

**CITY OF GENEVA, NEW YORK**  
**Industrial Development Agency**

**SALE/LEASEBACK ASSISTANCE APPLICATION**

## INTRODUCTION

The applicant is responsible for the submission of a complete financial assistance package which includes:

- 1) Completed Sale/Leaseback Assistance Application and all supporting documents
- 2) Completed Environmental Assessment Form
- 3) Application Fee
- 4) Counsel Retainer Fee

**Non-Refundable Application Fee: \$500.00\***

*(\*To be submitted to GIDA with Sale/Leaseback Assistance Application)*

**APPLICATION MUST BE COMPLETE**

**GIDA ADMINISTRATION FEE:**

The Applicant shall pay to the Agency an administrative fee of one percent of the total project cost, which amount is payable at closing.

# APPLICATION FOR SALE/LEASE BACK ASSISTANCE

Company Name: Geneva Land LLC \_\_\_\_\_

Address: 1170 Pittsford Victor Road \_\_\_\_\_

City: Rochester \_\_\_\_\_ State: NY \_\_\_\_\_ Zip: 14534

## APPLICANT INFORMATION:

Contact Person: Kevin Morgan \_\_\_\_\_ Title: VP

Phone Number: (585) 419-9630 \_\_\_\_\_ Fax Number: (585) 419-9636

E-Mail: kevin.morgan@morganmanagement.com \_\_\_\_\_

Federal ID Number: 45-1601139

Attach schematic if Applicant is subsidiary or otherwise affiliated with another entity.

**Corporation:** Type of Corporation \_\_\_\_\_

**Partnership:** \_\_\_\_\_ General \_\_\_\_\_ Limited

## CORPORATE STRUCTURE:

Number of general partners \_\_\_\_\_ and, if applicable

Number of limited partners \_\_\_\_\_

**D Limited Liability Company/Partnership:**

Number of members/partners: 1 \_\_\_\_\_

**D Sole Proprietorship:**

Date of establishment/incorporation: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Place of organization: City: \_\_\_\_\_ State: \_\_\_\_\_

Is the applicant authorized to do business in the State of New York? Yes \_\_\_\_\_ No \_\_\_\_\_

**Principal Officers and Owners:**

Name:	Title:
Robert Morgan	Manager

Robert Morgan	Manager

### APPLICANT'S COUNSEL:

Firm Name: FIX SPINDELMAN BROVITZ & GOLDMAN, PC \_\_\_\_\_

Attorney Name: Jordan E. Morgenstern, Esq.

Address: 295 Woodcliff Dr., Suite 200 \_\_\_\_\_

City: Fairport \_\_\_\_\_ State: NY \_\_\_\_\_ Zip: 14450 \_\_\_\_\_

Phone Number: (585) 641-8000 \_\_\_\_\_ Fax Number: (585) 641-8080 \_\_\_\_\_

E-Mail: jmorgenstern@fixspin.com \_\_\_\_\_

### PROJECT INFORMATION:

#### Type of Project

New Building and/or Equipment     Refinancing     Transfer     Other  
 Additional Facility     Amendment     Second Mortgage

Describe the proposed acquisition, construction or reconstruction, purchase of equipment, and other project items. Explain the reason for the project and the benefits for the applicant. Explain how the project will be used.

See attached project description.

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Project Address: Hamilton Street \_\_\_\_\_

City: Geneva \_\_\_\_\_ State: NY \_\_\_\_\_ Zip: 14456 \_\_\_\_\_

Municipality: (City/Town/Village) City of Geneva \_\_\_\_\_

School District: Geneva City School District \_\_\_\_\_

Tax Map Number: 104.18-03-47.11 \_\_\_\_\_

Owner of Record: Geneva Shopping Center, LLC \_\_\_\_\_

Proposed Owner of Record: same \_\_\_\_\_

Principal Use of Project Upon Completion: Retail \_\_\_\_\_

Current Zoning: B-1 Business Commercial \_\_\_\_\_ Does Project Comply with Existing Zoning:  Yes \_\_\_\_\_ No \_\_\_\_\_

Necessary Variances: a. Signage and façade b. \_\_\_\_\_ c. \_\_\_\_\_ d. \_\_\_\_\_

Size of Building/Addition: Existing Sq Ft: 174,548 \_\_\_\_\_ New Sq Ft: 14,478 \_\_\_\_\_ Total Sq Ft: 189,026 \_\_\_\_\_

Type of Building: block building construction for Peebles renovation \_\_\_\_\_

Permits Required: \_\_\_\_\_ b. building \_\_\_\_\_ c. \_\_\_\_\_ d. \_\_\_\_\_  
(e.g., air, water, wastewater, other)

Timeline for completion of SEQR review, site plan review, obtaining of permits or variances:

Site plan and SEQR review submitted. Zoning variance to be submitted.

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Applicant is the Current Site Owner?  Yes for Fuel Kiosk  No Tops Plaza space

If No, is the Site under purchase contract/option? D Yes D No Purchase Contract/Option Expiration: NA; sublease pending

Details of the Purchase Contract/Option: \_\_\_\_\_

Will the project be subleased\*?  Yes  No If yes, please fill in the table below. See attached plaza rent roll.

Company Name	Address	Relationship to Applicant	Type of Business

**\*Potential sublease(s) of any Geneva IDA owned building must be pre-approved by the Agency Board throughout the term of an active sale/leaseback agreement.**

Does the applicant or proposed occupant of the project have any other locations in the NY State?  Yes  No

Johnstown, Hornell, Hudson, Albion, Newark, Ogdensburg, Malone, Dunkirk, Geneseo, Penn Yan, Norwich, Canandaigua, Batavia

Company Name	Address

Will the project result in the removal of a plant or facility of the applicant's or another proposed occupant of the project from one area of New York State to another area of the State?  Yes  No

Will the project result in the abandonment of one or more plants or facilities of the applicant or other occupants of the project located in New York State?  Yes  No

If the answer to either of the preceding questions was "Yes" please answer the following two questions:

1. Has the applicant or another proposed occupant of the project considered removing such other plant or facility to a location outside New York State?  Yes  No

If yes, please explain in detail: \_\_\_\_\_

2. Is the project reasonably necessary to preserve the competitive position of the applicant or another proposed occupant of the project in its respective industry?  Yes  No

If yes, please explain in detail: \_\_\_\_\_

Would this project proceed without IDA assistance?  Yes  No

If no, explain why IDA assistance is necessary. Check all that apply and explain individual circumstances:

Competitive pressure  Financial Assistance

Cost of doing business (high taxes, wages, workers compensation insurance, etc.)  Location/Transportation close to markets

Explain: \_\_\_\_\_

Please attach market studies or business analysis to assist in illustrating need.

Record the number of jobs to be retained because of this project. Retained jobs are those that represent full time equivalent positions filled at the time of the application. During the three year projection period, retained positions are those that will be preserved by the company because of this project. Retained positions can stay the same throughout the three (3) year period or can decrease but can not increase above the initial number reported.

Estimate the number of jobs to be created by this project. Created jobs represent new full-time equivalent positions expected to be filled because of this project.

Please complete the annual payroll, over the next three (3) years. If there is more than one proposed occupant, job reporting must be included for each.

Attach the appropriate NYS-45MN (top section, number of employees only), W-3 or other forms that substantiate current year numbers reported below. Please do not include any specific employee information such as name, social security number or wages. Attach reconciliations as necessary.

Full Time Equivalents As of 12/31/ <u>  </u> (last full calendar year)					Annual Payroll
		Regular	Temporary/ Seasonal		Construction
		Retained	New	Retained	New
Current in County					
Project	Year 1	7		4	75
	Year2	7		4	
	Year3	7		4	

Please keep in mind the recapture of benefits provisions of Section E of the City of Geneva IDA Uniform Tax Exemption Policy as estimates are prepared.

### Project Cost:

Land:	\$	Soft Costs:
Building:		
Renovation	\$2,082,842	Engineering \$25,000
Acquisition	\$	Architect \$25,000
Expansion	\$	Fees/Permits \$7,500
New Building	\$	*Geneva IDA fee \$23,631
Equipment:		**Legal Fees \$45,500
Manufacturing	\$	(**Including transaction counsel, Agency Counsel, Applicant Counsel, Bank Counsel).
Non-Manufacturing	\$	Other Costs: \$177,250

Describe Equipment:

## REPRESENTATIONS BY THE APPLICANT

**The Applicant understands and agrees with the Agency as follows:**

- A) Job Listings:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then 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 the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal Job Training Partnership Act (Public Law 97-300) (JTPA) in which the Project is located.
- B) First Consideration for Employment:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, where practicable the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C) Annual Sales Tax Filings:** In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemption as part of the financial assistance from the Agency, the Applicant will 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 the sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
- D) New York State Department of Taxation and Finance Form ST-60:** In accordance with Section 874(9) of the New York General Municipal Law, the Applicant understands that the Applicant and each agent, subagent, contractors and/or subcontractor appointed by the Applicant and claiming a sales tax exemption in connection with the Project must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of the Applicant or any such agent, subagent, contractor and/or subcontractor as agent of the Agency for purposes of completing the Project. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project.
- E) Annual Employment Reports:** The Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, the Applicant will file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site.
- F) Absence of Conflicts of Interest:** The Applicant has received from the Agency a list of the members, Officers and employees of the Agency. The member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

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- G) State Environmental Quality Review Act Compliance:** The Agency, in granting financial assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act ("SEQR") and must complete necessary determinations required there under. Consequently, the Applicant has completed and attached hereto appropriate Environmental Assessment Forms, with respect to the Project, if appropriate at this time. In any event, the Applicant understands that, as its sole expense, it is required to take all necessary action in order for the Agency to comply with the requirements of SEQR, and including through a lead agency other than the Agency in case of a coordinated review.

The Applicant and, if applicable, the individual executing the Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this application and hereby represent that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

(Applicant)

By:

Name:

Title:

*Robert C. Morgan*  
*Manager*

## CERTIFICATION

This application shall be submitted with an application fee of \$500.00, payable to the City of Geneva Industrial Development Agency, 47 Castle Street, Geneva, NY 14456,

*Robert C. Morgan* (name of representative of entity submitting application, or name of individual submitting application) deposes and says that she/he (choose and complete one of the following two (2) options) (i) is a/the *Manager* (title) of *Geneva Land LLC* (company name), the entity named in the attached application, or (ii) is the individual named in the attached application; that s/he has read the foregoing application and knows the contents thereof; and that the same is true to his/her knowledge.

Deponent further says that s/he is duly authorized to make this certification on behalf of her/himself or on behalf of the entity named in the attached application. The grounds of deponent's belief relative to all matters in said application which are not stated upon his/her own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as, if deponent is not an individual applicant, information acquired by deponent in the course of his/her duties in connection with said entity and from the books and papers of said entity.

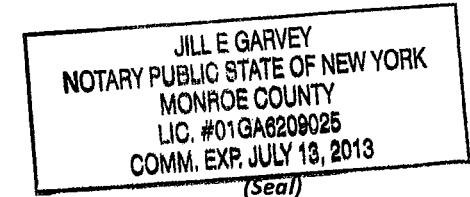
As (i) the representative of said entity, or (ii) the individual applicant (such entity or individual applicant hereinafter referred to as the "Applicant"), deponent acknowledges and agrees that the Applicant shall be and is responsible for all costs incurred by the City of Geneva Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the provision of financial assistance to which this applicant relates. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specific period of time to take reasonable, proper or requested action or withdraws, abandons, cancels or neglects the application, then upon presentation of an invoice, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application up to that date and time, including fees to transaction counsel for the Agency and fees of general counsel for the Agency.

Upon the successful conclusion of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in effect on the date of the foregoing application, which amount is payable at closing.

Name:

Title:

Sworn to before me this 11 day of October, 2011



## **Current Conditions**

Geneva Shopping Center, LLC ("GSC") owns the Geneva Shopping Center site, located at the southeast corner of Routes 5 & 20 and White Springs Road in the City of Geneva, NY. The site is currently occupied by commercial buildings and is almost fully occupied by retail stores, a movie theatre, a stand-alone bank ATM and McDonald's restaurant. Developed outparcels on the site not owned includes a gas station and two bank branches.

Geneva Land LLC ("Applicant") owns land fronting on White Springs Road, to the west and adjacent to the Geneva Shopping Center. It is improved by an entrance driveway connecting the Plaza to White Springs Road.

## **Proposed Development**

Attached is a site plan for the Geneva Shopping Center site showing the planned improvements.

The Geneva Shopping Center will increase by 14,478 to a total of 189,026 square feet. Tops Supermarket (51,695 +/- s.f.) will open a new store at the Plaza occupying the west side of the existing building where Peebles is currently located. Peebles will re-locate within the Plaza and occupy a newly constructed 20,000 square foot site (includes the 14,478 square foot expansion). Façade and signage changes are planned at these two plaza locations. Applicant will construct these improvements.

In addition to the modification to the Geneva Shopping Center buildings, Tops will ground lease from Applicant a portion of tax id parcel # 104.18-03-47.12, and construct a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve cars simultaneously) and a small kiosk (220.5 +/- s.f.) building.

Applicant will contract to complete the Tops Kiosk site work, improve grading at outparcel 1 and outparcel 2 (to be developed in the future) and entrance roadway upgrades at the White Springs Road entrance.

Access to the site will continue to be provided via two main existing driveways; one on Hamilton Street and the other on White Springs Road. There are three additional existing driveways on Hamilton Street that provide connection between Hamilton Street and the Shopping Center site via their access to the McDonalds restaurant, gas station, and the banks.

The Applicant and GSC have made submitted a site plan review application for the proposed development. The properties are currently zoned B1-Business Commercial. The existing plaza and accompanying expansions are permitted uses, while the fueling facility is allowed with a special permit.

The County site plan review occurred on October 12, 2011. Final site plan and special permit review by the City of Geneva is scheduled for October 17, 2011. There are zoning variance approvals required for façade and signage changes. The SEQR review is in process and the City of Geneva is the lead agency..

### **IDA request**

Job retention is 11 employees for Peebles. Job creation is 91 employees for Tops. Construction jobs for Tops is estimated at 175 and 75 for Peebles

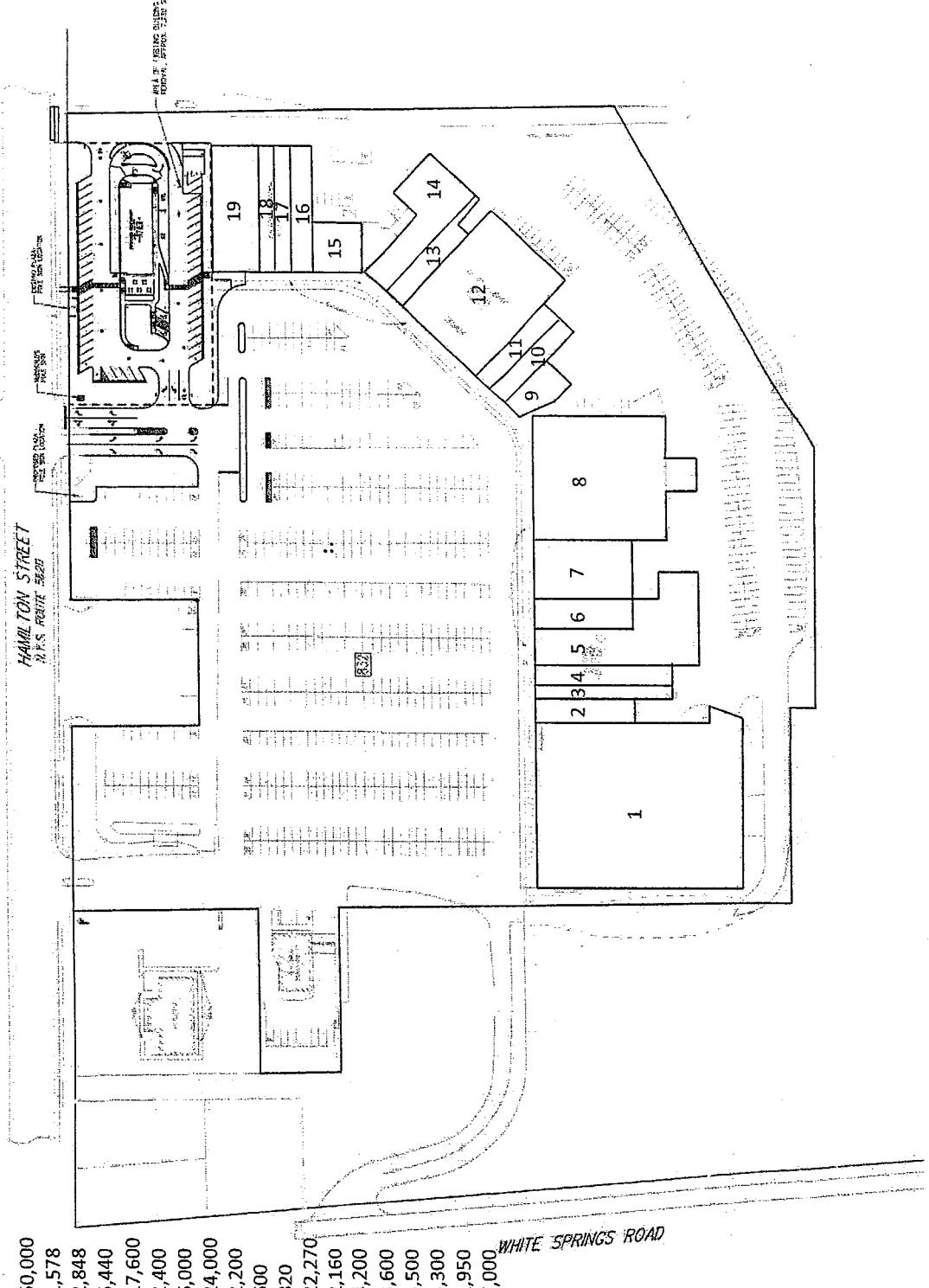
The Applicants are requesting the following exemptions:

1. Sales tax exemption for tenant improvements and landlord improvements.
2. Mortgage tax exemption
3. Payment in lieu of taxes for the Tops Kiosk, Tops Store and Peebles Store:

Year 1-5	\$17,500
Year 6-10	\$35,000
Year 11	tax at 20%; exemption at 80%
Year 12	tax at 40%; exemption at 60%
Year 13	tax at 60%; exemption at 40%
Year 14	tax at 80%; exemption at 20%
Year 15	tax at 100%; no exemption

## Geneva Shopping Centre

TENANT	SF
1 Peebles	50,000
2 Verizon Wireless	1,578
3 Pedulla Liquor	2,848
4 The Village Store	5,440
5 MoviePlex	17,600
6 Radio Shack	2,400
7 Available	6,000
8 Valu Home Center	24,000
9 Dark Tan	2,200
10 Available	600
11 Available	820
12 Staples	22,270
13 H&R Block	2,160
14 Olympia Sports	4,200
15 T & C Laundromat	3,600
16 Garcia's Authentic Mexican Restaurant	3,500
17 Payless	3,300
18 Available	1,950
19 Available	7,000



**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
**For UNLISTED ACTIONS Only**

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR <i>Oliver A Land LLC</i>	2. PROJECT NAME <i>TOPS Fuel Kiosk</i>
3. PROJECT LOCATION: Municipality <i>City of Genesee</i> County <i>Ontario</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>Hamilton Street and White Springs Road City of Genesee</i>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Construction of TOPS Fuel Kiosk, site grading, roadway improvements</i>	
7. AMOUNT OF LAND AFFECTED: Initially <u>±3</u> acres    Ultimately <u>±3</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <i>SPECIAL USE PERMIT REQUIRED</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <i>SPECIAL USE PERMIT</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <i>[Signature]</i> Date: _____	
Signature: <i>[Signature]</i>	

If the action is in the Coastal Area, and you are a state agency, complete the  
Coastal Assessment Form before proceeding with this assessment

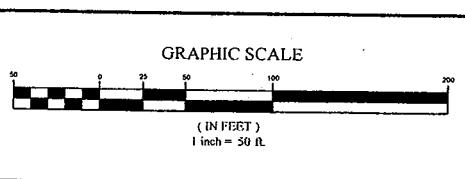
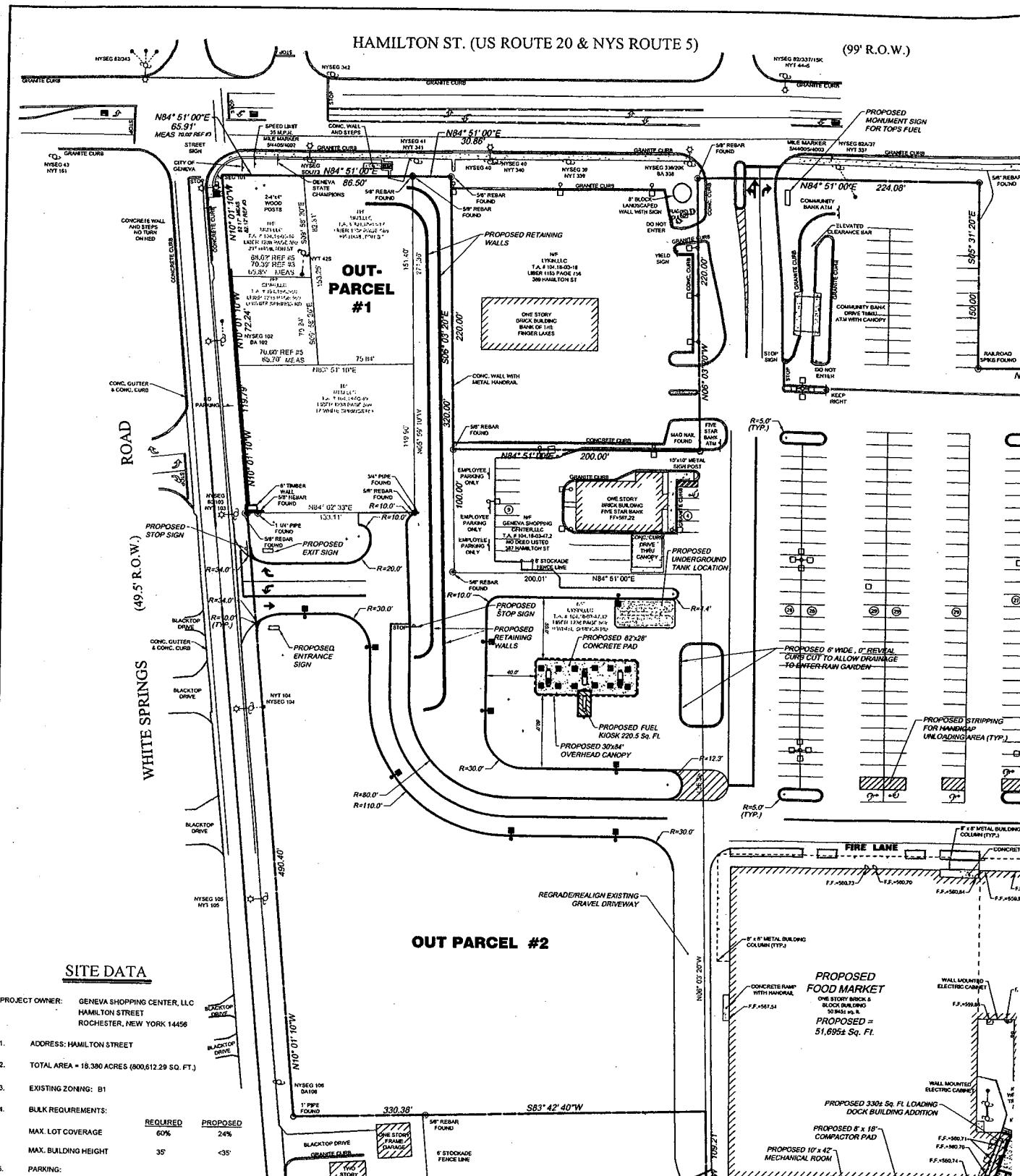
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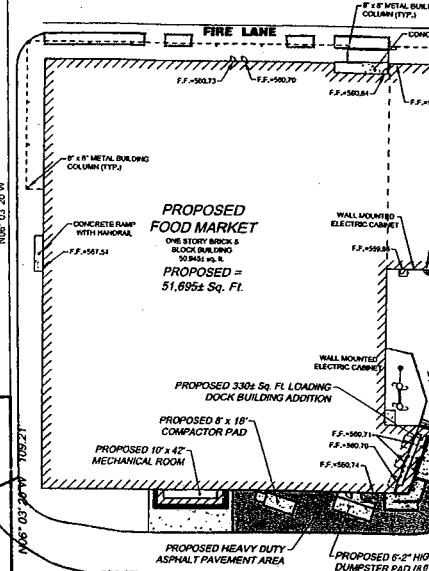
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# HAMILTON ST. (US ROUTE 20 & NYS ROUTE 5)

(99' R.O.W.)



EXISTING UTILITIES LOCATION, SIZES AND INVERTS) SHOWN ON THE PLANS ARE APPROXIMATE AND ARE NOT CERTIFIED AS TO THE ACCURACY OF THEIR LOCATION OR COMPLETENESS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT LOCATIONS AND DEPTHS OF ALL UTILITIES AND STRUCTURES IN THE PATH, OR CLOSELY PARALLEL TO, OR UNDER, THE PROPOSED EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DELAYS OR DAMAGES DURING EXCAVATION DUE TO PROXIMATELY LOCATED UTILITIES. IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY APPROPRIATE UTILITY OWNERS IN AMPLE TIME FOR THEM TO LOCATE AND MARK THEIR FACILITIES. THE CONTRACTOR SHALL ALSO NOTIFY UNDERGROUND UTILITY LOCATION SERVICE AT LEAST 48 HOURS IN ADVANCE OF COMMENCING ANY WORK.



**RESOLUTION**  
*(Geneva Shopping Center Project)*

A regular meeting of the City of Geneva Industrial Development Agency was convened on November 7, 2011, at 5:00 p.m.

The following resolution was duly offered and seconded, to wit:

**RESOLUTION OF THE CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY** (i) APPOINTING THE COMPANY AS ITS AGENT TO UNDERTAKE THE PROJECT (AS MORE FULLY DESCRIBED BELOW); (ii) AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT; (iii) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (1) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE PROJECT (2) AN EXEMPTION FROM THE MORTGAGE RECORDING TAX AND (3) A PARTIAL REAL PROPERTY TAX ABATEMENT STRUCTURED UNDER THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT; (iv) AUTHORIZING THE EXECUTION OF A MORTGAGE AND RELATED DOCUMENTS; AND (v) RATIFYING SEQRA FINDINGS OF THE CITY OF GENEVA WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 552 of the Laws of 1981 of the State of New York, as amended (hereinafter collectively called the "Act"), City of Geneva Industrial Development Agency (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, Geneva Land, LLC, for itself and on behalf of Geneva Shopping Center, LLC, or on behalf of an entity (or entities) to be formed (collectively, the "Company"), previously submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of (i) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as tax map numbers 104.18-03-47.12, 104.18-03-17, 104.18-03-16, 104.18-03-49, 104.18-03-50, and 104.18-03-47.11, as modified as necessary) located within the Geneva Shopping Center (the "Existing Improvements") at the southeast corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (ii) the renovation and expansion by the Company of approximately 51,695 square feet of space at the site of the existing Peebles department store to be occupied by Tops Markets, LLC ("Tops") for a supermarket, as subtenant, and related façade and signage changes, (iii) the construction by the Company on the Land of an approximately 20,000 square-foot building or addition for occupancy by the relocated Peeble's department store with related façade and signage changes; (iv) the construction on a portion of tax map number 104.18-03-47.12 of a

fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet also to be leased and operated by Tops; (v) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"), and (vi) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, pursuant to Section 859-a of the Act, on November 7, 2011, at 5:00 p.m., local time, at City of Geneva Public Safety Building at 255 Exchange Street, Geneva, New York, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance (as defined below) being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. (A copy of the minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions prior to said Public Hearing are attached hereto as **Exhibit A**); and

WHEREAS, it is contemplated that the Agency will (i) negotiate one or more agent agreements (the "Agent Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, renovating and equipping the Facility, (ii) negotiate and enter into one or more lease agreements (the "Lease Agreement"), a leaseback agreements (the "Leaseback Agreement") and a payment-in-lieu-of-tax agreements (the "PILOT Agreement") (the proposed terms of which PILOT Agreement are attached hereto as **Exhibit B**), (iii) take title to, or a leasehold interest in, the Land, the Improvements, the Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, renovation and equipping of the Facility, (b) a partial real property tax abatement structured within the PILOT Agreement, and (c) a mortgage recording tax exemption for financing or re-financing related to the Project (collectively the "Financial Assistance"); and

WHEREAS, on October 17, 2011, the City of Geneva Planning Board issued a negative declaration (the "Negative Declaration") under Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, "SEQRA") with respect to the Project, a copy of which is attached hereto as **Exhibit C**.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF CITY OF GENEVA INDUSTRIAL AGENCY AS FOLLOWS:

**Section 1.** The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) The Agency has the authority to take the actions contemplated herein under the Act; and

(C) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in City of Geneva, Ontario County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) The Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

Section 2. Based upon a review of the Application and the Negative Declaration submitted to the Agency by the Company, the Agency hereby consents to and affirms the status of City of Geneva Planning Board as Lead Agency, within the meaning of, and for all purposes of complying with SEQRA; determines that the proceedings undertaken by the City of Geneva Planning Board under SEQRA with respect to the undertaking of the Project by the Company satisfies the requirements of SEQRA; ratifies such proceedings by the City of Geneva Planning Board; and determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

Section 3. Subject to the Company executing the Leaseback Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency, pursuant to the provisions of the Leaseback Agreement: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; provided, however, **the agency appointment shall expire on December 1, 2012**, unless extended for good cause by the Executive Director or other authorized representative of the Agency.

Section 4. The Chair, Vice Chair and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate, execute and deliver the Lease Agreement, Leaseback Agreement and related documents in the forms thereof approved by the Chair, Vice Chair and Executive Director with such changes (including without limitation any change in the dated date of such documents), variations, omissions and insertions as the Chair, Vice Chair and/or Executive Director shall approve. The execution of the Lease Agreement, Leaseback Agreement and related documents by the Chair, Vice Chair and/or Executive Director of the Agency shall constitute conclusive evidence of such approval.

Section 5. The Chair, Vice Chair and/or Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to negotiate, execute and deliver the PILOT Agreement and any documents necessary and incidental thereto, including but not limited to NYS Form RP-412-a, "Application for Real Property Tax Exemption," and the Secretary of the Agency is hereby authorized to affix the seal, if any, of the Agency thereto where appropriate and to attest the same, in the form as approved by the Chair, Vice Chair and/or Executive Director. The execution of the PILOT Agreement and the Application for Real Property Tax Exemption by the Chair, Vice Chair and/or Executive Director of the Agency shall constitute conclusive evidence of such approval.

Section 6. The Chair, Vice Chair and/or the Executive Director of the Agency are hereby further authorized, on behalf of the Agency, to negotiate, execute and deliver any mortgage, assignment of leases and rents, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") up to a maximum principal amount necessary to undertake the Project and/or finance or re-finance acquisition and Project costs, equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents, collectively, the "Agency Documents") and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal, if any, of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chair, Vice Chair and/or the Executive Director of the Agency shall approve, the execution thereof by the Chair, Vice Chair or the Executive Director of the Agency to constitute conclusive evidence of such approval; provided, in all events, recourse against the Agency is limited to the Agency's interest in the Project.

Section 7. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 8. Due to the complex nature of this transaction, the Agency hereby authorizes its Chair (or Vice Chair) or Executive Director to approve, execute and deliver such further agreements, documents and certificates as the Agency may be advised by counsel to the Agency or Transaction Counsel to be necessary or desirable to effectuate the foregoing, such

approval to be conclusively evidenced by the execution of any such agreements, documents or certificates by the Chair (or Vice Chair) or Executive Director of the Agency.

Section 9. These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Joanne Wisor	x			
Charles Bauder	x			
Peter D'Amico, Jr.	x			
Robert Anania	x			
Frank Cecere, Jr.	x			
George Michaels	x			
Lawrence Bley			x	

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK )  
COUNTY OF ONTARIO ) SS:

I, the undersigned Secretary of the City of Geneva Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the City of Geneva Industrial Development Agency (the "Agency"), including the resolution contained therein, held on November 7, 2011, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 7<sup>th</sup> day of November, 2011.

  
\_\_\_\_\_  
Charles E. W. Bauder, Secretary

[SEAL]

**EXHIBIT A**

[Notice Documents]

**Attached Hereto**

**City of Geneva  
INDUSTRIAL DEVELOPMENT AGENCY**  
47 Castle Street  
P.O. Box 273  
Geneva, New York 14456  
Tel: (315) 789-4393  
Fax: (315) 789-4294

October 21, 2011

**NOTICE LETTER**

To: Attached Distribution List

**Re: City of Geneva Industrial Development and Geneva Land LLC:  
Public Hearing with Respect to Proposed Project**

Ladies and Gentlemen:

On Monday, November 7, 2011 at 5:00 p.m., local time, at the City of Geneva Public Safety Building at 255 Exchange Street, Geneva, New York; the City of Geneva Industrial Development Agency (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Finger Lakes Times* for publication.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

**DISTRIBUTION LIST**

Ontario County Administrator  
Ontario County Municipal Building  
20 Ontario Street  
Canandaigua, New York 14424

City of Geneva  
Attn: Mayor  
Geneva City Hall  
47 Castle Street  
Geneva, New York 14456

Geneva City Schools  
Attn: Superintendent  
400 West North Street.  
Geneva, New York 14456

Ontario County Board of Supervisors  
Attn: Chairman  
Ontario County Municipal Building  
20 Ontario Street  
Canandaigua, New York 14424

City of Geneva  
Attn: City Manager  
Geneva City Hall  
47 Castle Street, 3<sup>rd</sup> Floor  
Geneva, New York 14456

Geneva City Schools  
Attn: President, Board of Education  
400 West North Street.  
Geneva, New York 14456

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the City of Geneva Industrial Development Agency (the "Agency") on Monday, November 7, 2011, at 5:00 p.m., local time, at the City of Geneva Public Safety Building at 255 Exchange Street, Geneva, New York, in connection with the following matter:

Geneva Land, LLC, for itself or on behalf of an entity to be formed (the "Company"), Geneva Shopping Center, LLC ("Owner"), and Tops Markets, LLC ("Tops") have submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as tax map numbers 104.18-03-47.12, 104.18-03-17, 104.18-03-16, 104.18-03-49, 104.18-03-50, and 104.18-03-47.11, as modified as necessary) owned by Owner located within the Geneva Shopping Center (the "Existing Improvements") at the southeast corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (ii) the renovation and expansion by the Company, as Lessee and by Tops as Sublessee and as agent of the Agency of approximately 51,695 square feet of space at the site of the existing Peebles department store to be occupied by a Tops for a supermarket, as subtenant, and related façade and signage changes, (iii) the construction by the Company as Lessee on the Land of an approximately 20,000 square-foot building or addition for occupancy by the relocated Peeble's department store with related façade and signage changes; (iv) the construction on a portion of tax map number 104.18-03-47.12 owned by the Company ("Company Land") of a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet also to be leased and operated by Tops; (v) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"), and (vi) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company on behalf of Owner of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land and the Company Land, the Existing Improvements and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Owner and the Company, as their interests appear, and the Owner will in turn sublease the relevant portions of the Land to the Company. The Owner and the Company, as their interests may appear, will operate the Facility during the term of the respective leases. At the end of the lease term, the Company and the Owner will purchase their respective interests in the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company and to Tops in the form of sales and use tax exemptions and a mortgage recording tax exemption, consistent with the policies of the Agency, and a partial real property tax abatement to both the Owner and the Company, as their respective interests may appear.

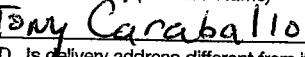
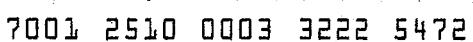
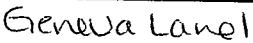
A representative of the Agency will be at the above-stated time and place to present a copy of the Company's/Owner's/Tops project Application (including a cost-benefit analysis) and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: October 21, 2011

By: CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY

## Evidence of Mailing Geneva Land LLC Notice

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)																																		
GENEVA NY 14456																																		
7001 2510 0003 3222 5472	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: left; padding: 2px;">Geneva Land</td> <td style="width: 50px; text-align: right; padding: 2px;">Postage</td> <td style="width: 50px; text-align: right; padding: 2px;">\$ 0.64</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">0692</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">08</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">Postmark Here</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">10/21/2011</td> </tr> <tr> <td colspan="2" style="text-align: left; padding: 2px;">Certified Fee</td> <td style="text-align: right; padding: 2px;">\$ 2.85</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">\$ 2.30</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right; padding: 2px;">\$ 0.00</td> </tr> <tr> <td colspan="2" style="text-align: left; padding: 2px;">Return Receipt Fee (Endorsement Required)</td> <td style="text-align: right; padding: 2px;">\$ 0.64</td> </tr> <tr> <td colspan="2" style="text-align: left; padding: 2px;">Restricted Delivery Fee (Endorsement Required)</td> <td style="text-align: right; padding: 2px;">\$ 0.00</td> </tr> <tr> <td colspan="2" style="text-align: left; padding: 2px;">Total Postage &amp; Fees</td> <td style="text-align: right; padding: 2px;">\$ 5.79</td> </tr> </table>	Geneva Land	Postage	\$ 0.64			0692			08			Postmark Here			10/21/2011	Certified Fee		\$ 2.85			\$ 2.30			\$ 0.00	Return Receipt Fee (Endorsement Required)		\$ 0.64	Restricted Delivery Fee (Endorsement Required)		\$ 0.00	Total Postage & Fees		\$ 5.79
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PS Form 3800, January 2001. See Reverse for Instructions																																		

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name)  C. Date of Delivery  Tony Caraballo      10/24	
1. Article Addressed to: Geneva City Schools Attn: President, Board of Education 400 West North Street. Geneva, New York 14456		D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
2. Article Number (Transfer from service label) 		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee)		<input type="checkbox"/> Yes	
PS Form 3811, February 2004		Domestic Return Receipt  102595-02-M-1540	

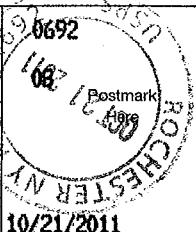
## Evidence of Mailing Geneva Land LLC Notice

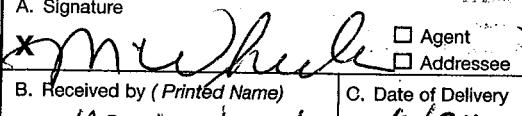
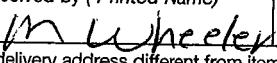
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5489 3222 0003 2510 7001	<p>GENEVA NY 14456</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Geneva Land</td> <td style="width: 50%; padding: 2px;">Postage</td> <td style="width: 50%; padding: 2px;">\$ 0.44</td> </tr> <tr> <td></td> <td style="padding: 2px;">Certified Fee</td> <td style="padding: 2px;">\$ 2.85</td> </tr> <tr> <td></td> <td style="padding: 2px;">Return Receipt Fee (Endorsement Required)</td> <td style="padding: 2px;">\$ 2.30</td> </tr> <tr> <td></td> <td style="padding: 2px;">Restricted Delivery Fee (Endorsement Required)</td> <td style="padding: 2px;">\$ 0.00</td> </tr> <tr> <td></td> <td style="padding: 2px;">Total Postage &amp; Fees</td> <td style="padding: 2px;">\$ 5.59</td> </tr> </table> <p style="text-align: right; margin-top: -10px;">06922 Postmark Here 10/21/2011</p> <p style="text-align: center; margin-top: 10px;">Sent To Geneva City Schools, Attn: Superintendent Street, Apt. No.; or PO Box No. 400 West North Street City, State, ZIP+4 Geneva, New York 14456</p> <p style="text-align: center; font-size: small;">PS Form 3800, January 2001 See Reverse for Instructions</p>	Geneva Land	Postage	\$ 0.44		Certified Fee	\$ 2.85		Return Receipt Fee (Endorsement Required)	\$ 2.30		Restricted Delivery Fee (Endorsement Required)	\$ 0.00		Total Postage & Fees	\$ 5.59
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<p>2. Article Number <i>7001 2510 0003 3222 5489</i> (Transfer from service label)</p>	
<p>PS Form 3811, February 2004   Domestic Return Receipt <i>Geneva Land</i>   102595-02-M-1540</p>	

## Evidence of Mailing Geneva Land LLC Notice

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

GENEVA NY 14456				
<b>7001 2510 0003 3222 5502</b>	<b>Geneva Land</b> Postage      \$ <b>\$0.64</b> Certified Fee      \$ <b>\$2.85</b> Return Receipt Fee (Endorsement Required)      \$ <b>\$2.30</b> Restricted Delivery Fee (Endorsement Required)      \$ <b>\$0.00</b> Total Postage & Fees      \$ <b>\$5.79</b>	 <b>10/21/2011</b>		
	Sent To			
	<b>City of Geneva; Attn: Mayor</b> Street, Apt. No.; or PO Box No.      Geneva City Hall, 47 Castle Street			
	City, State, ZIP+4 <b>Geneva, New York 14456</b>			
	PS Form 3800, January 2001      See Reverse for Instructions			

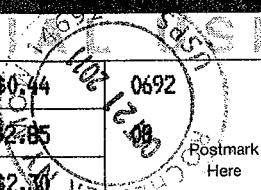
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1. Article Addressed to: <b>City of Geneva Attn: Mayor Geneva City Hall 47 Castle Street Geneva, New York 14456</b>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
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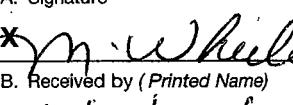
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<p>1. Article Addressed to:  <b>Ontario County Board of Supervisors Attn: Chairman Ontario County Municipal Building 20 Ontario Street Canandaigua, New York 14424</b></p>		<p>B. Received by (Printed Name) <i>Cindy Mayes</i> C. Date of Delivery <b>10-24-11</b></p>	
<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number  <small>(Transfer from service label)</small> <b>7001 2510 0003 3222 5519</b></p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004      Domestic Return Receipt <i>Geneva Land</i>      102595-02-M-1540</p>			

## Evidence of Mailing Geneva Land LLC Notice

U.S. Postal Service CERTIFIED MAIL RECEIPT	
(Domestic Mail Only, No Insurance Coverage Provided)	
7001 2510 0003 3222 5496	<b>GENEVA NY 14456</b>  Geneva Land Postage \$ 0.44 Certified Fee \$ 2.85 Return Receipt Fee (Endorsement Required) \$ 2.10 Restricted Delivery Fee (Endorsement Required) \$ 0.00 Total Postage & Fees \$ 5.59 <b>10/21/2011</b>  <b>Sent To</b> City of Geneva, Attn: City Manager Street, Apt. No.; or PO Box No. Geneva City Hall, 47 Castle Street, 3rd Fl. City, State, ZIP+4 Geneva, New York 14456
PS Form 3800, January 2001. See Reverse for Instructions	

<p><b>SENDER: COMPLETE THIS SECTION</b></p> <ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> <p>1. Article Addressed to:          City of Geneva          Attn: City Manager          Geneva City Hall          47 Castle Street, 3rd Floor          Geneva, New York 14456</p> <p>2. Article Number  <small>(Transfer from service label)</small> <b>7001 2510 0003 3222 5496</b></p>	<p><b>COMPLETE THIS SECTION ON DELIVERY</b></p> <p>A. Signature </p> <p><input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <b>Michael Wheeler</b></p> <p>C. Date of Delivery <b>10/24</b></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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PS Form 3811, February 2004      Domestic Return Receipt *Geneva Land*      102595-02-M-1540

## Evidence of Mailing Geneva Land LLC Notice

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

CANANDAIGUA, NY 14424		08/22/11
<b>7001 2510 0003 3222 5526</b>	Geneva Land	Postage \$ 0.64
	Certified Fee \$ 2.85	08/22 Postmark Here
	Return Receipt Fee (Endorsement Required) \$ 2.30	
	Restricted Delivery Fee (Endorsement Required) \$ 0.00	
	Total Postage & Fees \$ 5.79	10/21/2011
<b>Sent To</b> <b>Ontario County Administrator</b> <small>Street, Apt. No., or PO Box No.</small> <small>City, State, ZIP+4</small> <b>Ontario Cnty Municipal Bldg, 20 Ontario St. Canandaigua, New York 14424</b>		
<small>PS Form 3800, January 2001</small> <span style="float: right;">See Reverse for Instructions</span>		

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY							
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p><b>A. Signature</b> <i>Candy Mays</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><b>B. Received by / Printed Name</b> <i>Candy Mays</i> <b>C. Date of Delivery</b> <i>10-24-11</i></p> <p><b>D. Is delivery address different from item 1?</b> <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>							
<p><b>1. Article Addressed to:</b>  <b>Ontario County Administrator</b>  <b>Ontario County Municipal</b>  <b>Building</b>  <b>20 Ontario Street</b>  <b>Canandaigua, New York 14424</b> </p>		<p><b>3. Service Type</b></p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50px;"><input type="checkbox"/> Certified Mail</td> <td style="width: 50px;"><input checked="" type="checkbox"/> Express Mail</td> </tr> <tr> <td style="width: 50px;"><input type="checkbox"/> Registered</td> <td style="width: 50px;"><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td style="width: 50px;"><input type="checkbox"/> Insured Mail</td> <td style="width: 50px;"><input type="checkbox"/> C.O.D.</td> </tr> </table> <p><b>4. Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes</p>		<input type="checkbox"/> Certified Mail	<input checked="" type="checkbox"/> Express Mail	<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.
<input type="checkbox"/> Certified Mail	<input checked="" type="checkbox"/> Express Mail								
<input type="checkbox"/> Registered	<input checked="" type="checkbox"/> Return Receipt for Merchandise								
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.								
<p><b>2. Article Number</b> <i>7001 2510 0003 3222 5526</i></p>		<p><small>(Transfer from service)</small></p> <p>PS Form 3811, February 2004 Domestic Return Receipt <i>Geneva Land</i> 102595-02-M-1840</p>							

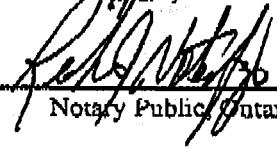
AFFIDAVIT OF PUBLICATION

State of New York,  
COUNTY OF ONTARIO  
CITY OF GENEVA

ss.

Erica Collins of the City of Geneva, County of Ontario, being duly sworn, doth depose and say that he is Authorized Designer Finger Lakes Publishing, Inc., publishers of THE FINGER LAKES TIMES a Daily, Newspaper, published in Geneva, in said County: and that the notice of which the annexed, is a printed copy, cut from said newspaper, was printed and published in the regular edition and issue of said newspaper THE FINGER LAKES TIMES for one day successive beginning October 15 2011 and ending October 25 2011

Subscribed and sworn to before me  
this 27 day of October 2011

  
Notary Public Ontario County, N.Y.

RICHARD JOHN NOTERFONZO  
Notary Public, State of New York  
Registration# 01NQ8022114  
Qualified in Chemung County 15  
Commission Expires March 29, 2015

**NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the City of Geneva Industrial Development Agency (the "Agency") on Monday, November 7, 2011, at 5:00 p.m., local time, at the City of Geneva Public Safety Building at 255 Exchange Street, Geneva, New York, in connection with the following matter:

Geneva Land, LLC, for itself or on behalf of an entity to be formed (the "Company"), Geneva Shopping Center, LLC ("Owner"), and Tops Markets, LLC ("Tops") have submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as tax map numbers 104.18-03-47.12, 104.18-03-17, 104.18-03-16, 104.18-03-49, 104.18-03-50, and 104.18-03-47.11, as modified as necessary) owned by Owner located within the Geneva Shopping Center (the "Existing Improvements") at the south-east corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (ii) the renovation and expansion by the Company, as Lessee and by Tops as Sublessee and as agent of the Agency, of approximately 51,695 square feet of space at the site of the existing Peebles department store to be occupied by a Tops for a supermarket, as subtenant, and related façade and signage changes, (iii) the construction by the Company as Lessee on the Land of an approximately 20,000 square-foot building or

addition for occupancy by the relocated Peaple's department store with related façade and signage changes; (iv) the construction on a portion of tax map number

104.18-03-47.12

owned by the Company ("Company Land") of a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet also to be leased and operated by Tops; (v) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"), and (vi) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company on behalf of Owner of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land and the Company Land, the Existing Improvements and the Improvements, the "Facility"). The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Owner and the Company, as their interests appear, and the Owner will in turn sublease the relevant portions of the Land to the Company. The Owner and the Company, as their interests may appear, will operate the Facility during the term of the respective leases. At the end of the lease term, the Company and the Owner will purchase their respective interests in the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company and to Tops in the form of sales and

use tax exemptions and a mortgage recording tax exemption, consistent with the policies of the Agency, and a partial real property tax abatement to both the Owner and the Company, as their respective interests may appear.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's/Owner's/Tops project Application (including a cost-benefit analysis) and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: October 21,  
2011

By: CITY OF GENEVA  
INDUSTRIAL  
DEVELOPMENT  
AGENCY

475

**EXHIBIT B**

Year	Tops	Pebbles	Gas Pumps
1	\$13,000	\$ 5,000	0 % of increased assessment
2	\$13,000	\$ 5,000	0%
3	\$13,000	\$ 5,000	0%
4	\$13,000	\$ 5,000	0%
5	\$13,000	\$ 5,000	0%
6	\$26,000	\$10,000	20% of assessment
7	\$26,000	\$10,000	40% of assessment
8	\$26,000	\$10,000	60% of assessment
9	\$26,000	\$10,000	80% of assessment
10	\$26,000	\$10,000	100% of assessment
11	20% of assessment	20% of assessment	100% of assessment
12	40% of assessment	40% of assessment	100% of assessment
13	60% of assessment	60% of assessment	100% of assessment
14	80% of assessment	80% of assessment	100% of assessment
15	100% of assessment	100% of assessment	100% of assessment

15 year PILOT for Tops & Pebbles

10 year PILOT for gas pumps

**EXHIBIT C**

[Negative Declaration]

**Attached hereto**

# CITY OF GENEVA, NEW YORK

CITY HALL • 47 CASTLE STREET • GENEVA, NEW YORK 14456



**Neal Braman**  
**Planning Board Coordinator**  
(315) 789-3101  
FAX (315) 789-8373  
Email: [nlb@geneva.ny.us](mailto:nlb@geneva.ny.us)

## MEETING MINUTES

October 17, 2011

### Call to order

Jeff Rokow called to order the regular meeting of the City of Geneva's Planning Board at 7:00 P.M. on October 17, 2011 in the Public Safety Building, which is located at #255 Exchange Street.

### Roll call

Jeff Rokow conducted a roll call. The following Planning Board members were present:

- Sharon Best
- Molly- Cadle Davidson
- Larry Campbell
- Don Cass
- Tony Di Costanzo
- Edith Lurvey
- Jeff Rokow
- Richard Sheills

### City Staff Present:

Neal Braman Planning & Zoning Coordinator  
Paul Damico City Council Liason

### New Business:

1. A Site Plan and architectural review for the Geneva Shopping Center, LLC for a 20,000 ft.<sup>2</sup> addition and a three Island, six pump gas kiosk and associated parking improvements.
  - (A). Richard Sheills made a motion to declare this project as an unlisted action under 6 NYCRR Part 617 and to declare the City Of Geneva Planning Board to be the lead agency for the review. Sharon Best seconded the motion.
  - (B). Jeff Rokow conducted a roll call vote on this motion. The following determinations were given by the board members:

(a) Sharon Best	Aye
(b) Molly Cadle Davidson	Aye
(c) Larry Campbell	Aye
(d) Don Cass	Aye
(e) Tony DiCostanzo	Aye
(f) Edith Lurvey	Aye
(g) Jeff Rokow	Aye
(h) Richard Sheills	Aye

(C). Richard Sheills made a motion to approve the Site Plan & Architectural Review for the proposed Addition to the Geneva Shopping Center, LLC and to approve the short environmental assessment form, part 1 as submitted by the applicant and Part 2 as completed by the Planning Board; making a negative determination of significance, noting that the proposed action will not result in any significant adverse environmental impacts. **The following conditions shall apply:**

- (1). There shall be a 180 day time limit to obtain a building permit
- (2). Nothing in this approval shall relieve the applicant's responsibility to comply with all other state and local requirements, including but not limited to GMC Chapter 350, Zoning, and the NYS Uniform Fire Prevention and Building Code.

Jeff Rokow seconded the motion

(D). Jeff Rokow conducted a roll call vote on this motion. The following determinations were given by the board members:

(i) Sharon Best	Aye
(j) Molly Cadle Davidson	Aye
(k) Larry Campbell	Aye
(l) Don Cass	Aye
(m) Tony DiCostanzo	Aye
(n) Edith Lurvey	Aye
(o) Jeff Rokow	Aye
(p) Richard Sheills	Aye

Motion Passes

**Appendix C**  
**State Environmental Quality Review**  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
**For UNLISTED ACTIONS Only**

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR <i>Geneva Shopping Center, LLC</i>	2. PROJECT NAME <i>Geneva Shopping Center</i>
3. PROJECT LOCATION: Municipality <i>City of Geneva</i> County <i>Ontario</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>Southwest of the Ham-Nam Street and Whitefield Road intersection, east</i>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Proposing a new 4,000 sq ft Koch oil 6 fueling stations and a new 20,000 sf building addition/alteration w/ associated site parking improvements</i>	
7. AMOUNT OF LAND AFFECTED: Initially <u>1.20</u> acres    Ultimately <u>1.20</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly <i>Yes with a special use permit for the fuel stations.</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <i>work is within existing plaza</i>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <i>NYSDOH - Water and Sewer    City of Geneva - Planning Board Ontario County - Planning Board</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <i>All previous aspects work with a permit</i>	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Leonard Fratto (Castelli Financial Agency, Inc.)</u> Date: <u>3/03/11</u> Signature: <u>Leonard Fratto</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If yes, coordinate the review process and use the FULL EAF.
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)		
C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: <i>Minor adverse effects</i>		
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: <i>No</i>		
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: <i>No</i>		
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: <i>No</i>		
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: <i>No</i>		
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: <i>No</i>		
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: <i>No</i>		
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:		
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly:		

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL** NOT result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

CITY of GENEVA PLANNING BOARD

Name of Lead Agency

10/17/11

Date

Jeff Rokow

Print or Type Name of Responsible Officer in Lead Agency

Jeff Rokow

Title of Responsible Officer

Jeff Rokow

Signature of Responsible Officer in Lead Agency

Jeff Rokow

Signature of Preparer (If different from responsible officer)

**Reset**

# CITY OF GENEVA DPW – Division of Buildings & Development

Date rec'd: 8/31/2011

## APPLICATION TO THE CITY OF GENEVA PLANNING BOARD

(please fill out completely and legibly)

(Applicant's name) Geneva Shopping Center LLC (F.S. Development)

(Mailing address) 10 Goodman Street  
Rochester, NY 14602

(Telephone) 585-222-1580 (From 5-1580)

(Name of project) Geneva Shopping Center

(Date of application) 8/29/11

I (we) hereby apply to the City of Geneva Planning Board for review and approval of (check all that apply):

Site plan review

Architectural review

Subdivision approval

Special use permit

Recommendation for Zoning Map amendment

## LOCATION OF PROPERTY (if property includes 2 or more existing parcels, please list each)

(Street address) Hamilton Street and Webster's Pond

(SBL Number) 104.18-03-17, 104.18-03-18, 104.18-03-30, 104.18-03-49  
104.18-03-17,12, 104.18-03-47,11

(Approximate dimensions and acreage) 1242' x 864') 1/20 acres

(Please indicate if property is within 500 feet of Routes 5 & 20, Seneca Lake, or the city boundary lines)

Within 500' of Routes 5 & 20

## PRESENT USE AND ZONING OF PROPERTY

(Present use) Commercial

(Present zoning district) B1

(Property within Historical District?) N/A

(Property within flood zone?) N/A

(Please describe any previous Planning Board or Zoning Board approvals which have been granted affecting the property) \_\_\_\_\_

N/A

## PROPOSED USE OF PROPERTY

(Please describe, as specifically as possible, the proposed use and any new buildings or site improvements to be constructed) Proposing a 1,200,000 SF Retail Addition and a fuel kiosk with 6 fueling locations. Other work within the plans includes new drainage, new land lines and a relocating a local's dock.

(Is the proposed use permitted by present zoning?) w/ special use permit (Zoning)

(Will any variances or other approvals in addition to this application be required? If so, please list) Special permit (Fuel Station)

(Number of on-site parking spaces to be provided) 700 (Existing)

(Number and location of off-site parking spaces to be provided) N/A

(Total number of employees) TBD

(If more than one shift, number on largest shift) TBD

(Floor area of building in square feet) 1/2 20,000

(Customer floor area in square feet) TBD

(Deliveries, in numbers of vehicles, frequency, etc.) TBD

(Please describe any outdoor storage) N/A

(Please describe signs proposed, including dimensions) TBD

(Please describe if signs are to be illuminated) TBD

(Please describe if any other permits or approvals are to be obtained from any other federal, state, county, or local agency, and the status of any applications) NYSDOH - Dec. 2016

Ontario County DOT - Entrance Relocation

(Please describe your construction schedule, including proposed starting and completion dates) Start - 10/2016 - Finish - 6/2017

(Is the work to be done in phases? If so, please describe) TBD

## PROFESSIONALS

(Please list the names, addresses and telephone numbers of those involved with this project)

Engineer

Castek Engineering

217 Lake Avenue

Rochester, NY 14608

(315) 452-3320

Architect

TBD

Surveyor

Castek Engineering

217 Lake Avenue

Rochester, NY 14608

Attorney

TBD

As part of the SEQRA process, part 1 of the Environmental Assessment Short Form will need to be filled out and submitted with each Planning Board and Zoning Board Application.  
This page may be obtained by accessing the web site located under "Applications for Permits"

The applicant(s) hereby affirm that the above information is accurate and complete, to the best of his or her knowledge and information, and that he or she is the title owner of the property identified in the above application or has been authorized by the title owner to make this application.

(Signature/date)

Leigh-Ann Rabitz  
Agent for Applicant

I (we) hereby certify that I (we) am the title owner of the property identified in the above application and that the applicant(s) named above is authorized to make the application described herein.

(Signature/date)

\_\_\_\_\_

---

**FOR OFFICE USE ONLY:**

Fee paid: \_\_\_\_\_

OCPB referral: \_\_\_\_\_

HSDC referral: \_\_\_\_\_

BID referral: \_\_\_\_\_

Notes:

## AGENT AGREEMENT

THIS AGREEMENT, made as of the 1<sup>st</sup> day of April, 2012, by and between the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at 47 Castle Street, Geneva, New York 14456 (the "Agency") and **GENEVA LAND LLC**, a limited liability company duly organized and validly existing under the laws of the State of New York with offices at 1170 Pittsford Victor Road, Pittsford, New York 14534 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 552 of the Laws of 1981 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company, for itself and on behalf of Geneva Shopping Center, LLC, has requested the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as tax map numbers 104.18-03-47.12, 104.18-03-17, 104.18-03-16, 104.18-03-49, 104.18-03-50, and 104.18-03-47.11, as modified as necessary) located within the Geneva Shopping Center (the "Existing Improvements") at the southeast corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (ii) the renovation and expansion by the Company of approximately 51,695 square feet of space at the site of the existing Peebles department store to be occupied by Tops Markets, LLC ("Tops") for a supermarket, as subtenant, and related façade and signage changes, (iii) the construction by the Company on the Land of an approximately 20,000 square-foot building or addition for occupancy by the relocated Peeble's department store with related façade and signage changes; (iv) the construction on a portion of tax map number 104.18-03-47.12 of a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet also to be leased and operated by Tops; (v) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"), and (vi) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, by resolution adopted on November 7, 2011 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. **Scope of Agency.** The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Facility. **The right of the Company to act as agent of the Agency shall expire on December 31, 2012;** unless extended as contemplated by the Resolution. The aggregate amount of work performed as agent for the Agency shall not exceed the amounts described in the Application of the Company in this matter. All contracts entered into as agent for the Agency shall include the following language:

"Except to the extent of bond proceeds (to the extent bonds are issued by Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder."

2. **Representations and Covenants of the Company.** The Company makes the following representations and covenants in order to induce the Agency to proceed with the Facility:

(a) The Company is a limited liability company duly organized and validly existing under the laws of the State of New York, has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances

will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

4. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less

than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well.

(b) Worker's compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

(d) Flood insurance in an amount at least equal to the lesser of (i) the cash replacement value of the Facility, or (ii) the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1974, as amended. In the alternative, a letter from the appropriate office of the municipality in which the Facility is located to the effect that the Facility is not located in an area designated as a flood hazard area by the Federal Insurance Administration or the Department of Housing and Urban Development.

(e) Prior to completion of the construction of the Facility, any contractor or subcontractor constructing the Facility shall be required to carry worker's compensation and general comprehensive liability insurance with limits reasonably acceptable to the Agency and containing coverages for premises operations, owner's protective, contractor's protective, contractual liability, personal injury liability, broad form property damage, explosion hazard, collapse hazard and underground property damage hazard and coverage for all owned, non-owned and hired vehicles with non-ownership protection for the contractor's or subcontractor's employees.

THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR IN LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTERESTS.

5. Additional Provisions Respecting Insurance. (a) All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance

may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days prior written notice of the cancellation thereof to the Company and the Agency.

(b) All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency on the date hereof. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

6. This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: City of Geneva Industrial Development Agency  
47 Castle Street  
Geneva, New York 14456  
Attn: Executive Director

With a Copy to: Clark Cannon, Esq.  
4067 West Lake Road  
Geneva, New York 14456

And to: Harris Beach PLLC  
99 Garnsey Road  
Pittsford, New York 14534  
Attn: Russell E Gaenzle, Esq.

To the Company: Geneva Land LLC  
1170 Pittsford Victor Road  
Pittsford, New York 14534  
Attn: Kevin Morgan

With a copy to: Fix Spindelman Brovitz & Goldman, P.C.  
295 Woodcliff Drive, Suite 200  
Fairport, New York 14450  
Attn: Jordan Morgenstern, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the Federal or state courts located in Ontario County, New York.

9. The parties are contemplating that, after any applicable public hearings, the Agency will negotiate and enter into a lease agreement ("Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement ("PILOT Agreement") with the Company. The Company agrees not to take title to any real property as agent for the Agency until the Lease Agreement, Leaseback Agreement and PILOT Agreement have been executed and delivered. At any time prior to the execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Agency can transfer title to the Company of all assets acquired by the Company as agent for the Agency. Additionally, at any time prior to execution of the Lease Agreement, Leaseback Agreement and PILOT Agreement, the Company can demand that the Agency transfer title to the Company with respect to all assets acquired by the Company as agent for the Agency, provided all amounts owed the Agency have been paid current.

10. By executing this Agent Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, and (2) other consultants retained by the Agency in connection with the Project; with all such charges to be paid by the Company at the closing or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore. The Company is entitled to receive a written estimate of fees and costs of the Agency's bond/transaction counsel.

The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (1) the applicant's withdrawal, abandonment, cancellation or failure to pursue the Project; (2) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (3) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

[Signature Page to Agent Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Agent Agreement as of the day and year first above written.

CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY

By: Dunne M. Wilson  
Chair

GENEVA LAND LLC

By: \_\_\_\_\_  
Robert Morgan, Manager

[Signature Page to Agent Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Agent Agreement as of the day and year first above written.

CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

GENEVA LAND LLC

By: \_\_\_\_\_  
\_\_\_\_\_, Robert Morgan, Manager

**HARRIS BEACH PLLC**  
ATTORNEYS AT LAW

November 13, 2012

99 GARNSEY ROAD  
PITTSFORD, NY 14534  
(585) 419-8800

To: Assessor and Affected Taxing Jurisdiction  
Officials on Schedule A

**AMY ABBINK**  
PARALEGAL  
DIRECT: (585) 419-8744  
FAX: (585) 419-8817  
AABBINK@HARRISBEACH.COM

***Re: City of Geneva Industrial Development Agency and Geneva Land LLC:  
Distribution of Form RP-412-a and PILOT Agreement***

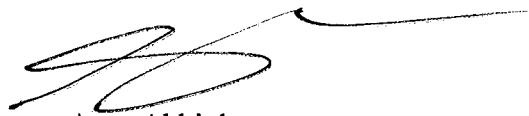
Ladies and Gentlemen:

On behalf of the City of Geneva Industrial Development Agency, I have enclosed for you, the Assessor and Chief Elected Officials of each taxing jurisdiction within which the above-referenced project is located, an Application for Real Property Tax Exemption on Form RP-412-a with attached Payment In Lieu of Tax Agreement.

Should you have questions, please contact me at (585) 419-8744.

Very truly yours,

Harris Beach PLLC



Amy Abbink  
Paralegal

ACA:jr  
Enclosures

Schedule A

Ontario County Administrator  
Ontario County Municipal Building  
20 Ontario Street  
Canandaigua, New York 14424

City of Geneva  
Attn: Mayor  
Geneva City Hall  
47 Castle Street  
Geneva, New York 14456

City of Geneva  
Attn: Assessor  
Geneva City Hall  
47 Castle Street  
Geneva, New York 14456

Geneva City Schools  
Attn: Superintendent  
400 West North Street  
Geneva, New York 14456

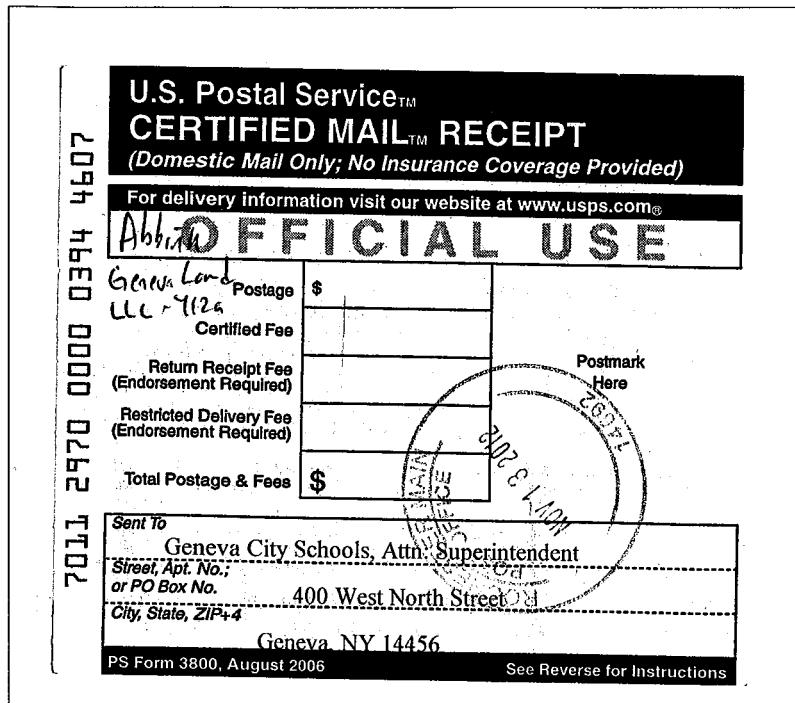
Ontario County Board of Supervisors  
Attn: Chair  
Ontario County Municipal Building  
20 Ontario Street  
Canandaigua, New York 14424

City of Geneva  
Attn: City Manager  
Geneva City Hall  
47 Castle Street, 3<sup>rd</sup> Floor  
Geneva, New York 14456

Geneva City Schools  
Attn: President, Board of Education  
400 West North Street  
Geneva, New York 14456

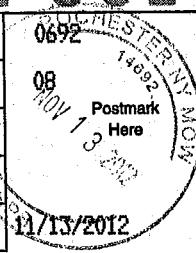
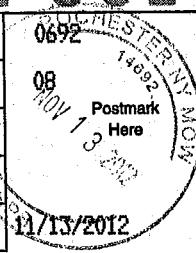
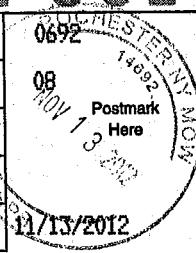
Real Property Tax Department  
Attn: Director  
Ontario County Municipal Building  
20 Ontario Street  
Canandaigua, New York 14424

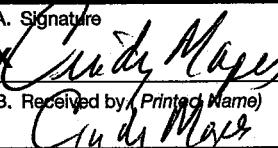
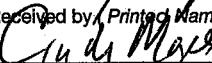
**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**



<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature   <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="text"/> C. Date of Delivery <input type="text"/> 11-14</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes      If YES, enter delivery address below: <input type="text"/> <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:  <b>Geneva City Schools          Attn: Superintendent          400 West North Street          Geneva, New York 14456</b></p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number <input type="text"/> (Transfer from service label)</p>		<p align="center">7011 2970 0000 0394 4607</p>	
<p align="center">PS Form 3811, February 2004 Domestic Return Receipt Geneva Land - 412a 102595-02-M-1540</p>			

**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**

<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL™ RECEIPT</b> <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>													
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>													
<b>ABOVE OFFICIAL USE</b>													
<p>7011 2970 0000 0394 4645</p> <p>General Land LLC 412a</p> <p>0394 4645</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Postage</td> <td style="width: 15%;">\$ 2.10</td> <td style="width: 10%; text-align: right;">0892 14892 Postmark Here</td> </tr> <tr> <td>412a Certified Fee</td> <td>\$ 2.95</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">  </td> </tr> <tr> <td>Return Receipt Fee (Endorsement Required)</td> <td>\$ 2.35</td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td>\$ 0.00</td> </tr> <tr> <td>Total Postage &amp; Fees</td> <td>\$ 7.40</td> </tr> </table> <p>11/13/2012</p>	Postage	\$ 2.10	0892 14892 Postmark Here	412a Certified Fee	\$ 2.95		Return Receipt Fee (Endorsement Required)	\$ 2.35	Restricted Delivery Fee (Endorsement Required)	\$ 0.00	Total Postage & Fees	\$ 7.40
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<p>7011 2970</p>	<p><i>Sent To</i>  <b>Ontario County Board of Supervisors, Attn: Chair</b>  <i>Street, Apt. No.;</i>  <i>or PO Box No.</i>      Ontario Cnty. Muni, Bldg., 20 Ontario St.  <i>City, State, ZIP+4</i>  Canandaigua, NY 14424</p>												
<p>PS Form 3800, August 2006      See Reverse for Instructions</p>													

<p><b>SENDER: COMPLETE THIS SECTION</b></p> <p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.  ■ Print your name and address on the reverse so that we can return the card to you.  ■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:  <b>Ontario County Board of Supervisors</b>  <b>Attn: Chair</b>  <b>Ontario County Municipal Building</b>  <b>20 Ontario Street</b>  <b>Canandaigua, New York 14424</b></p> <p>2. Article Number  <i>(Transfer from service label)</i></p>	<p><b>COMPLETE THIS SECTION ON DELIVERY</b></p> <p>A. Signature    <input checked="" type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p> <p>B. Received by / Printed Name)      C. Date of Delivery    11-14-12</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>7011 2970 0000 0394 4645</p>	
<p>PS Form 3811, February 2004      Domestic Return Receipt General Land LLC - 412a 102595-02-M-1540</p>	

**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**

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**For delivery information visit our website at [www.usps.com](http://www.usps.com)**

**OFFICIAL USE**

**Geneva Land LLC**

Postage	\$
412a	
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

**Postmark Here**

**NOV 13 2012**

**USPS**

**Sent To**

Real Property Tax Dept., Attn: Director

Street, Apt. No.;  
or PO Box No.      Ontario Cnty. Muni, Bldg., 20 Ontario St.

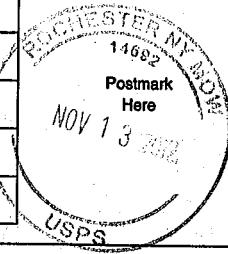
City, State, ZIP+4      Canandaigua, NY 14424

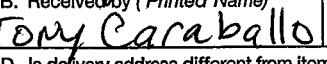
PS Form 3800, August 2006      See Reverse for Instructions

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<p>1. Article Addressed to:</p> <p align="center"><b>Real Property Tax Department</b>  <b>Attn: Director</b>  <b>Ontario County Municipal</b>  <b>Building</b>  <b>20 Ontario Street</b>  <b>Canandaigua, New York 14424</b></p>		<p>3. Service Type</p> <p align="center"><input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee)      <input type="checkbox"/> Yes</p>	
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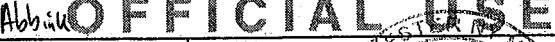
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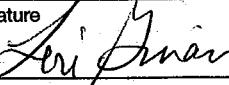
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For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>												
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<p>7011 2970 0000 0394 4614</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Geneva Land</td> <td style="width: 50%;">Postage</td> </tr> <tr> <td>LLC</td> <td>\$</td> </tr> <tr> <td>412a</td> <td>Certified Fee</td> </tr> <tr> <td colspan="2">Return Receipt Fee (Endorsement Required)</td> </tr> <tr> <td colspan="2">Restricted Delivery Fee (Endorsement Required)</td> </tr> <tr> <td colspan="2">Total Postage &amp; Fees</td> </tr> </table>	Geneva Land	Postage	LLC	\$	412a	Certified Fee	Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)		Total Postage & Fees	
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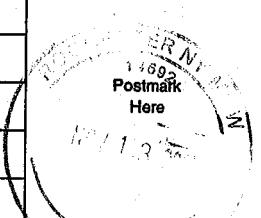
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<p>7011 2970 0000 0394 4614</p>	
<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<p>A. Signature  </p>	
<p><input type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p>	
<p>B. Received by (Printed Name)      C. Date of Delivery   11-14</p>	
<p>D. Is delivery address different from item 1?      <input type="checkbox"/> Yes  If YES, enter delivery address below:      <input type="checkbox"/> No</p>	
<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail      <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered      <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail      <input type="checkbox"/> C.O.D.</p>	
<p>4. Restricted Delivery? (Extra Fee)      <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004      Domestic Return Receipt Geneva Land LLC - 412a 102595-02-M-1640</p>	

**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**

<b>U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)</b>													
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a> ®													
													
<p>Geneva Land LLC 412a Certified Fee</p> <p>Return Receipt Fee (Endorsement Required)</p> <p>Restricted Delivery Fee (Endorsement Required)</p> <p>Total Postage &amp; Fees</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">\$</td> <td style="width: 10%; text-align: center;">02</td> <td style="width: 10%; text-align: center;">14692</td> <td style="width: 10%; text-align: center;">MO</td> </tr> <tr> <td>\$</td> <td style="text-align: center;">02</td> <td style="text-align: center;">NOV 1</td> <td style="text-align: center;">Postmark Here</td> </tr> <tr> <td>\$</td> <td style="text-align: center;">02</td> <td style="text-align: center;">USPS</td> <td></td> </tr> </table>	\$	02	14692	MO	\$	02	NOV 1	Postmark Here	\$	02	USPS	
\$	02	14692	MO										
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\$	02	USPS											
<p><b>Sent To</b></p> <p>City of Geneva, Attn: Mayor Street, Apt. No.; or PO Box No. Geneva City Hall, 47 Castle Street City, State, ZIP+4 Geneva, NY 14456</p>													
<p>PS Form 3800, August 2006</p>													
<p>See Reverse for Instructions</p>													

<b>SENDER: COMPLETE THIS SECTION</b>	
<p>■ Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.  ■ Print your name and address on the reverse so that we can return the card to you.  ■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	
<p>1. Article Addressed to:  <b>City of Geneva Attn: Mayor Geneva City Hall 47 Castle Street Geneva, New York 14456</b></p>	
<p>2. Article Number (Transfer from service label)</p>	
<p align="right"><b>7011 2970 0000 0394 4638</b></p>	
<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<p>A. Signature  <input checked="" type="checkbox"/>  <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>B. Received by (Printed Name) <b>Lori Grunin</b> C. Date of Delivery <b>11-14-02</b></p>	
<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004</p>	
<p>Domestic Return Receipt <b>Geneva Land LLC - 412a</b> 102595-02-M-1540</p>	

## **Evidence of Mailing Geneva Shopping Center, LLC PILOT Evidence of Mailing Geneva Land LLC PILOT**

 U.S. Postal Service™ <b>CERTIFIED MAIL™ RECEIPT</b> <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	<p>For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a></p> <p><b>Abby K OFFICIAL USE</b></p>	
	<p>GuardLand LLC- Postage 412a</p> <p>Certified Fee</p> <p>Return Receipt Fee (Endorsement Required)</p> <p>Restricted Delivery Fee (Endorsement Required)</p> <p>Total Postage &amp; Fees</p>	<p>\$</p> <p> </p>
 <p>11/13/02 N.Y.C. Postmark Here</p>		
<p><i>Sent To</i></p> <p>Ontario County Administrator</p> <p>Street, Apt. No., or PO Box No.</p> <p>City, State, ZIP+4</p> <p>Ontario Cnty. Muni, Bldg. 20 Ontario St.</p> <p>Canandaigua, NY 14424</p>		
<p>PS Form 3800, August 2006</p>		<p>See Reverse for Instructions</p>

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature <i>Andy Moyer</i></p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Andy Moyer</i></p> <p>C. Date of Delivery <i>11-14-12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p> </p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail   <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered   <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail   <input type="checkbox"/> C.O.D.   </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>1. Article Addressed to:</p> <p>Ontario County Administrator      Ontario County Municipal      Building      20 Ontario Street      Canandaigua, New York 14424</p>		<p>7011 2970 0000 0394 4652</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>Domestic Return Receipt  <i>General Land LLC - 412a</i> 102595-02-M-1540</p>	

**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**

**MISSING/LOST**

SEE TRANSCRIPT - NOV 13, 2012

**SENDER: COMPLETE THIS SECTION**

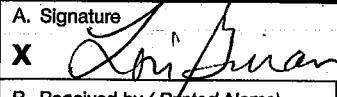
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

City of Geneva  
Attn: City Manager  
Geneva City Hall  
47 Castle Street, 3rd Floor  
Geneva, New York 14456

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

  
Lori Duran

Agent  
 Addressee

B. Received by (Printed Name)

Lori Duran

C. Date of Delivery

11-14-12

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number:

(Transfer from service label)

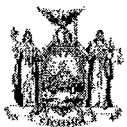
7011 2970 0000 0394 4911

**Evidence of Mailing Geneva Shopping Center, LLC PILOT**  
**Evidence of Mailing Geneva Land LLC PILOT**

**MISSING/LOST**

SEE TRANSCRIPT - NOV 13, 2012

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		<p>A. Signature  <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Lori Curran</u> C. Date of Delivery <u>11-14-12</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to: City of Geneva Attn: Assessor Geneva City Hall 47 Castle Street Geneva, New York 14456		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
2. Article Number (Transfer from service label)		7011 2970 0000 0394 4928	
PS Form 3811, February 2004 Domestic Return Receipt Geneva Land LLC - 4129 102595-02-M-1540			



## NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a (1/95)

### INDUSTRIAL DEVELOPMENT AGENCIES APPLICATION FOR REAL PROPERTY TAX EXEMPTION (Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

#### 1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name City of Geneva Industrial Development Agency  
Street 47 Castle Street  
City Geneva, New York 14456  
Telephone no. Day (315) 789-6104  
Evening ( )  
Contact Matthew Horn  
Title Executive Director

#### 2. OCCUPANT (IF OTHER THAN IDA) (If more than one occupant attach separate listing)

Name Geneva Land LLC  
Street 1170 Pittsford Victor Road  
City Pittsford, New York 14534  
Telephone no. Day (585) 419-9630  
Evening ( )  
Contact Robert C. Morgan  
Title Manager

#### 3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year)  
p/o 104.18-03-47.12 (as more fully described on attached Exhibit 1)
- b. Street address White Springs
- c. City, Town or Village City of Geneva
- d. School District Geneva CSD
- e. County Ontario
- f. Current assessment TBD
- g. Deed to IDA (date recorded; liber and page)  
Lease to IDA (pending; pending)

#### 4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) Please see attached Schedule A
- b. Type of construction Fueling station and kiosk
- c. Square footage Kiosk = 220.5 +/-
- d. Total cost Approx \$2,363,100
- e. Date construction commenced Summer 2012 December 31, 2022
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)

#### 5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment Please see attached PILOT Agreement  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. Projected expiration date of agreement December 31, 2022

c. Municipal corporations to which payments will be made

	Yes	No
County Ontario	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City Geneva	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village N/A	<input type="checkbox"/>	<input checked="" type="checkbox"/>
School District Geneva	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Robert C. Morgan  
 Title Manager  
 Address Geneva Land LLC  
1170 Pittsford Victor Road  
Pittsford, New York 14534

e. Is the IDA the owner of the property? Yes  (circle one)

If "No" identify owner and explain IDA rights or interest  
 in an attached statement. No: Occupant owns the Property and leases it to the IDA. IDA leases it back to  
 Occupant.

Telephone 585 419-9630

6. Is the property receiving or has the property ever received any other exemption from real property taxation?  
 (check one)  Yes  No

If yes, list the statutory exemption reference and assessment roll year on which granted:

exemption \_\_\_\_\_ assessment roll year \_\_\_\_\_

7. A copy of this application, including all attachments, has been mailed or delivered on 11/13/12 (date)  
 to the chief executive official of each municipality within which the project is located as indicated in Item 3.

### CERTIFICATION

I, Joanne Wisor, Chairperson of  
 Name \_\_\_\_\_  
 City of Geneva Industrial Development Agency \_\_\_\_\_ Title \_\_\_\_\_  
 Organization Genesee County Economic Development Center  
 on this application and accompanying papers constitutes a true statement of facts.

10/17/12  
 Date

Joanne C. Wisor  
 Signature

### FOR USE BY ASSESSOR

1. Date application filed \_\_\_\_\_
2. Applicable taxable status date \_\_\_\_\_
- 3a. Agreement (or extract) date \_\_\_\_\_
- 3b. Projected exemption expiration (year) \_\_\_\_\_
4. Assessed valuation of parcel in first year of exemption \$ \_\_\_\_\_
5. Special assessments and special as valorem levies for which the parcel is liable:  
 \_\_\_\_\_  
 \_\_\_\_\_

Date

Assessor's signature

EXHIBIT 1

**LEGAL DESCRIPTION FOR FUEL FACILITY**

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Geneva, County of Ontario and State of New York, more particularly known and described as follows:

Commencing at a point being the intersection of the southerly highway boundary line of Hamilton Street (N.Y.S. Routes 5 & 20) (100 feet wide) and the easterly highway boundary line of White Springs Road (49.5 feet wide);

Thence north  $84^{\circ} 51' 00''$  east along the southerly highway boundary line of Hamilton Street a distance of 185.62 feet to a rebar found, being the True Point and Place of Beginning;

Thence (1) south  $06^{\circ} 03' 20''$  east along the west lines of reputedly Lykin, LLC and reputedly Geneva Shopping Center and passing through a rebar found 220.00 feet distant then continuing for a total distance of 320.00 feet to a point;

Thence (2) north  $84^{\circ} 51' 00''$  east along the south line of said Geneva Shopping Center a distance of 200.00 feet to a point;

Thence (3) south  $06^{\circ} 03' 20''$  east along the west line of said Geneva Shopping Center a distance of 435.36 feet to a point;

Thence (4) south  $83^{\circ} 42' 40''$  west along the north lines of reputedly Colleges of Seneca and reputedly James E. Sullivan and passing through a rebar found 226.49 feet distant then continuing for a total distance of 330.38 feet to a point;

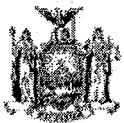
Thence (5) north  $10^{\circ} 01' 10''$  west along the easterly highway boundary line of White Springs Road a distance of 490.40 feet to a point;

Thence (6) north  $84^{\circ} 02' 33''$  east a distance of 133.11 feet to a rebar;

Thence (7) north  $05^{\circ} 59' 10''$  west a distance of 271.36 feet to a rebar in the southerly boundary line of Hamilton Street;

Thence (8) north  $84^{\circ} 51' 00''$  east along the southerly line of Hamilton Street a distance of 30.86 feet to a rebar in the point and place of beginning.

## SCHEDULE A



### NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a (1/95)

### INDUSTRIAL DEVELOPMENT AGENCIES APPLICATION FOR REAL PROPERTY TAX EXEMPTION (Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

#### 4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans of specifications)

The property will be the site of a certain project undertaken by the City of Geneva Industrial Development Agency (the "Agency") consisting of (A) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as part of tax map number 104.18-03-47.12) located adjacent to the Geneva Shopping Center (the "Existing Improvements") at the southeast corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (B)(i) the construction on a portion of the Land of a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet to be leased and operated by Tops Markets, LLC and (ii) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"); and (C) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility").

**CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**  
**AND**  
**GENEVA LAND LLC**

---

**PAYMENT IN LIEU OF TAX AGREEMENT**

---

Tax Map Number:  
Part of 104.18-03-47.12

**Dated as of October 1, 2012**

Affected Tax Jurisdictions:  
Ontario County  
City of Geneva  
Geneva City School District

## PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT (the "Agreement"), dated as of October 1, 2012, is by and between the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 47 Castle Street, Geneva, New York 14456 (the "Agency") and **GENEVA LAND LLC**, a limited liability company duly organized and validly existing under the laws of the State of New York with offices at 1170 Pittsford Victor Road, Pittsford, New York 14534 (the "Company").

### WITNESSETH:

WHEREAS, the Agency was created by Chapter 552 of the Laws of 1981 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project") consisting of: (A) the acquisition by the Agency of title to or other interest in certain land and existing improvements located thereon (being more particularly identified as part of tax map number 104.18-03-47.12) located adjacent to the Geneva Shopping Center (the "Existing Improvements") at the southeast corner of Routes 5 & 20 (a/k/a Hamilton Street) and White Springs Road in the City of Geneva, New York (the "Land"); (B)(i) the construction on a portion of the Land of a fueling facility with six (6) double-sided, self-service fuel dispensers (servicing up to twelve (12) cars simultaneously) and a small kiosk building containing in the aggregate approximately 221 square feet to be leased and operated by Tops Markets, LLC and (ii) the undertaking of related sitework improvements, parking and roadway upgrades (collectively, the "Improvements"); and (C) the acquisition of and installation in and around the Existing Improvements and Improvements by the Company of machinery, equipment, and other fixture-based items of tangible personal property (the "Equipment" and, collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to undertake the Project, the Agency is willing to take a leasehold interest in the Land, the Existing Improvements, the Improvements, and the Equipment constituting the Facility and lease said Land, Existing Improvements, the Improvements, and the Equipment constituting the Facility back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement to be dated on or about the date hereof (the "Leaseback Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency for the benefit of Ontario County (the "County"), the City of Geneva (the "City") and the Geneva City School District (the "School District" and, collectively with the County and the City, the "Affected Tax Jurisdictions").

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Section 1 - Payment in Lieu of Ad Valorem Taxes:

Section 1.1 A. Subject to the completion and filing by the taxable status date (**May 1, 2013**) (the "Taxable Status Date") of New York State Form RP-412-a "Application For Real Property Tax Exemption" (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act and the approval of the Exemption Application by the appropriate assessors or Board of Assessment Review, the Facility shall be exempt from Real Estate Taxes commencing with the **2014** City and County tax year and the **2013-2014** School District tax year. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the City, County and School District. The Company shall provide to the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Leaseback Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency, and releases the Agency from any liability to the Company, arising from the denial of an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors or Board of Assessment Review by the Taxable Status Date.

B. Payee. As long as the Facility is owned by or leased by the Company to the Agency or under the Agency's jurisdiction, control or supervision, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before **December 1** of each calendar year (collectively, the "Payment Date") for City, County and School District taxes commencing on **December 1, 2013** an amount equal to the "Total PILOT Payment", as defined and described on Schedule A attached hereto. Such payments to be made by the Company without invoicing by or notice from the Agency or any other party.

The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder (if any) within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total PILOT Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County, City and special district purposes, the tax rates used to determine the allocation of the Total PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT payment due date. For School District purposes, the tax rates used to determine the PILOT payment shall be the rate relating to the school year which includes the PILOT payment due date.

1.4 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total PILOT Payment. The Agency shall notify the Company of any proposed increase in the Total PILOT Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT payment until a different Total PILOT Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total PILOT Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding PILOT payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include (i) the 2013-2014 School District tax year through the 2022-2023 School District tax year, and (ii) the 2014 County and City tax year through the 2023 County and City tax year. This PILOT Agreement shall expire on December 31, 2022; *provided, however,* the Company shall pay the 2022-2023 School District tax bill and the 2023 County and City tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility which could provide

benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b and 485-e of the New York Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section 2 - Special District Charges, Special Assessments and other Charges. Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section 3 - Transfer of Facility. In the event that the Facility is transferred from the Agency to the Company (the lease/leaseback agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Section 1 herein, or this Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

Section 4 - Assessment Challenges.

4.1 The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section 5 - Changes in Law. To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final

judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

#### Section 6 - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section 1 within thirty (30) days of the Payment Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Leaseback Agreement after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section 1 herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section 1 herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section 7 - Assignment. No portion of any interest in this Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

#### Section 8 - Miscellaneous.

8.1 This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and

shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency:      City of Geneva Industrial Development Agency  
                            47 Castle Street  
                            Geneva, New York 14456  
                            Attn: Chairperson

With a Copy to:      Clark Cannon Esq.  
                            4067 West Lake Road  
                            Geneva, New York 14456

And to:      Harris Beach PLLC  
                            99 Garnsey Road  
                            Pittsford, New York 14534  
                            Attn: Russell E. Gaenzle, Esq.

To the Company:      Geneva Land LLC  
                            1170 Pittsford Victor Road  
                            Pittsford, New York 14534  
                            Attn: Robert C. Morgan, Manager

With a copy to:      Fix Spindelman Brovitz & Goldman, P.C.  
                            295 Woodcliff Drive, Suite 200  
                            Fairport, New York 14450  
                            Attn: James Bonsignore, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8.3 This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Ontario County, New York.

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8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. Neither member of the Agency nor any person executing this Agreement on its behalf shall be liable personally under this Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Agreement.

[SIGNATURE PAGE FOLLOWS]

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

**[Signature Page to PILOT Agreement]**

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**GENEVA LAND LLC**

By: \_\_\_\_\_

Robert C. Morgan, Manager

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_

Joanne Wisor, Chairperson

**[Signature Page to PILOT Agreement]**

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and year first above written.

**GENEVA LAND LLC**

By: \_\_\_\_\_  
Robert C. Morgan, Manager

**CITY OF GENEVA INDUSTRIAL  
DEVELOPMENT AGENCY**

By: Joanne Cee. Wisor  
Joanne Wisor, Chairperson

**SCHEDULE A**

<b>PILOT Year</b>	<b>County &amp; City Tax Year</b>	<b>School District Tax Year</b>	<b>Gas Pumps &amp; Kiosk</b>
1	2014	2013-2014	0 % of increased assessment
2	2015	2014-2015	0%
3	2016	2015-2016	0%
4	2017	2016-2017	0%
5	2018	2017-2018	0%
6	2019	2018-2019	20% of assessment
7	2020	2019-2020	40% of assessment
8	2021	2020-2021	60% of assessment
9	2022	2021-2022	80% of assessment
10	2023	2022-2023	100% of assessment