Area (as shown [here](#)).

Project Criteria & Program Goals

The NYCIDA is eager to support Projects that:

1. Improve commercial office stock that is at least 250,000 gross square feet in size and was built prior to 2000 with the introduction of new layouts, building systems, energy efficiency improvements and infrastructure that are demanded by modern tenants;
2. Are intended to attract world class tenant companies and/or incubator and accelerator operators from high-growth industries, including but not limited to, technology, life sciences (non-lab users), cybersecurity, green economy, media and entertainment (including gaming), information technology, and engineering;
3. Develop common space amenities and health and wellness measures that are designed to attract firms within high-growth industries;
4. Enables buildings to host programming within the space that encourages employees to return to the office;
5. Activate the ground floor with uses that will draw foot traffic to the commercial corridor hosting the renovation;
6. Utilize a high percentage of M/WBE subcontractors in the construction phase of the project;
7. Support buildings with demonstrably high percentages of current vacancy;
8. Have near term targets for construction commencement and completion and can reasonably secure any necessary funding or financing;
9. Demonstrate a plan to comply with New York City Local Law 97; and

10. Meet the Minimum Capital Investment Threshold (as defined herein).

Pre-Application Screening

NYCIDA seeks to identify initial ideas for Projects that could effectively support its desired goals through the Program before the potential formal submission of an application the NYCIDA for the award of benefits through the Program.

Pre-Applicants include any private owner of commercial property pursuing a commercial office renovation or redevelopment that will assist in the improvement of existing commercial office facilities provided that such improvements meet the following minimum capital investment threshold: 75% of the Project location's current Assessed Value as determined by the New York City Department of Finance for the most recent available year (the "Minimum Capital Investment Threshold").

This pre-application screening process for potential Projects will inform the NYCIDA staff's decision-making on which Projects will be encouraged to fill out a formal NYCIDA application. Projects chosen through this screening process will be asked to submit a formal application and will undergo due diligence by NYCIDA staff, with the intent that selected applications would be presented for inducement and authorization at a regular upcoming meeting of the NYCIDA Board. If approved, the Board would authorize benefits in a form substantively similar to that as described herein. A schedule of fiscal year 2024 Board meetings and application deadlines can be found at the following link: <https://edc.nyc/nycida-board-meetings-public-hearings>. Board meeting and application deadlines in fiscal year 2025 are likely to be fairly similar to those in fiscal year 2024 and will be publicly announced on or after April 23, 2024.:

NYCIDA Pre-Application Questionnaire

To describe how the Project would advance the NYCIDA's Objectives, respondents to the Pre-Application Screening Process ("Pre-Applicants") should address the following in a narrative that does not exceed 15 pages in length.

Answers to all questions with an asterisk () are required, while answers to other questions are optional.*

1. ***Project overview** – Pre-Applicants should provide a summary narrative explaining how the proposed renovation is responsive to the goals of the Program. The project overview should include a map identifying the building, any and all relevant descriptive information, and, if available, any renderings of the proposed renovation.
2. ***Site details** – Pre-Applicants should provide the following details around the site of the proposed renovation:
 - a. Location – address and borough, block, lot (BBL);
 - b. Description of the Pre-Applicant's site control and history/timeline of site control
 - c. Zoning and land use description;
 - d. Total square feet (gross, rentable, usable) of building, and breakdown of amounts currently available for retail, office, and residential use in the building;
 - e. A list of current tenants in the building, the annual rent per rsf for each tenant and expiration date of each tenant's lease;
 - f. A description of current building vacancy in both percentage and square feet (gross, rentable, usable). This description should also include historical vacancy trends and anticipated future vacancy trends for the building without investment, and a narrative description of the current and anticipated impacts of described vacancy;

- g. An estimate of current building emissions and building emissions intensity as calculated under the standard put forward in New York City Local Law 97;
 - h. Narrative of how building is currently underperforming financially and struggling to attract and/or retain quality tenants;
 - i. Description of existing building condition, systems, programming, and amenities;
 - j. Description of most recent historical renovation work in building, including scope, budget and completion date.
3. *Renovation scope - For the proposed renovation provide the following information:
- a. A construction scope, for the proposed renovation to be supported by the Program and a narrative description of how the proposed scope is supportive of the goals of the Program;
 - b. A second construction scope that lists sustainability features and investments that are necessary to ensure compliance with the LL97 requirements for energy emission reductions by 2024, 2030 and 2035;
 - c. The expected total available square footage (gross, rentable, and usable) for retail, tenant amenities, common space, public space/plazas, commercial office, residential and other use in the building upon completion of the renovation;
 - i. A description of how any retail space will activate the ground floor with innovative, modern uses that will draw foot traffic to the commercial corridor hosting the renovation;
 - d. A list of planned building amenities upon completion of the renovation, along with a description of how they will support the tenanting and usage of the renovated space in a manner in line with the stated goals of the Program;
 - e. A tenant leasing plan demonstrating types of tenants, projected rents, size of leases and strategies/timelines for securing tenants post-construction;
 - i. A description of how the tenant leasing plan will incorporate strategies to attract world class tenant companies and/or incubator and accelerator operators from high-growth industries, including but not limited to, technology, life sciences (non-lab users), cybersecurity, green economy, media and entertainment (including gaming), information technology, and engineering;
 - ii. Please reference and include any letters of interest or support from potential tenants
 - f. Anticipated timeline for renovation to be supported by the Program, including reasonable estimates of targeted construction commencement and completion dates and a description of what milestones need to be met to achieve these targeted dates. Note: the period between construction commencement and completion should not exceed more than a four-year period
 - g. Expected budget for renovation, not to exceed a four-year construction period, inclusive of hard costs (broken out by trade) that will be directly spent and contracted by the building owner, soft costs (broken out by trade) that will be directly spent and contracted by the building owner and closing fees. This response should illustrate the plan to comply with the Minimum Capital Investment Threshold. Tenant Improvement funds that will be committed by building owners and spent or contracted by tenants are not counted towards the Minimum Capital Investment Threshold.

- i. This response should also be broken out by use; i.e. the proportion of the budget that will be allocated towards retail space, tenant amenities, common space, public space/plazas, commercial office space, etc.
 - h. Financial terms including sources of financing for the renovation, and relevant terms associated with said financing instruments. This response should include a timeline for securing any necessary financing; and
 - i. A plan for how the Pre-Applicant would encourage the utilization of M/WBE contractors for the construction scope towards meeting a 30% M/WBE construction participation goal;
 - j. A description of any discretionary or special land use, zoning, or governmental approvals or permits necessary to complete the proposed project.
- 4. *Pre-Applicant description– the Pre-Applicant should provide:
 - a. An overview of the Pre-Applicant’s organizational structure.
 - b. A description of the Pre-Applicant’s previous experience in commercial renovation.
 - c. A description of relevant members of the Pre-Applicants team, including any architects, designers, and general contractors identified to support the proposed renovation.
 - d. Identification of the Principal of the Pre-Applicant organization that would oversee the renovation.
 - e. A discussion of the Pre-Applicant’s financial capacity to execute on the proposed renovation.
- 5. Additional Information – the Pre-Applicant should provide any additional information that may be of use to the NYCIDA in understanding the usefulness of providing benefits to the proposed Renovation.

Pre-Screen Submission Requirements

Pre-Applicants must submit the materials described above Please submit one (1) electronic version to MCORE@edc.nyc. All electronic submissions should be in searchable PDF format. Projects selected by NYCIDA staff through this pre-screening process will be notified approximately 4-6 weeks after submission.

First Submission Deadline: August 1st

Second Submission Deadline: TBD

Third Submission Deadline: TBD

NYCIDA Application Process

Projects selected by NYCIDA staff through this pre-screening process will be required to submit a full NYCIDA Core Application plus supplemental materials, including but not limited to:

Standard NYCIDA application materials

- NYCIDA Core Application

- Signed Inducement Letter
- Term sheet from financial institution(s) providing financing that indicates portion(s) in connection with which assistance is being sought
- Short Environmental Assessment Form
- Internal Background Investigation Questionnaire
- Doing Business Data Form
- Three years of financial statements for applicant, affiliates, and/or guarantors (as applicable)
- Organizational chart of applicant and affiliates
- Retail Questionnaire
- Signed Additional Obligations Memo

Supplemental materials required for the NYCIDA Manhattan Commercial Revitalization Program

- Supplemental cover sheet
- Basis of design
- Detailed budget for construction work
- Updated responses to pre-application questions
- Any letters of interest or support from potential tenants
- Any letters of community support

Please find below a list of laws and policies to which the Agency Projects are subject, as applicable. Any Applicant desiring to obtain, on behalf of itself or a special purpose entity that it owns and controls, assistance in the form of tax-exempt conduit bond financing and/or certain tax incentives (“Assistance”) should acquaint itself with the applicability and implications of these provisions to their Project prior to submitting an Application. Agency staff is available to answer questions and work with Applicants to structure Projects in accordance with these requirements, but it is ultimately the obligation of the Applicant (in consultation with its own counsel) to understand the applicability and scope of these obligations, and commit to complying with them. All capitalized terms used but not defined herein shall have the meaning ascribed to such term in the Policies and Instructions.

Living Wage

Non-exempt employers operating at the Project Location(s) will be required to comply with the Fair Wages for New Yorkers Act and Executive Order 7 on Living Wage (collectively, the “Living Wage Requirements”), and must pay all of their workers an hourly wage that meets or exceeds the living wage levels set by the Executive Order. If not otherwise exempt, after closing on the Project, the Applicant will be required to submit an annual certification verifying compliance, and preserve six years of payroll records. At closing, a non-exempt Applicant will be required to provide certificates for itself, certain of its Affiliates, and other non-Affiliated employers operating at the Project Location(s) certifying to compliance with these Living Wage Requirements.

- Local Law 37 of 2012, the Fair Wages for New Yorkers Act and Executive Order 7 (which supplements Local Law 37), and forms of Compliance Certificates are available here: <http://www.nycedc.com/about-nycedc/economic-workforce-opportunity>
- The current Living Wage rates are available here: <http://www1.nyc.gov/site/dca/about/living-wage-law.page>

Projects receiving less than \$1,000,000 in Financial Assistance (as defined in the Living Wage Requirements) are generally not subject to the Living Wage Requirements. Additionally, certain categories of Projects or Applicants, including, but not limited to, small businesses, 501(c)(3) organizations, FRESH program participants, and manufacturing undertakings are generally exempt from the Living Wage Requirements. Please note that exempt Projects or Applicants may nonetheless have non-exempt employers operating at the Project Location(s) that will be required to comply with the Living Wage Requirements.

Prevailing Wage

Non-exempt employers operating at the Project Location(s) will be required to comply with Local Law 27 of 2012 covering prevailing wage for building service employees (the “Prevailing Wage Law”).

- Local Law 27 of 2012 and forms of Compliance Certificates are available here: <http://www.nycedc.com/about-nycedc/economic-workforce-opportunity>
- The current Prevailing Wage rate is available here: <http://comptroller.nyc.gov/wp-content/uploads/documents/220-schedule2016-2017.pdf>

Projects receiving less than \$1,000,000 in Financial Assistance (as defined in the Prevailing Wage Law) are generally not subject to the Prevailing Wage Law requirements. Additionally, certain categories of Projects or Applicants, including, but not limited to, certain small businesses, 501(c)(3) organizations, Project Locations under 100,000 square feet, or manufacturing undertakings are generally exempt from the Prevailing Wage Law requirements.

Labor Peace

Non-exempt employers operating at the Project Location(s) will be required to comply with Executive Order 19 covering labor peace at retail establishments (the “Labor Peace Requirements”).

- Executive Order 19 is available here: http://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2016/eo_19.pdf

Projects less than 100,000 square feet or with retail space smaller than 15,000 square feet are generally exempt under these Labor Peace Requirements.

HireNYC

HireNYC is a free workforce service offered to qualifying businesses that enables businesses to quickly and easily source their hiring needs. HireNYC does not impose specific hiring requirements, but rather provides no-cost recruitment and screening services to enrolled businesses. In the event of certain hiring events, employers operating at the Project Location(s) must provide notice to the Agency so that these services can be initiated in a timely manner, and then must comply with certain reporting obligations. Depending on job growth projections, Applicants may be expected to participate in the HireNYC program, as described above.

- Additional information about HireNYC is available here: http://www.nycedc.com/sites/default/files/filemanager/Programs/HireNYC/HireNYC_FAQ_IDA_and_BUILD_NYC.pdf

Local Law 97

Local Law 97 (LL97) is part of the city’s plan to address carbon emissions and make NYC carbon neutral by 2050. Under LL97, most buildings over 25,000 gross square feet that exceed emissions limits will face annual fines beginning in 2025. Projects or applicants will be required to submit an annual certification verifying compliance with LL97. Failure to demonstrate compliance with applicable carbon emission reduction requirements may result in an increase in a Project’s PILOT bill.

- Local Law 97 is available here: https://www.nyc.gov/assets/buildings/local_laws/ll97of2019.pdf
- Additional information about Local Law 97 is available here: <https://accelerator.nyc/>

Opportunity M/W/DBE

Opportunity M/W/DBE works to counter documented disparities in public procurement by increasing opportunities for minority-owned, women-owned and disadvantaged business enterprises. Based on size and scope of the Project, M/W/DBE goals may be applicable and set by NYCEDC's M/W/DBE team. Goals represent a percentage of total Project value, and should be met by subcontracting with M/W/DBE certified firms. If a Project is subject to a M/W/DBE goal, the Applicant must make a good faith effort to meet that goal.

Additional information about Opportunity M/W/DBE can be found here:

<https://www.nycedc.com/opportunities/opportunity-mwdbe/prime-contractors>

I acknowledge and agree that I have reviewed these laws and policies, and am prepared to move forward with my Application and be subject to their requirements should I receive Assistance for the Project.

APPLICANT:

By: _____

Name:

Title:

Date:

NYCIDA Fee Schedule of Manhattan Commercial Revitalization (M-CORE) Program Transactions

1. Application Fee

| |
|---|
| Due upon submission of formal application to NYCIDA (non-refundable and non-deductible) |
| \$25,000 |

2. Deposit

| |
|--|
| Due 10 business days in advance of Board of Directors meeting (non-refundable if Project is induced or authorized by Board of Directors and deductible from Project Fee) |
| 10% of Project Fee |

3. Project Fee

| | |
|-------------------------|--|
| Due upon closing | |
| Project Investment*: | Fee Calculation: |
| \$25,000,000 or greater | \$387,500 + 1% of Project Investment greater than \$25,000,000 |

*“Project Investment” includes construction hard and softs costs, soft costs related to the financing of construction costs, machinery, furnishings, and equipment (“Project Investment”). Project Investment does not include the cost of acquiring real property or closing fees.

4. NYCIDA Project Counsel Fees¹

Hourly billing rates plus disbursements

5. Annual Compliance Fee

| |
|--|
| Due upon closing and then annually throughout term of NYCIDA agreement |
| \$10,000 |

6. Post-Closing Fee

The company shall pay \$5,000 per request for any post-closing action including, but not limited to, amendments of Agency documents or consents or approval of documentation relating to other post-closing actions.

¹ Project Counsel’s fee is payable at closing except that Project Counsel may require prepayment (i.e., before closing) of \$10,000 upon the earliest to occur of (i) adoption of a pre-inducement or inducement resolution, or (ii) Applicant’s request that Project Counsel commence drafting project documents, or (iii) the accrual by Project Counsel of twenty hours or more of attorney-time. Should the transaction close, the pre-payment will accrue against Project Counsel’s Fee payable at closing; should the transaction fail to close, Project Counsel’s Fee shall equal (instead of the Fee amounts above) time-billing at a blended rate of \$300 per attorney-hour (the “breakage- amount”) less the \$10,000 pre-payment if such pre-payment was in fact made; or, in the event the \$10,000 pre- payment is greater than the breakage amount, Project Counsel shall refund the excess to the Applicant.

TO ALL COUNSEL representing clients in connection with NYCIDA Manhattan Commercial Revitalization Program (“MCRP”) transactions:

I. Overview

Your client has submitted an application to NYCIDA to receive “Financial Assistance” (described in Section II below) under NYCIDA’s Manhattan Commercial Revitalization Program (“MCRP”).

Please review the application submitted by your client. The application consists of a core form and a number of addenda and supplements. One of those supplements, the Disclosure Policy and Procedure, addresses the possibility that NYCIDA may be required to disclose portions of your client’s completed application pursuant to the Freedom of Information Law.

Through its application, your client has presented to NYCIDA a proposed project that is capital in nature (i.e., the proposed activity involves construction, renovation, acquisition of realty, and/or acquisition of equipment with a useful life of at least one year). The proposed activity or activities will hereinafter be collectively referred to as the “Project” and the real property that is the subject of the Project will hereinafter be referred to as the “Premises.” Also through its application, your client has indicated that the Project will occur as planned in New York City only if NYCIDA provides the requested Financial Assistance to the Project.

The staff of New York City Economic Development Corporation (“NYCEDC”), acting on behalf of NYCIDA, may in its sole discretion present your client’s Project to the Board of Directors of NYCIDA. The Board of Directors, by adopting a resolution, can approve and “induce” the Project to occur by authorizing Financial Assistance for the Project (this resolution is called the “Inducement Resolution”). Even if the Project is so induced, the adoption of a separate authorizing and approval resolution (this resolution is called the “Authorizing Resolution”) will be needed to authorize NYCIDA’s entry into the transaction documents in respect of the Project. NYCIDA will only provide Financial Assistance upon the closing of the definitive transaction documents in respect of the Project. Such closing is subject to the satisfaction of NYCIDA requirements generally and the conditions specified in Section VIII below.

The General Municipal Law of the State of New York (“GML”) authorizes and governs NYCIDA’s participation in the Project. GML Sections 850 et seq. are the generic provisions that apply to all industrial development agencies in the State of New York; GML Section 917 is the enabling provision that created NYCIDA.

PLEASE NOTE THAT THIS MEMORANDUM IS BEING PROVIDED TO YOU FOR GENERIC INFORMATIONAL PURPOSES ONLY. THE CONTENTS HEREOF MAY NOT COMPLETELY AND ACCURATELY REFLECT THE TERMS, CONDITIONS AND REQUIREMENTS APPLICABLE TO YOUR CLIENT’S PROJECT. NEITHER YOU NOR YOUR CLIENT MAY RELY ON ANY STATEMENT MADE IN THIS MEMORANDUM, OR ANY OMISSION HEREFROM, FOR ANY PURPOSE, INCLUDING, WITHOUT LIMITATION, AS EVIDENCE THAT YOUR CLIENT IS ENTITLED TO RECEIVE ANY FINANCIAL ASSISTANCE, AS EVIDENCE OF THE TERMS AND CONDITIONS OF ANY FINANCIAL ASSISTANCE, OR AS EVIDENCE THAT CERTAIN CONDITIONS TO RECEIVING FINANCING ASSISTANCE SHOULD NOT BE IMPOSED.

II. Financial Assistance

Upon approval of the NYCIDA Board of a deviation from the NYCIDA’s Uniform Tax Exemption Policy (“UTEP”), NYCIDA may offer “Financial Assistance”, prescribe the conditions under which applicants may qualify to receive Financial Assistance, and the terms under which applicants may be required to repay Financial Assistance previously given. A copy of NYCIDA’s UTEP is available for download at <http://www.nycedc.com/nycida/financial-public-documents>. “Financial Assistance” for the purposes of the MCRP Program may include:

- The deferral or exemption of City and State mortgage recording taxes due upon the recording of an eligible Project Mortgage.
- The exemption from City and State sales and use taxes for approved machinery, equipment and materials used in Project construction and renovation.
- The exemption of the Premises from New York City real property taxes for 20 years, subject, however, to a contractual requirement to make payments in lieu of those taxes (known as “PILOT”) in respect of the land portion of the Premises, existing improvements, Project improvements and non-Project improvements.
 - With respect to the land portion of the Premises, real property taxes will be stabilized at the real property tax rate and assessment applicable to the land at the time of closing, for a period lasting up to 20 years (with a phase out of 20% per year over the final four years of such period);
 - With respect to existing improvements, real property taxes will be stabilized at the real property tax rate and assessment applicable building at the time of closing, for a period lasting up to 20 years (with a phase out of 20% per year over the final four years of such period);
 - With respect to Project improvements, real property taxes will be abated in accordance with the abatement schedule set forth below. The level of abatement for a particular Project will depend upon the total amount of square footage previously authorized for benefits under the Program at the time of authorization of the Project benefits by the NYCIDA Board of Directors (the “Board”).

| Property Tax Abatement Terms – Project Improvements | | | | |
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| | | | | |
|--|--|---------------------------------------|---------------------------------------|---------------------------------------|
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|--|--|---------------------------------------|---------------------------------------|---------------------------------------|

- With respect to improvements that are neither existing improvements nor Project improvements, PILOT will equal full New York City real property taxes.

III. The Project Team

The NYCEDC Project team with which you will be working consists of the following individuals:

- **Project Manager:** The NYCEDC businessperson who will manage the transaction through closing. The Project Manager is your client's contact with NYCEDC and NYCIDA.
- **NYCIDA Counsel:** The NYCEDC staff attorney who will represent NYCIDA through closing. This attorney will be your main contact with NYCEDC and NYCIDA.
- **Project Counsel:** NYCIDA's outside counsel. Project Counsel will draft all authorizing instruments and transaction documents, and will be responsible for delivering an opinion of counsel on behalf of NYCIDA. The transaction documents will include the Company Lease Agreement, the Agency Lease Agreement, the Sublease Agreement, Project Agreement and the Guaranty Agreement (all of which are described below), among others.

IV. Process

Prior to the adoption of the Inducement Resolution, the Project Manager will request certain items from your client that are needed in order to bring the Project before the Board of Directors, including, but not limited to, the Internal Background Investigation Questionnaire, information for a public notice and public hearing, an environmental assessment form and Phase I or Phase II environmental report.

After the adoption of the Inducement Resolution and the Authorizing Resolution for transactions having a total project amount of less than \$10 million and for certain other transactions (as determined by NYCEDC staff in their sole discretion), there will be an all-hands in-person meeting that must be attended by your client (or if your client is an entity, an individual with decision-making authority), you, any consultants involved in the transaction, the Project Manager, NYCIDA Counsel and Project Counsel. In certain instances, NYCEDC staff may require that this meeting occur before the Project is brought before the Board of Directors. The purpose of this meeting is to ensure that the Project Manager, NYCIDA Counsel and Project Counsel fully understand the transactional structure intended by your client, and conversely, to ensure that you and your client fully understand the structure of NYCIDA transactions and NYCIDA's standard transaction documents. During this meeting, NYCIDA Counsel will discuss with you and your client the required closing deliverables and certain important terms and conditions set forth in NYCIDA's standard transaction documents. Please note that such terms and conditions are not subject to negotiation barring structural considerations unique to your client's transaction.

Additionally, the following items will be on the meeting agenda:

- Your client will be asked to sign a copy of the Inducement Resolution. By signing that resolution, your client agrees to reimburse NYCIDA for any costs that it may incur through closing, including the fees of Project Counsel (even in the event that closing does not occur). Please note that by signing the application, your client had previously agreed to indemnify NYCIDA for Project Counsel fees in the event that closing does not occur.
- NYCIDA Counsel will provide you and your client with the form of opinion of counsel, the form of architect's certificate and the form of general contractor's/construction manager's certificate referenced in Section VIII below.
- To the extent not already done, your client will provide the Project Manager, NYCIDA Counsel and Project Counsel with evidence of site control with respect to the Premises (i.e., a deed, a lease or a contract of sale) and a copy of the commitment for debt financing.

For transactions in respect of which an all-hands in-person meeting does not occur, it is expected that the items referenced in the bullet points above will be delivered by the relevant parties promptly after the adoption of the Inducement Resolution and the Authorizing Resolution. Note that for all transactions, Project Counsel will not draft or circulate the transaction documents until such items are delivered in form and substance satisfactory to NYCEDC staff in its sole and absolute discretion.

After the transaction documentation is finalized and after NYCIDA's satisfaction (in its sole discretion) that all closing requirements referred to in Section VIII have been completed, a closing date for the transaction will be scheduled.

V. Real Estate Structure

To provide Financial Assistance to your client, NYCIDA will require your client to lease its interest in the Premises to NYCIDA for a term of which will expire not later than 20 years from the PILOT Commencement Date years pursuant to the Company Lease Agreement. NYCIDA will simultaneously lease back the Premises to your client for same term pursuant to the Agency Lease Agreement.

The entity leasing the Premises to NYCIDA, and then leasing it back from NYCIDA (the "Lessee"), may be either your client's operating company or a related real estate holding company. If the entity leasing the Premises to NYCIDA is a real estate holding company, then such entity will sublease the Premises to your client's operating company (in such capacity, the "Sublessee") pursuant to the Sublease Agreement. The commencement date of all three leases will be the date on which the transaction closes.

NYCIDA takes a leasehold interest in the Premises only for the purpose of providing Financial Assistance to the Project. NYCIDA is a tenant out of possession. Your client's real estate holding company and/or operating company retain the use and occupancy of the Premises and will in every respect be responsible for the Premises.

The Lessee and the Sublessee will enter into a Project Agreement with the Agency which will set forth the provisions regarding the Financial Assistance to be provided by the Agency as well as recapture provisions. If the Premises is ground leased by the Lessee from the owner of the Premises, the Agency will enter into an agreement with the owner (the "Agency-Owner Agreement") that will obligate the owner to, among other things, make PILOT payments in the event that the Lessee does not make such payments.

VI. Legal Requirements (Contractual and Statutory)

A. Under the Agency Lease Agreement:

- The Lessee indemnifies and holds NYCIDA harmless against all third party claims.
- The Lessee releases NYCIDA from all claims that the Lessee may have against NYCIDA.
- The Lessee and/or the Sublessee obtain and maintain certain required insurance policies, including commercial general liability insurance, umbrella/excess liability insurance, auto liability insurance, workers' compensation insurance and other insurance coverage that an outside lender may require, such as property insurance. During any period of time during which construction, renovation, alteration and/or repair occurs at the Premises, your client will be required to cause any general contractor, construction manager, contractor and/or subcontractor to obtain and maintain certain required insurance policies. See Section VIII below for specifics regarding the required insurance coverage. **The insurance requirements specified in the Agency Lease Agreement will not be subject to negotiation.**
- The Lessee must complete the Project by an agreed-upon completion deadline.
- The Lessee and, if applicable, the Sublessee, will use the Premises only for its intended purpose.
- The Lessee and, if applicable, the Sublessee, are the only occupants of the Premises except to the extent that NYCIDA consents to other occupants. NYCIDA, however, will not consent to subtenancies aggregating more than 20 percent of the Premises.
- Every subtenancy (other than the sublease to the Sublessee) will diminish (pro rata according to square footage) the Financial Assistance provided to the Lessee in the form of New York City real property tax savings.
- If within a 10-year period following completion of the Project, the Lessee and/or the Sublessee sells the Premises or substantially changes operations or employment level, among other recapture events, NYCIDA will recapture all or a portion of the Financial Assistance provided. The percentage of Financial Assistance to be recaptured decreases after the sixth anniversary of the Project's completion date. **Note that for purposes of the recapture provisions, the amount of Financial Assistance in respect of real property taxes is calculated as the difference between the PILOTs actually paid and the real property taxes that your client would have paid had NYCIDA not been involved in the transaction.**
- The Lessee and the Sublessee will be required to comply with certain reporting obligations, including financial statements, annual employment and benefits and wage reports, sales and use tax exemption reports and other required reports. A member of NYCIDA's compliance staff will brief your client on all required reporting to NYCIDA.
- Certain Lessees, Sublessees and other affiliated and non-affiliated entities that occupy, operate or perform work at the Premises may be required to pay their employees and independent contractors who work at the Premises no less than a "living wage" (as determined pursuant to Mayor de Blasio's Executive Order No. 7). Certain project companies may be required to ensure that all building service employees who work at the Premises are paid no less than a "prevailing wage" (as determined pursuant to Section 6-130 of the New York City Administrative Code). **Further details regarding living wage, prevailing wage and other workforce and hiring programs that may be applicable to your client are provided at <http://www.nycedc.com/about-nycedc/hiring-workforce-programs>.**

B. Under the Sublease Agreement, the Sublessee agrees to perform all of the obligations of the Lessee under the Agency Lease Agreement if the Lessee fails to perform them.

C. Under the Guaranty Agreement, the Lessee, the Sublessee and/or the affiliates and principals of either (as required by NYCIDA) will be required to guaranty the performance of the Lessee's obligations under the Agency Lease Agreement, including, without limitation, the payment of PILOT and recaptured Financial Assistance, and the fulfillment of indemnity obligations. Note that the individual(s) who are the principal(s) of the Lessee, the Sublessee and/or the affiliates thereof may be required to give personal guaranties.

D. Under the Project Mortgage: There will be no recourse to NYCIDA, its directors, officers or agents, under the Project Mortgage. NYCIDA will not be required to incur any costs or expense.

VII. The Mechanics for Receiving Financial Assistance

A. **Exemption of Mortgage Recording Taxes.** The Lessee and NYCIDA will both enter into the Project Mortgage as, respectively, mortgagor of the fee (or leasehold) interest and mortgagor of the leasehold (or subleasehold) estate demised to NYCIDA. At closing, NYCIDA will provide, for presentation at the register's office, an affidavit stating that the Project Mortgage is partially exempt from mortgage recording taxes. Please note that if the Project Mortgage is refinanced during the Project term, NYCIDA will not provide a new exemption affidavit. However, NYCIDA will not object to the assignment of a mortgage to a new refinancing lender that results in the continued exemption of the Project Mortgage from mortgage recording taxes. In certain situations, such as the early termination of the Agency Lease Agreement or certain refinancings of the indebtedness secured by the Project Mortgage, your client may be required to make a payment to NYCIDA.

B. **Exemption from Sales and Use Taxes.** At closing, the Lessee will be authorized to make eligible purchases that qualify for exemption from sales and use taxes by presenting a complete and accurate NYS DTF Form ST-123. The Lessee's authorization to make such eligible purchases will generally expire on the Project completion deadline. Only certain purchases related to the Project qualify for the exemption from sales and use taxes. Misuse of the Form ST-123 may subject your client to serious civil and criminal sanctions. Note that NYCIDA's exemption will not apply where another basis for the exemption is available (e.g., for manufacturing equipment).

- C. **PILOT.** To exempt the Premises from New York City real property taxes, the New York City Department of Finance will remove the Premises from the tax rolls on the first July 1st after the first January 5th following the date on which the transaction closes. Commencing on that July 1st and ending 20 years later, your client will be obligated to make PILOT payments instead of payments of New York City real property taxes. Upon the occurrence of an event of default under the transaction documents, PILOT will increase to what New York City real property taxes would have been but for the exemption provided by NYCIDA, and interest and penalties may apply.

VIII. Closing Requirements

The closing of the transaction with NYCIDA will be conditioned upon NYCIDA's receipt of the documents listed below and the satisfaction of the other conditions specified below. After the transaction documentation is finalized and after NYCIDA's satisfaction (in its sole discretion) that all of the following closing requirements have been completed, a closing date for the transaction will be scheduled.

- Duly executed and delivered transaction documents, including, without limitation, the Company Lease Agreement, the Agency Lease Agreement, the Sublease Agreement, the Guaranty, the Agency-Owner Agreement, the Project Mortgage(s) and the Project Mortgage note(s).
- Articles of organization, certificates of incorporation, by-laws and operating agreements (as applicable) in respect of the Lessee, the Sublessee, Guarantors and other affiliated parties that are involved in the transaction, all as certified by an officer or principal of the relevant entity.
- Good standing certificates or due qualification certificates (as applicable) in respect of the Lessee, the Sublessee, Guarantors and other affiliated parties that are involved in the transaction, dated on or about the closing date, from the Secretary of State of the state where such entities were formed and the State of New York.
- A survey of the Premises certified to NYCIDA.
- ACORD insurance certificates and endorsements evidencing the following required insurance policies:
 - Commercial general liability insurance with \$1,000,000 minimum per occurrence and \$2,000,000 minimum in the aggregate, per-location aggregate, and on a per occurrence basis. The declarations page and the schedule of forms and endorsements in respect of the commercial general liability insurance is also required.
 - Umbrella/excess liability insurance with at least \$4,000,000 minimum per occurrence on terms consistent with the commercial general liability insurance policy. Larger projects will require additional coverage, as determined by NYCIDA in its sole discretion.
 - Auto liability insurance with \$1,000,000 combined single limit and \$1,000,000 for uninsured or under-insured vehicles. If your client does not own any vehicles, your client must obtain auto liability insurance for hired and non-owned vehicles.
 - Workers compensation insurance satisfying New York statutory limits.
 - Other insurance that the outside lender requires, such as property insurance (if applicable). Only the outside lender has to be added as an additional insured or mortgagee/loss payee on any such policies. The required certificates and endorsements should be sent to the outside lender's counsel for review.
 - Other insurance required by NYCIDA in its sole and absolute discretion, including, but not limited to, pollution legal liability insurance and garage keeper's liability.
 - **No insurance policy may limit contractual liability coverage, employer's liability coverage or coverage for claims arising under the New York Labor Law.**
 - Your client will cause NYCIDA to be an additional insured on all such policies (as evidenced by endorsements), except for the workers' compensation policy and the auto liability policy. Additionally, a certificate of your client as to compliance with insurance requirements will be required. Further details regarding the required insurance policies will be set forth in the Agency Lease Agreement distributed by Project Counsel. All required insurance certificates and endorsements must be received by the NYCIDA at least 10 business days prior to the scheduled closing date.
- If there will be any construction, renovation, alteration and/or repairs at the Premises, ACORD insurance certificates and endorsements in respect of the following insurance policies that general contractors and construction managers must obtain and maintain:
 - Commercial general liability insurance and umbrella/excess liability insurance on terms consistent with the coverage obtained by your client (as described above), except that coverage must be in an aggregate minimum amount of \$50,000,000 per project aggregate (or a higher amount for larger projects as determined by NYCIDA in its sole discretion). Completed operations coverage must extend (or be extended) for an additional 5 years after completion of the construction, renovation, alteration and/or repairs at the Premises. The declarations page and the schedule of forms and endorsements in respect of the commercial general liability insurance is also required.
 - Auto liability insurance with \$1,000,000 combined single limit and \$1,000,000 for uninsured or under-insured vehicles.
 - Workers compensation insurance satisfying New York statutory limits.
 - **No insurance policy may limit contractual liability coverage, employer's liability coverage or coverage for claims arising under the New York Labor Law.**
 - Your client will cause NYCIDA to be an additional insured on all such policies (as evidenced by endorsements), except for the workers' compensation policy and the auto liability policy. Further details regarding the required insurance policies will be set forth in the Agency Lease Agreement distributed by Project Counsel. All required insurance certificates and endorsements must be received by NYCIDA at least 10 business days prior to the scheduled closing date.
- If there will be any construction, renovation, alteration and/or repairs at the Premises as of the time of closing or shortly thereafter, ACORD insurance certificates and endorsements in respect of the following insurance policies that contractors and subcontractors (except for general contractors and construction managers) must obtain and maintain:

- Commercial general liability insurance and umbrella/excess liability insurance on terms consistent with the coverage obtained by your client (as described above). Completed operations coverage must extend (or be extended) for an additional 5 years after completion of the construction, renovation, alteration and/or repairs at the Premises. The declarations page and the schedule of forms and endorsements in respect of the commercial general liability insurance is also required.
 - Auto liability insurance with \$1,000,000 combined single limit and \$1,000,000 for uninsured or under-insured vehicles.
 - Workers compensation insurance satisfying New York statutory limits.
 - Other insurance required by NYCIDA in its sole and absolute discretion, including, but not limited to, pollution legal liability insurance and garage keeper's liability.
 - **No insurance policy may limit contractual liability coverage, employer's liability coverage or coverage for claims arising under the New York Labor Law.**
 - Your client will cause NYCIDA to be an additional insured on all such policies (as evidenced by endorsements), except for the workers' compensation policy and the auto liability policy. Further details regarding the required insurance policies will be set forth in the Agency Lease Agreement distributed by Bond Counsel. All required insurance certificates and endorsements must be received by NYCIDA at least 10 business days prior to the scheduled closing date.
- A title report reflecting all matters of record. Copies of the instruments for all encumbrances that will remain against the Premises should be attached to the report.
 - A full set of search results and reports in respect of your client, any affiliated entities involved in the transaction and the Premises. A full set will include the following search results and reports: liens, judgments, UCC financing statements, docket searches in NY state and federal courts, a report of all filed certificates of occupancy, compliance and/or completion and all open building permits, municipal department violation searches (Housing & Buildings, Fire, Highways, Landmarks), street report, emergency repair lien search, air resources, fuel oil burner, vault tax search, flood search, U.S. Patriot Act searches, and a search for bankruptcy filings in the applicable federal courts.
 - Lessee (or Lessee's seller) shall have cleared all non-permitted encumbrances, including, but not limited to, liens, violations, judgments, etc. indicated in the title report and search results and reports.
 - A reliance letter from the Lessee's environmental consultant in respect of the Phase I report (and, if applicable, the Phase II report).
 - An opinion of counsel addressed to NYCIDA from you, as counsel to the Lessee, Sublessee, Guarantors and other affiliated parties that are involved in the transaction. If you have not yet received the form of such opinion, please request it from NYCIDA Counsel.
 - If construction and/or renovations are to be done in connection with the Project, certificates in respect of the Project from an architect and a general contractor/construction manager. If no architect will be engaged in connection with the Project, then a certificate from the general contractor/construction manager will suffice in most cases. If no new or amended certificate of occupancy is required in connection with the construction and/or renovations, then subject to the consent of NYCIDA Counsel, no certificate from the general contractor/construction manager will be required. If you have not yet received the forms of such certificates, please request them from NYCIDA Counsel.
 - Certificates from the Lessee, the Sublessee and other affiliated and non-affiliated entities that operate at or occupy the Premises in respect of their compliance with the obligation to pay their employees no less than a "living wage" (as defined in the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code), or exemption therefrom, will be required in certain instances. NYCIDA Counsel will discuss these requirements with you and Project Counsel will send you the forms of such certificates.
 - Certificates from your client and other affiliated entities involved in the Project in respect of the obligation to ensure that all building service employees at the Premises are paid no less than a "prevailing wage" (as defined in Section 6-130 of the New York City Administrative Code) will be required in certain instances. NYCIDA Counsel will discuss these requirements with you and Project Counsel will send you the forms of such certificates.
 - Letter of representation from the Lessee, Sublessee, Guarantors and other affiliated parties that are involved in the transaction.
 - Other certificates and documents required by NYCIDA.

IX. Costs and Fees

- A. **Costs.** Your client will be responsible for all costs and fees in connection with closing the transaction.
- B. **Fees Charged by NYCIDA and Payable at Closing.** Please refer to the NYCIDA fee schedule provided to your client, which sets forth the standard fees charged by NYCIDA and Project Counsel.
- C. **Fees Charged by Project Counsel and Payable at Closing.** Please refer to the Project Counsel fee schedule provided to your client, which sets forth the standard fees charged by Project Counsel. Note that in certain instances, a surcharge will be imposed for (1) transactions not contemplated by IDA's standard legal templates, including, but not limited to, usage of tax credits (e.g., new markets, historic and other), separate straight-leases for real estate and equipment, industrial projects that deviate from NYCIDA's UTEP, and transactions involving more than one project location, (2) transactions that do not close within six months after the date of the first action by NYCIDA's Board, and (3) the restructuring of the original deal terms after the date of the initial distribution of the transaction documentation (e.g., change in bank lender, addition or deletion of SBA loans, change in the project location, and addition or deletion of a real estate holding company).

THE FOREGOING MEMORANDUM IS AN INFORMAL GUIDE RATHER THAN AN EXHAUSTIVE DISCLOSURE. IN NO WAY DOES IT PURPORT TO REPLACE ACTUAL EXAMINATION OF THE TERMS AND CONDITIONS SET FORTH IN THE TRANSACTION DOCUMENTS.