

CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

APPLICATION FOR FINANCIAL ASSISTANCE

Lake's Edge Inn & Suites, LLC
(Applicant Name)

**Sage Gerling
Executive Director**
47 Castle Street
Geneva, NY 14456
Phone: 315-789-4393 Fax: 315-789-4294
<http://visitgenevany.com/do-business/industrial-development-agency>

Updated May 2020

CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

APPLICATION FOR FINANCIAL ASSISTANCE

I. APPLICANT INFORMATION

Company Name: Lake's Edge Inn & Suites, LLC

Mailing Address: 1095 Broad Street, Montoursville, PA 17754

Phone No.: 570.224.2881

Fax No.: N/A

Fed Id. No.: 87-2745389

Contact Person: Marc F. Demshock

Principal Owners/Officers/Directors (list owners with 15% or more in equity holdings with percentage ownership):

- Rivers Edge Capital, LLC = 100%

Corporate Structure (*attach schematic if applicant is a subsidiary or otherwise affiliated with another entity*)

Form of Entity

Corporation

Date of Incorporation: _____

State of Incorporation: _____

Partnership

General _____ or Limited _____

Number of general partners _____

If applicable, number of limited partners _____

Date of formation _____

Jurisdiction of Formation _____

Limited Liability Company/Partnership (number of members 1)

Date of organization: August 31, 2021

State of Organization: New York

Sole Proprietorship

If a foreign organization, is the applicant authorized to do business in the State of New York?

If any of the above persons, or a group of them, owns more than a 50% interest in the company, list all other organizations which are related to the company by virtue of such persons having more than a 50% interest in such organizations.

Is the company related to any other organization by reason of more than 50% common ownership? If so, indicate name of related organization and relationship.

Has the company (or any related corporation or person) made a public offering or private placement of its stock within the last year? If so, please provide offering statement used.

N/A

APPLICANT'S COUNSEL

Name: Betsy D. Brugg – Woods Oviatt Gilman LLP

Address: 1900 Bausch & Lomb Place, Rochester, NY 14604

Phone No.: 585.987.2905

Fax No.: 585.362.4623

II. PROJECT INFORMATION

A) Project Address: 1115 Lochland Road, Geneva, NY 14456

Tax Map Number 119.16-1-11
(Section/Block/Lot)

Located in City of Geneva

Located in Town of NA

Located in Village of N/A

School District of City of Geneva

B) Are utilities on site?

Water Yes
Gas Yes

Electric Yes
Sanitary/Storm Sewer Yes

C) Present legal owner of the site Winnek Post No. 396, Department of New York American Legion, Inc.

If other than from applicant, by what means will the site be acquired for this project? Same as applicant

D) Zoning of Project Site: Current: PUD-Mixed Use Development
Proposed: _____

E) Are any variances needed? No

F) Furnish a copy of any environmental application presently in process of completion concerning this project, providing name and address of the agency, and copy all pending or completed documentation and determinations.

See attached City of Geneva Planning Board, Resolution #2021-01

G) Statement describing project (i.e. land acquisition, construction of manufacturing facility, etc.):

Acquisition of roughly 5 acres of land and development of a 97,000 sq. ft. 111-room full service, Marriot/Hilton hotel and 7,000 sq. ft. restaurant that compliments the Finger Lake Region (we anticipate a farm to table restaurant and brewery). See attached Exhibit A.

H) Principal use of project upon completion:

manufacturing warehousing research offices
 industrial recreation retail residential
 training data process other

If other, explain: Mixed use hospitality, restaurant and retail

I) Estimated Project Costs, including:

Value of property to be acquired: \$656,200.00

Value of improvements: \$18,954,543.00

Value of equipment to be purchased: \$4,000,000.00

Estimated cost of engineering/architectural services: \$1,600,000.00

Other: \$N/A

Total Capital Costs: \$25,210,743.00

Project refinancing; estimated amount
(for refinancing of existing debt only) \$ N/A

Sources of Funds for Project Costs:

Bank Financing: \$ 17,647,520.10

Equity (excluding equity that is attributed to grants/tax credits) \$ 7,563,222.90

Tax Exempt Bond Issuance (if applicable) \$ -0-

Taxable Bond Issuance (if applicable) \$ -0-

Public Sources (Include sum total of all state and federal grants and tax credits) \$ -0-

Identify each state and federal grant/credit:

_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____
_____ \$ _____

Total Sources of Funds for Project Costs: \$ 25,210,743

J) Inter-Municipal Move Determination

Will the project result in the removal of a plant or facility of the applicant from one area of the State of New York to another?

Yes or No

Will the project result in the removal of a plant or facility of another proposed occupant of the project from one area of the State of New York to another area of the State of New York?

Yes or No

Will the project result in the abandonment of one or more plants or facilities located in the State of New York?

Yes or No

If Yes to any of the questions above, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry:

(d) Indicate relationship to present user of project.

Applicant purchasing land from current owner.

2. Does the project involve acquisition of an existing building or buildings? If yes, indicate number, size and approximate age of buildings:

Yes; Main Building: Approx. 3,109 square feet; Carriage House: Approx. 1,536 square feet; Pool Building: Approx. 690 square feet; All constructed in 1900s, per Assessor's records; and numerous outbuildings (i.e., picnic pavilion, shed, gazebo, pool shed, and carriage house shed.

3. Does the project consist of the construction of a new building or buildings? If yes, indicate number and size of new buildings:

Yes; 97,000 sq. ft. hotel with meeting facilities and 7,000 sq. ft. farm to table restaurant.

4. Does the project consist of additions and/or renovations to existing buildings? If yes, indicate nature of expansion and/or renovation:

No

5. What will the building or buildings to be acquired, constructed or expanded be used for by the company? (Include description of products to be manufactured, assembled or processed, and services to be rendered. . .

Hotel with meeting facilities, retail and wine tasting; and restaurant.

. . .*including* the percentage of building(s) to be used for office space and an estimate of the percentage of the functions to be performed at such office not related to the day-to-day operations of the facilities being financed.)

10% of each building will hold office space to oversee management, sales and accounting operations.

6. If any space in the project is to be leased to third parties, indicate total square footage of the project amount to be leased to each tenant and proposed use by each tenant.

7,000 sq. ft. restaurant may be leased to restauranteur.

7. List principal items or categories of equipment to be acquired as part of the project.

Kitchen, bar, electronics, standard hotel and restaurant FF&E.

8. Has construction work on this project begun?

Complete the following

(a) site clearance	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(b) foundation	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(c) footings	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(d) steel	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(e) masonry work	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete
(f) other (describe below)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> % complete

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III. FINANCIAL ASSISTANCE REQUESTED

A) Benefits Requested:

Sales Tax Exemption IRB MRT Exemption Real Property Agreement

B.) Value of Incentives:

IDA PILOT Benefit: Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted under the heading "Real Property Tax Benefit (Detailed)" of the Application.

Estimated duration of Property Tax exemption: 20 years

Sales and Use Tax:

Estimated value of Sales Tax exemption for facility construction: \$1,137,273.00

Estimated Sales Tax exemption for fixtures and equipment: \$300,000.00

Estimated duration of Sales Tax exemption: Through completion of the project (3-4years)

Mortgage Recording Tax Exemption Benefit:

Estimated value of Mortgage Recording Tax exemption: \$176,476.00

IRB Benefit:

IRB inducement amount, if requested: \$ _____

Is a purchaser for the Bonds in place?

Yes or No

Percentage of Project Costs financed from Public Sector sources:

Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above under the heading "Estimated Project Costs" (Section II(I)) of the Application.

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken by the Agency:

IV. EMPLOYMENT PLAN

	Current # of jobs at proposed project location or to be relocated to project location	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED upon THREE Years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon THREE Years after Project Completion **
Full time (FTE)			20-30	100%
Part Time (PTE)			10-20	100%
Total			30-50	100%

** For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Marker Area, in the fourth column. The Labor Marker Area includes [] (or six other contiguous counties, including Ontario County, chosen at the Agency's discretion).

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

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management	\$60,000 – \$100,000	Vacation, 401K, Health Ins.
Professional	-----	-----
Administrative	\$35,000 – \$50,000	Vacation, 401K, Health Ins.
Production	\$11/hour	Vacation, 401K, Health Ins.
Independent Contractor	\$20 – \$25/hour	-----
Other	-----	-----

III. 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 proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JPTA") in which the project is located.
- B. First Consideration for Employment In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
- C. A liability and contract liability policy for a minimum of three million dollars will be furnished by the Applicant insuring the Agency.
- D. Annual Sales Tax Fillings In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the Applicant.
- E. Annual Employment Reports The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- F. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is

reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

- G. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- H. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- I. Recapture: Should the Applicant not expend or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- J. Absence of Conflicts of Interest The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described.

The Applicant and the individual executing this Application on behalf of applicant acknowledge that the Agency and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

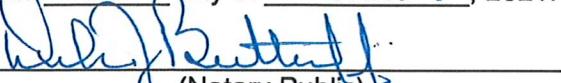
COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF LYCOMING) ss.:

Marc F. Demshock, being first duly sworn, deposes and says:

1. That I am the Managing Director of Rivers Edge Capital, LLC, Sole Member of Lake's Edge Inn & Suites, LLC and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.


(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 3rd day of November, 2021.


(Notary Public)
Commonwealth Of Pennsylvania - Notary Seal
Debra J Buttorff, Notary Public
Lycoming County
My Commission Expires March 18, 2025
Commission Number 1021354

This Application should be submitted to the City of Geneva Industrial Development Agency, c/o Frank Cecere, Chairman, 47 Castle Street, Geneva, NY 14456.

The Agency will collect an administrative fee at the time of closing.
SEE ATTACHED FEE SCHEDULE

Bond Counsel
RUSSELL GAENZLE, ESQ.
Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Tel: (585) 419-8633
Fax: (585) 419-8817

Attach copies of preliminary plans or sketches of proposed construction or rehabilitation or both.

Attach the following Financial Information of the Company

1. Financial statements for last two fiscal years (unless included in company's Annual Reports). **N/A**
2. Company's annual reports (or Form 10-K's) for the two most recent fiscal years. **N/A**
3. Quarterly reports (Form 10Q's) and current reports (Form 8-K's) since the most recent Annual Report, if any. **N/A**
4. In addition, please attach the financial information described above in items 1, 2 and 3 of any expected Guarantor of the proposed bond issue, if different from the company. **N/A**

HOLD HARMLESS AGREEMENT

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

then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in processing of the Application, including attorneys' fees, if any.



(Applicant Signature)

By: Lake's Edge Inn & Suites, LLC

Name: Marc F. Demshock

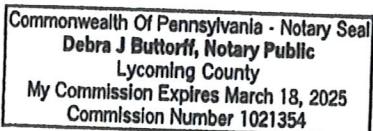
Title: Managing Director of
Sole Member, Rivers Edge
Capital, LLC



(Notary Public)

Sworn to before me this 3rd day
of November, 2021

[stamp]



Real Property Tax Benefits - 1115 Lochland Road
PILOT Estimate Table Worksheet

PILOT Year	% Payment	Estimated County PILOT Amount	Estimated Local PILOT (City, Library included)	Estimated Local Tax Rate (City) + Worker's Compensation Rate		Estimated School Tax Rate/1000 (Includes Library)	Estimated Total PILOT	Estimated Full TAX Payment w/o PILOT	Estimated Net Exemption
				Estimated New Assessed Value of Property Subject to IDA*	Estimated County Tax Rate/1000				
1*	100%	\$4,142.54	\$11,390.91	\$15,271.18	\$30,804.64			\$30,804.64	\$0.00
2	5%	\$6,190.06	\$17,021.05	\$22,819.21	\$46,030.32			\$920,606.33	\$874,576.01
3	10%	\$12,380.12	\$34,042.09	\$45,638.42	\$92,060.63			\$920,606.33	\$828,545.69
4	15%	\$18,570.19	\$51,063.14	\$68,457.62	\$138,090.95			\$920,606.33	\$782,515.38
5	20%	\$24,760.25	\$68,084.19	\$91,276.83	\$184,121.27			\$920,606.33	\$736,485.06
6	25%	\$30,950.31	\$85,105.23	\$114,096.04	\$230,151.58			\$920,606.33	\$690,454.75
7	30%	\$37,140.37	\$102,126.28	\$136,915.25	\$276,181.90			\$920,606.33	\$644,424.43
8	35%	\$43,330.44	\$119,147.32	\$159,734.45	\$322,212.21			\$920,606.33	\$598,394.11
9	45%	\$55,710.56	\$153,189.42	\$205,372.87	\$414,272.85			\$920,606.33	\$506,333.48
10	55%	\$68,090.69	\$187,231.51	\$251,011.28	\$506,333.48			\$920,606.33	\$414,272.85
11	65%	\$80,470.81	\$221,273.60	\$296,649.70	\$598,394.11			\$920,606.33	\$322,212.21
12	75%	\$92,850.94	\$255,315.69	\$342,288.11	\$690,454.75			\$920,606.33	\$230,151.58
13	85%	\$105,231.06	\$289,357.79	\$387,926.53	\$782,515.38			\$920,606.33	\$138,090.95
14	90%	\$111,421.12	\$306,378.83	\$410,745.74	\$828,545.69			\$920,606.33	\$92,060.63
15	95%	\$117,611.19	\$323,399.88	\$433,564.95	\$874,576.01			\$920,606.33	\$46,030.32
TOTALS	46%	\$808,850.66	\$2,224,126.93	\$2,981,768.18	\$6,014,745.77			\$12,919,293.22	\$6,904,547.45

* Base Valuation before improvements. Not included in the total percentage.

Cost Benefit Analysis:

To be completed/calculated by AGENCY

	<u>Costs =</u> <u>Financial Assistance</u>	<u>Benefits =</u> <u>Economic Development</u>
*Estimated Sales Tax Exemption	<u>\$1,437,273</u> (Facility construction and fixtures and equipment)	New Jobs Created Permanent <u>20-30 FTE; 10-20 PTE</u> Temporary <u>75-100 Jobs</u>
Estimated Mortgage Tax Exemption	<u>\$176,476.00</u>	Existing Jobs Retained Permanent <u>N/A</u> Temporary <u>N/A</u>
Estimated Property Tax Abatement	<u>\$6.9 million</u> (Over 15-year period)	Expected Yearly Payroll <u>\$ 1.2 -1.4 million once stabilized</u>
		Expected Gross Receipts <u>\$4.8 - \$5 million once stabilized</u>
		Additional Revenues to School Districts <u>(see estimated PILOT table)</u>
		Additional Revenues to Municipalities <u>(see estimated PILOT table)</u>
		Other Benefits: <u>Property was previously had property tax exemption status. Hotel will pay occupancy and sales taxes. Restaurant will pay sale taxes.</u>
Estimated Interest Savings IRB Issue	<u>\$ _____ N/A</u>	Private Funds invested <u>\$ 25.86 million</u>
		Likelihood of accomplishing proposed project within three (3) years
		<input checked="" type="checkbox"/> Likely or <input type="checkbox"/> Unlikely

* Estimated Value of Goods and Services to be exempt from sales and use tax as a result of the Agency's involvement in the Project. PLEASE NOTE: These amounts will be verified and there is a potential for a recapture of sales tax exemptions (see "Recapture" on page 11).

\$ \$1,437,273 (to be used on the NYS ST-60)

***FEE SCHEDULE FOR THE
CITY OF GENEVA IDA IS AS FOLLOWS:***

Application Fee: \$500 non-refundable, due at application.

Closing Fees/Expenses:

IDA Administrative Fee

One-percent (1%) of the project cost.

IDA Transaction Counsel Fee

\$20,000 plus disbursements (typically \$1,000).

NOTE: IDA reserves the right to seek additional IDA and Counsel fees for exceptionally complex/large transactions.

Please make all Checks payable to:

City of Geneva Industrial Development Agency

Mail to:

*47 Castle Street
Geneva, NY 14456.*

PROJECT DESCRIPTION:

Lake's Edge Inn & Suites, LLC

The Geneva American Legion Winnek Post No. 396 in Geneva, New York will be the new location for the Lake's Edge Seneca development which will include a Marriot/Hilton branded hotel, restaurant/brewery, and wedding/event venue.

The 97,000 sq. ft. 111-room luxury full service, soft branded hotel will feature a rooftop bar and restaurant, wine cellar, outside fire pits with seating area, direct access to the lake via walking paths, a boat dock, and a boat house nearby. Also including a 5,000 sq. ft. ballroom, the hotel will have the ability to keep group demand from corporate retreats, college related seminars, conferences, reunions, weddings, and other social events. The hotel will be constructed using traditional lakefront plantation architecture as in the model of The Sagamore Resort in Lake George or The Lake House on Canandaigua.

Adjacent to the hotel will sit the 7,000 sq. ft. farm-to-table restaurant and brewery. The organic fare and independent drink menu will be attuned to the target demographic of the development as well as Geneva and upstate New York. Not only will the restaurant service the needs of the hotel guests, but it will also be open to the public.

All applications of the project facilitate commerce within the City of Geneva, Ontario County, and the State of New York drawing leisure and commercial demand from sources who may have not considered this location in the past.

The Applicant seeks a PILOT authorization to abate real property taxes for the Lake's Edge Seneca project for multiple reasons. To ensure stabilization of the asset, the PILOT will offset costs associated with operations as well as any unanticipated costs of horizontal and vertical construction. In addition, the awarding of PILOT to Canandaigua-Finger Lakes Resort and The Inn on the Lake puts Lake's Edge Seneca at a competitive disadvantage. Currently, Lake's Edge Seneca has not received nor anticipates receiving any other sources of public funding.



July 1, 2021

VIA ELECTRONIC DELIVERY

Mr. Marc Demshock
Managing Director
Rivers Edge Capital, LLC
1000 Commerce Park Drive, Ste 501
Williamsport, PA 17701

Re: Capital Investment in Rivers Edge Capital and Lakes Edge Seneca, LLC

Marc,

As per our conversations, Pine Ridge Construction Management is proud to partner and provide seed funding for the Rivers Edge Capital and specifically Lake's Edge Seneca, LLC. As such we have committed up to \$15,000,000 to invest with Rivers Edge in various investment opportunities ("Capital Commitment").

Upon receipt of final investment opportunity details and closing instructions, I will have the Capital Commitment wired to your account for closing.

Please let me know if you need any additional information.

Best Regards,


Gerard Lariviere
CEO



July 20, 2021

Rivers Edge Capital, LLC
1000 Commerce Park Drive – Suite 503
Williamsport, PA 17701
C/O Matt Raptosh, Berkadia

RE: A to-be-constructed 100-key full service, flagged hotel, with a restaurant and brewery property type situated adjacent to Lake Seneca (the "Property")

Dear Matt:

X-Caliber Rural Lending, LLC ("Lender") is pleased to provide you with a Proposal to extend credit under the USDA Business & Industry loan program. This Proposal is for discussion purposes only and is not a commitment to lend. A commitment may be made, but only after completion of Lender's underwriting process, formal loan approval, and any conditions thereof. This Proposal is not intended to describe all terms and conditions that would pertain to financing provided by Lender. In the event of a loan commitment, terms and conditions of the applicable commitment letter will supersede this proposal. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in future correspondence and/or loan documentation.

Loan Purpose: Provide financing for purchase of land, construction of improvements, and financing of related soft costs

Applicant/Borrower: Entity To Be Determined

Guarantor(s): Any entity or person that owns 20% or more of the Borrower must guarantee the loan facility.

Project Costs:	Land Acquisition	\$ 1,700,000	
	Construction Costs	\$16,263,000	
	Construction Contingency	\$ 1,626,300	10% of construction costs
	F. F. & E.	\$ 0	
	Loan Interest Reserve	\$ 540,000	
	C-PACE Interest Reserve	\$ 640,000	
	Loan Debt Service Reserve	\$ 275,000	
	C-PACE Related Soft Costs	\$ 210,000	
	Pad/Working Capital	\$ 45,535	
	Loan Related Soft Costs	\$ 700,165	See Addendum
	Total Project Costs	\$22,000,000	

Projected Sources:	Borrower Investment	\$ 4,430,000	20.14%
	XRL USDA Loan	\$12,650,000	57.50%
	Commercial PACE	<u>\$ 4,920,000</u>	<u>22.36%</u>
	Total Project Sources	\$22,000,000	100.0%

Loan Amount: The lesser of \$12,650,000 or 60% of the “as-proposed” appraised value as determined by an appraiser acceptable to XRL and USDA.

Borrower Investment: The minimum injection of capital will be \$9,350,000 (42.50%), including proceeds from a Commercial-PACE; unless part of the financing package, Borrower will also be required to fund required working capital and other general start-up expenses

Collateral: First lien on subject property and improvements located at 115 Lochland Road, Geneva, NY; UCC-1 financing statement on equipment in first position; loan must be fully secured by acceptable collateral after standard commercial discounts to current market value.

Total Loan Term: 324 months (27.0 years)

Construction Period

Repayment: 24 months of interest-only payments, paid monthly; payments to be advanced from an interest reserve until exhausted

Interest Rate: Wall Street Journal Prime + 2.75%, adjusting quarterly

Prepayment Penalty: 10% on the full loan amount, regardless of disbursed amount

Permanent Period

Repayment: Following the Construction Period, the loan will fully amortize over the remaining Loan Term.

Interest Rate: **Option 1 – Quarterly Adjustable**

The loan will have an interest rate that based on Wall Street Journal Prime (“Index”) plus 2.00%, adjusting on the first day of each calendar quarter thereafter based on the then-current index plus the original spread.

Prepayment Penalty – Option 1

Early repayment of non-schedule principal is allowed during the first five years of the permanent period subject to a prepayment penalty of 5%, 4%, 3%, 2%, 1% of any principal paid in excess of regularly scheduled amortization. The borrower may prepay without penalty starting in year six.

Option 2 – Five Year Reset (5 Year Prepay)

The loan will have an interest rate that is fixed for the first five years based on the Five-Year Farmer Mac¹ Cost Of Funds Index (“COFI²”) plus 3.65%, adjusting every five years thereafter based on the then-current index (or index equivalent) plus the original spread. If converted/closed today, the fully indexed rate would be 5.85%.

Prepayment Penalty – Option 2

Early repayment of non-schedule principal is allowed during the first five years of the permanent period subject to a prepayment penalty of 5%, 5%, 5%, 5%, 5% of any principal paid in excess of regularly scheduled amortization. The borrower may prepay without penalty starting in year six.

Option 3 – Five Year Reset (7 Year Prepay)

The loan will have an interest rate that is fixed for the first five years based on the Five-Year Farmer Mac Cost Of Funds Index (“COFI”) plus 3.40%, adjusting every five years thereafter based on the then-current index (or index equivalent) plus the original spread. If converted/closed today, the fully indexed rate would be 5.60%.

Prepayment Penalty – Option 3

Early repayment of non-schedule principal is allowed during the first seven years of the permanent period subject to a prepayment penalty of 7%, 6%, 5%, 4%, 3%, 2%, 1% of any principal paid in excess of regularly scheduled amortization. The borrower may prepay without penalty starting in year eight.

Option 4 – Ten Year Reset

The loan will have an interest rate that is fixed for the first ten years based on the Ten-Year Farmer Mac COFI plus 3.65%, adjusting at years ten and twenty based on the then-current index (or index equivalent) plus the original spread. If converted/closed today, the fully indexed rate would be 6.20%.

Prepayment Penalty – Option 3

Early repayment of non-schedule principal is allowed during the first ten years of the permanent period subject to a prepayment penalty of 10%, 9%, 8%, 7%, 6%, 5%, 4%, 3%, 2%, 1% of any principal paid in excess of regularly scheduled amortization. The borrower may prepay without penalty starting in year eleven.

Floor Rate: For all rate options, the floor rate shall be the starting rate.

¹ <https://www.farmermac.com/about/#01>

² Monthly Pay, 4-Week Rate Lock Column

Additional Options: Additional rate and prepayment combinations may be available. In addition, a forward starting rate collar may be available, for a fee, from a third-party provider. Please contact your X-Caliber loan officer for additional information.

Annual USDA

Guarantee Fee: During the Permanent Period, the USDA will charge an annual guarantee renewal fee of 0.40% on the principal amount of the outstanding as of December 31st of each calendar year. This amount will be collected pro rata with each monthly payment.

Secondary Market

Transactions: Lender may, either at the closing of the Loan or following the closing, sell a portion of the Loan through certificates, participations, securities, or pari passu notes evidencing whole or component interests therein, (each, a "Secondary Market Transaction"). Lender may require separating the Loan into two or more notes. Such notes or components may be assigned different interest rates and principal amounts, so long as, except in the case of the occurrence of a default or condemnation that results in the payment of principal, the aggregate principal amount, interest rate, and debt service payment shall be the same as if the Secondary Market Transaction not occurred.

Adverse Change: Upon the occurrence of any material adverse change or any deterioration in the financial condition of the Applicant or collateral, in Lender's discretion, Lender may terminate the processing of this Loan request.

Fees: Applicant and all Guarantor(s) shall be responsible for all out-of-pocket legal and due diligence fees, costs and expenses incurred by or on behalf of Lender in connection with the Loan (including, without limitation, reasonable attorney's fees, title insurance premiums, survey charges, taxes, site visit costs and expenses, searches, credit and background checks, and engineering, environmental, appraisal, zoning and seismic reporting), regardless of whether the Loan closes. Any fees, costs and expenses incurred by or on behalf of Lender in excess of the Upfront Deposit will be paid by Borrower within three business days of receipt of Lender's invoices.

Proposed Borrower and Guarantor(s) hereby indemnify Lender for any and all fees, costs and expenses in collecting such amounts from proposed Borrower and all Guarantor(s). All obligations of proposed Borrower and Guarantor(s) to pay for fees and expenses of Lender pursuant to this Term Sheet shall survive the expiration or termination of this Term Sheet.

This proposal is for discussion purposes only. This letter is not intended to be all-inclusive but serve as a basis for working towards a mutually acceptable agreement. Please see below for a partial listing of documents and/or conditions required for each phase of the loan process.

Loan Approval

- 1) Completed application package based on a to-be-issued document checklist³.
- 2) Verification and documentation of Borrower Investment.
- 3) Contractor-prepared construction cost breakdown.
- 4) Architectural drawings.
- 5) Receipt of appraisal evidencing minimum valuation acceptable to Lender as determined by Lender review of appraisal.
- 6) Receipt and satisfactory review of USDA-compliant feasibility study from feasibility company approved by Lender.

If the appraisal and feasibility study is commissioned by Lender from one third-party provider, a discounted fee structure will be passed through to applicant.

- 7) Calculation of amount and timing of property improvement and/or furniture, fixtures and equipment reserve will be calculated during the underwriting process. Reserve payments will be collected with each regularly scheduled payment.
- 8) Any and all other items as may be required by Lender to complete Lender's required underwriting for the proposed credit accommodation.

Prior To Loan Closing And Disbursement

- 1) Formal approval by Lender's credit committee.
- 2) Architectural drawings, stamped approved by the local municipality.
- 3) Grading permit from the local municipality.
- 4) Soils compaction report or letter from the project structural engineer or architect verifying that the conditions and constituents of the subject soil are acceptable to support the proposed commercial structure(s).
- 5) Evidence indicating that the real property acting as collateral for the loans is free of contamination from all hazardous substances, toxic substances, or hazardous waste as defined by any federal, state,

³ Per USDA regulations, applications involving affiliated³ entities must include a global credit evaluation which requires historical financial information on each affiliate business. *Affiliates* means persons who control or have the power to control another entity, or a third party or parties that control or have the power to control both.

or local law, statute, ordinance, or regulation, and is free of all other contamination that, even if not so regulated is known to pose a hazard to the health of any person on or about the real property, and contains no underground storage tanks; Lender reserves the right, at the Applicant's expense, to retain an independent consultant to review any such evidence submitted by Applicant or to conduct its own investigation of the real property.

- 6) Lender's receipt of USDA Form 5001-3 ("Conditional Commitment") for not less than 80% of the loan amount.
- 7) Lender's receipt of USDA Form 1940-03 ("Request For Obligation Of Funds – Guaranteed Loans").
- 8) Completion of satisfactory site inspection by personnel or authorized representative of Lender.
- 9) Satisfactory title and hazard insurance, and if required, flood insurance

USDA-Specific Requirements For Construction Projects

- 10) Execution of a firm, fixed price contract with an independent general contractor with costs outlined in detail and terms specifying change order approvals, the retainage percentage, and the disbursement schedule.
- 11) Establishment of third-party funds control.
- 12) Lender's due diligence and approval of contractor.
- 13) A payment and performance bond is required unless borrower is able to provide an acceptable alternative to mitigate construction risk, including a completion commitment from an approved third-party provider.
- 14) Receipt of environmental assessment report, as required by USDA, indicating that the subject property complies with the environmental requirements of the national Environmental Policy Act, as well as other environmental statutes, executive orders and USDA regulations.

Applicant is advised not begin any construction on the subject property prior to loan closing or clearance of Environmental Assessment or Categorical Exclusion by USDA. To do so will likely jeopardize the status and disbursement of this Loan.

Permanent Period Conversion

- 1) Certificate of occupancy or other state or city issued certificate acknowledging completion of construction.
- 2) Copy of recorded Notice of Completion filed by contractor or owner.

- 3) Certification (from appraiser or inspector/third party disbursement entity) that improvements were completed substantially in accordance with plans and specifications as outlined in the appraisal report.

At this time, a deposit towards expenses in the amount of **\$45,000** is required to proceed with the underwriting of your loan request. Upon receipt of the executed Acknowledgement and Authorization and receipt of the requested deposit, Lender will proceed with the underwriting of your loan request. If the loan is not approved, the deposit will be returned to you less any expenses incurred. A full accounting will be provided. If the loan is approved, the deposit is non-refundable should the loan be withdrawn for any reason.

If you do not respond by **August 2, 2021**, no further consideration will be given to the application. Upon receipt of the requested items, you will receive a checklist of remaining documentation required to underwrite your loan request.

Please note, all indicative and current interest rates used in this letter are current as of the approximate date of this letter and are subject to change based on market conditions and movement in the any underlying index.

Sincerely,



Jordan M. Blanchard

Executive Manager

X-Caliber Rural Lenders, LLC

Proposed Borrower Acknowledgment and Authorization

The terms and conditions contained in this Proposal have been reviewed and accepted by the undersigned.

Applicant and Guarantor(s) hereby direct Lender to proceed with evaluation and due diligence to be undertaken in the loan approval process. Applicant and Guarantor(s) authorize Lender to conduct such investigations and inquiries as may be necessary or desirable (in the sole and absolute discretion of Lender) in connection with the consideration of your application. In addition, the undersigned authorizes Lender to share any and all information relating to this application with potential financial partners and the USDA.

On Behalf Of Applicant:

Name: MARC DEMSHOCK
Signature: 
Title: Managing Director
Date: 8/10/21

On Behalf Of Guarantor(s):

Name: Marc Demshock
Signature: 
Title: Managing Director
Date: 8/10/21

Please note desired interest option: 3

Loan Related Soft Cost Addendum

Third Party Soft Cost Allocation *

USDA Guarantee Fee	\$303,600	2.40%
Lender Origination Fee	\$189,750	1.50%
Lender Site Inspection	\$ 1,500	
Appraisal, Feasibility, Underwriting Fee**	\$ 30,000	
Environmental Assessment	\$ 6,500	
Phase 1 Site Inspection	\$ 1,500	
Legal Cost Allocation	\$ 25,000	
Title/Escrow Allocation	\$ 25,000	
Funds-Control & Completion Guarantee	<u>\$117,315</u>	
Total Loan Related Soft Costs	\$700,165	

* Title, legal and funds-control are allocations only, not formal cost estimates.

** Third-party consultant fees. Cost estimate assumes Lender commissions the appraisal and feasibility study from preferred vendor.



July 19, 2021

Rivers Edge Capital, LLC
1000 Commerce Park Drive – Suite 503
Williamsport, PA 17701
c/o Matt Raptosh - Berkadia

CastleGreen Finance, LLC (“Capital Provider”) is pleased to consider your request for financing (the “PACE Assessment”) secured by a contractual assessment lien on the Property to secure all obligations under the financing documents under the general terms and conditions outlined below

Property Name: Geneva Commons

Property Description: A to-be-constructed 100-key, full service, flagged hotel, with a restaurant and brewery located at 1115 Lochland Rd, Geneva City, NY (the “Property”)

Property Owner: Rivers Edge Capital, LLC, who shall be the sole owner or controlling party of the ownership entity

Capital Provider: CastleGreen Finance, LLC (“CGF”) or its affiliates, successors or assigns.

Program Administrator / Servicer: Energy Improvement Corporation (“EIC”) PACE

PACE Assessment : Up to \$4,920,000 any requested increase to the PACE Assessment amount shall be expressly agreed to by CGF in its sole discretion. The PACE Assessment shall include eligible project costs, Financing Fees, Capitalized Interest, and Other Fees as defined below.

Closing Date: The date on which all PACE Program requirements have been satisfied and the Capital Provider and Property Owner agree to finalize the financing.

Term: The maximum period allowed by the applicable PACE statute but in no event shall it exceed 25 years.

Amortization: The PACE Assessment will be fully amortizing during the Assessment Term following the Capitalized Interest period.

Interest Rate: The Interest Rate will be fixed seven (7) days prior to the Closing Date at the greater of:



- (i) a spread expected to be 359 basis points over the 30-year treasury bond yield; and
- (ii) 5.75% (Floor Rate).

Annual Payment:

The annual PACE payment is estimated at \$375,995 at the Floor Rate.

Maximum Assessment to Value:

The PACE Assessment may not exceed 25% of the Property value, as determined by the “as stabilized” appraised value from an MAI appraisal acceptable to the Capital Provider.

Minimum Equity:

A minimum of 20% cash equity must be invested in the property by the Property Owner.

Disbursements:

Unless specifically negotiated the PACE Assessment shall be fully funded on the Closing Date and a shall be disbursed upon the negotiated provisions of applicable financing agreement, disbursement agreement or other documents that sets forth the disbursement of funds.

Capitalized Interest:

An amount which satisfies interest payments due on the PACE Assessment for a period of time beginning on the closing date and expected to extend through the January 31, 2024 tax payment date, however not to exceed the period permissible under the applicable statute or PACE Program guidelines, during the construction period.

Financing Fees:

- a) **Capital Provider Fee:** 2.5% of total PACE Assessment
- b) **Program Administration Fees:**

- 1) An initial fee of (1.5%) to be calculated on the total PACE Assessment and capped at \$125,000 as set forth in the Program Guide for the State of New York commercial PACE Program.
- 2) An annual fee equal to a 25 bps servicing fee, as described in the EIC Program Guide, shall be payable with the annual tax billing and shall be detailed on the payment amortization schedule attached to the Special Assessment and Financing Agreements.

Property Owner represents that it has not engaged any other brokers for this transaction relative to the C-PACE financing.

Pre-Payment Provisions:

The Assessment is fully prepayable at any time during the Term, provided, however, that a prepayment premium shall be equal to the following:

Through Yrs
3

Prepayment Premium
a Make Whole of all interest



4-5	3%
6-7	2%
8- thru Maturity	1%

Make Whole shall be defined as payment of full interest due up to and including the end of the referenced prepayment period (the “Make Whole Period”). If a PACE Assessment is prepaid within the Make Whole Period, the first prepayment premium thereafter will be due with the Make Whole interest.

Environmental Review:

An acceptable Phase I property assessment (and, if needed, a Phase II) property assessment by an environmental firm acceptable to Capital Provider.

General Underwriting and Conditions to Closing:

The following conditions shall be required and each shall be acceptable to the PACE Program (if applicable) and the Capital Provider in their sole and absolute discretion:

1. Delivery of all necessary PACE Program requirements as set forth in the Program Guide
2. Receipt of substantially all items included in Capital Provider’s closing file checklist;
3. Satisfactory completion of Capital Provider’s due diligence;
4. Internal approval from Capital Provider’s Investment Committee;
5. Satisfactory negotiation of all legal documentation, required by the applicable PACE program and Capital Provider;
6. Satisfactory completion of OFAC and bankruptcy searches, as well as background investigations if necessary;
7. First mortgage financing is closed or closes simultaneously with available funds pursuant to the terms of the applicable loan agreement, executed mortgage, and completion guarantees (if required);
8. Any applicable zoning variances permitting the proposed improvements and uses has been secured;
9. An energy report performed by a NYSERDA approved engineer confirming that any applicable Energy Conservation Measures (“ECMs”) comply with the statutes of the applicable PACE Program;
10. Generally, buildings may be designed in accordance with the following standards: NY Stretch, Passive House Institute



(PHI), Passive House Institute US (PHIUS), Energy Star, the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating systems, and Enterprise Green Communities (Criteria 2020 or later). Buildings designed to meet or exceed such standards should be eligible for C-PACE financing.

11. A current title report must reveal that title is not subject to any liens or other restrictions on the Property Owner's authority to agree to the PACE Assessment.
12. Review of the pro-forma financial statements which reflect satisfactory financial performance criteria of the Property Owner.
13. Others, as deemed necessary by the PACE Program or Capital Provider.

Post Closing Requirements:

Property Owner shall comply with all relevant conditions contained in the financing agreement and PACE contracts and closing documents and including, but not be limited to:

1. Property owner shall provide all documentation required under the financing agreement and/or disbursement agreement, and any other documentation reasonably deemed necessary to ensure timely processing of all draw requests.
2. Capital Provider, or its designee, shall be entitled to periodic property inspections during the construction period and annual property inspections after issuance of a certificate of occupancy, each as reasonably deemed necessary and with reasonable notice.
3. During the term of the PACE Assessment, Property Owner/Borrower shall insure the Property against loss or damage by fire or other casualty with PACE Capital Provider or its designee (including the PACE Program if applicable) included as an additional insured.

Lender's Default Remedies

Usual and customary remedies within the statutes of the applicable PACE Program, which may include, but not be limited to, default interest at the lesser of the amount permitted by the applicable PACE Program, or if not specified, at the amount permitted by law.

Material Adverse Effect:

Upon the occurrence of any material adverse change in (a) the ability of the Property Owner to timely perform any obligations under any of the financing documents or PACE contracts, or (b) the validity or priority of the PACE Assessment lien or enforceability of the financing



documents or PACE contracts, each as may be determined in Capital Provider's sole discretion, Capital Provider may terminate the processing of this term sheet and terminate its obligations, if any, hereunder.

Incentives and Rebates:

Property Owner shall apply for and secure any available incentives and rebates associated with the energy efficiency improvements as they so determine.

Other Representations and Warranties, Covenants:

Usual and customary for a transaction of this type, including compliance with the USA Patriot Act.

Governing Law:

This Term Sheet shall be governed by and enforced in accordance with the laws of the State of the New York, excluding its choice of law rules. Each party hereby irrevocably consents to the jurisdiction of the state courts of the State of New York and in any federal court located in such jurisdiction in connection with any action or proceeding arising out of or relating to this Term Sheet.

Good Faith Expense Deposit:

Upon execution of this Term Sheet and delivery by the Property Owner to Capital Provider, the Property Owner will deposit with Capital Provider, the amount of \$35,000 (the "Expense Deposit") by wire, using the wiring instructions provided by CGF.

The Expense Deposit will be used as Good Faith toward all transaction expenses incurred by Capital Provider during the underwriting of the PACE Assessment.

1. Upon closing, all costs generally associated with a PACE transaction shall be detailed in the financing documents and be included in total PACE Assessment.
2. If the PACE Assessment does not close and the actual expenses are less than the Expense Deposit, Capital Provider will refund the excess to the Property Owner.
3. If the actual costs and expenses of Capital Provider exceed the Expense Deposit, the Sponsor or Property Owner shall promptly deposit an additional expense deposit with Capital Provider who will bill the Property Owner for any deficiency, whether or not there is a closing.
4. Capital Provider shall provide Property Owner with an accounting of due diligence spent as requested.
5. Capital Provider will endeavor to utilize all third-party reports and due diligence as provided to and for the first mortgage lender for the purpose of minimizing total closing costs to the



Property Owner.

6. The Sponsor and Property Owner hereby agree to indemnify Capital Provider for any and all fees, costs and expenses in collecting such amounts from the Sponsor and Property Owner. All obligations of the Sponsor and Property to pay for fees and expenses of Capital Provider pursuant to this term sheet shall survive the expiration or termination of this term sheet.



This Term Sheet is not a commitment to lend, either expressed or implied, and does not impose any obligation on Capital Provider to make the PACE Assessment. The terms and conditions outlined above are not all inclusive, but merely reflect the parties' discussions to date and are subject to satisfactory completion of due diligence, final documentation and investment committee approvals. The contents hereof are confidential and are intended for use exclusively by the parties, their advisors and legal counsel in connection with the PACE Assessment from the Capital Provider and may not be disclosed to any third party by Property Owner or its representatives.

If the Sponsor's and Property Owner's acceptance of this Term Sheet is not received by CGF by close of business on July 22nd, 2021, this Term Sheet shall be of no further force and effect. The PACE transaction shall close no later than six (6) months from the date this term sheet is signed or all terms shall become null and void unless it is otherwise extended by CGF in writing.

Please call Sal Tarsia at 914-815-9807 if you have any questions. If the terms contained herein are acceptable to you and to commence processing of your requested financing, please sign below and return a copy to us via email.

Sincerely,

Sal Tarsia
Managing Partner

Agreed to and accepted on this 10 day of August, 2021

Authorized signatory of Property Owner

By: 

Name: Marc Demshock

Title: Managing Director

FINAL RESOLUTION
(Lake's Edge Inn & Suites, LLC Project)

A special meeting of The City of Geneva Industrial Development Agency was convened on Friday, December 10, 2021.

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

Resolution No. 12/2021-10

RESOLUTION OF THE CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACCEPTING AN APPLICATION WITH RESPECT TO A CERTAIN PROJECT (DEFINED BELOW); (ii) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON NOVEMBER 30, 2021, WITH RESPECT TO THE LAKE'S EDGE INN & SUITES, LLC (THE "COMPANY") PROJECT (AS FURTHER DESCRIBED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, AND EQUIPPING OF THE PROJECT, (B) A MORTGAGE RECORDING TAX EXEMPTION AS PERMITTED BY NEW YORK STATE LAW, AND (C) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A PILOT AGREEMENT; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 552 of the Laws of 1981 of the State of New York, as amended (hereinafter collectively called the "Act"), **THE 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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **LAKE'S EDGE INN & SUITES, LLC** for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company"), has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project"), consisting of: (i) the acquisition by the Agency of a leasehold or other interest in a certain property located at 1115 Lochland Road in the City of Geneva, New York, Ontario County, New York (the "Land") and the existing improvements thereon, consisting principally of an approximately 3,109 square foot building a/k/a the Main Building, an approximately 1,536 square foot building a/k/a the Carriage House, an approximately 690 square foot building a/k/a the Pool Building and numerous

outbuildings (collectively, the "Existing Improvements"), (ii) the construction of an approximately 97,000 square-foot, 111-room full service Marriot/Hilton hotel consisting of a rooftop bar and restaurant, wine cellar, outdoor fire pits with seating area, direct access to the lake via walking paths, a boat dock and boat house and an approximately 7,000 square foot farm-to-table restaurant and brewery (collectively, the "Improvements"), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and Improvements are the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a PILOT Agreement (the "PILOT Agreement") and related documents with the Company (collectively the "Agency Documents"), (iii) take or retain title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the 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, construction and equipping of the Project, (b) an exemption from the mortgage recording tax as authorized by the laws of the State for financing related to the Project, and (c) a real property tax abatement structured through the PILOT Agreement (the "Total PILOT Payment"; and, together (a) and (b), the "Financial Assistance"); and

WHEREAS, the Total PILOT Payment shall be calculated as follows in **Schedule A** attached hereto.

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to Section 859-a of the Act, on Tuesday, November 30, 2021, at 7:00 p.m., local time, the Agency held a public hearing at 47 Castle Street, Geneva, New York 14456 and via teleconference with respect to the Project and the proposed Financial Assistance 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 Notice of Public Hearing published in *The Finger Lakes Times*, the affidavit of publication of such newspaper, and Minutes of the Public Hearing are attached hereto as **Exhibit A**; and

WHEREAS, the Project constitutes a "retail" project as defined under Section 862 of the Act and as such requires additional findings; and

WHEREAS, the Company has represented to the Agency that the Project is located near several tourist destinations, including, but not limited to, several wineries located in the Finger Lakes region, which attract a significant number of visitors from outside the economic development region (as established by Section 230 of the New York State Economic Development Law), and the Facility will provide lodging service to these destinations, therefore, constituting a "tourism destination" as defined in Section 862(2) of the Act.

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the PILOT Agreement and related documents have been negotiated and will be presented to the Agency for execution subject to the approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE CITY OF GENEVA INDUSTRIAL DEVELOPMENT 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 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) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

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

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

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of 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 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; and

(F) The Geneva City Council has conducted a review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). The Geneva City Council issued a Negative Declaration on July 8, 2021, determining that the Project does not pose a potential significant adverse impact. The

Agency, having reviewed the materials presented by the Company, including, but not limited to, the Full Environmental Assessment Form further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Geneva City Council pursuant to 6 N.Y.C.R.R. § 617.7. A copy of the Negative Declaration issued by the Geneva City Council is attached hereto as Exhibit B.

(G) Pursuant to Section 862 of the Act, the Project constitutes a "retail" project. Based on representations made by the Company to the Agency, the Agency hereby finds that the Project is likely to attract a significant number of visitors from outside the economic development region, which includes Monroe County, Genesee County, Livingston County, Orleans County, Seneca County, Wayne County, Wyoming County and Yates County, as established by section two-hundred thirty of the New York State Economic Development Law and therefore constitutes a "tourism destination" under the Act.

Section 2. The Public Hearing held by the Agency on November 30, 2021, concerning the Project and the Financial Assistance, was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing (such notice also being provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a mortgage recording tax exemption as permitted by State law, and (c) a real property tax abatement structured through the PILOT Agreement.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$20,000,000**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$1,500,000**. The Agency agrees to consider any requests by the Company for an increase to the amount of Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized

to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. The Agency may recover or recapture from the Company any Financial Assistance subject to the provisions in the Agency's Uniform Tax Exemption Policy, as set forth below:

(A) The Agency, in its sole discretion and on a case-by-case basis may determine (but shall not be required to do so) with respect to a particular project to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's Involvement. Events that the Agency may determine will trigger recapture may include, but shall not be limited to, the following:

- (1) Sale or closure of facility;
- (2) Significant employment reduction;
- (3) Significant change in use of facility;
- (4) Significant change in business activities of project applicant or operator;
or
- (5) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal state or local environmental laws or regulations.

If the Agency determines to provide for recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

(B) In addition to the provisions for recapture set forth in Paragraph E, the Agency may, in its sole discretion and on a case by-case basis, require recapture of benefits with respect to any project or project applicant for:

- (1) Failure to respond to Agency inquiries concerning payment of principle and interests;

(2) Failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;

(3) Failure to respond to Agency Inquiries regarding payment of monies in lieu of taxes;

(4) Failure to respond to Agency Inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations pursuant to Paragraph D or Paragraph E of this policy;

(5) Failure to respond to the inquiries of the Agency or failure to provide the Agency with any information or document requested by the Agency in order to provide and federal, state or local agency with information or reports required under any applicable law, rule or regulation;

(6) Failure to provide any other information concerning the project or the project applicant or any project operator requested by the Agency.

Upon the occurrence of any of these events listed in this Paragraph F, the Agency will, upon at least 10 calendar days, send a written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the Information requested by the Agency. Within thirty (30) calendar days after the hearing, the Agency will issue a determination whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency's involvement.

Section 7. The Agency, in its sole discretion and on a case-by-case basis, may recover or recapture from the Company any Financial Assistance, and shall constitute and Event of Default under the Agency Documents, in the event of any of the following:

(A) the hotel portion of the Facility ceases to be operated by a National Flag (i.e., Marriott, Hilton, etc.);

(B) the fifty-one (51) condominium units are not completed within five (5) years of execution of the Agency Documents;

(C) the Project:

(1) ceases to use at least 60% Local Labor (defined below) for the construction or renovation of new, expanded, or renovated facilities. "Local Labor" shall mean persons residing in Ontario, Monroe, Livingston, Seneca, Wayne, Yates, Steuben, Chemung, or Schuyler Counties. A waiver process will be available if the Project requires specialty contractors and/or involves significant cost increases due to local labor requirements;

(2) does not purchase at least 60% of the building materials used by the Company, its contractors or sub-contractors and used in connection with the acquisition,

construction and equipping of the Facility are purchased from within Ontario, Monroe, Livingston, Seneca, Wayne, Yates, Steuben, Chemung, or Schuyler Counties. A waiver process will be available if the Project requires specialty contractors and/or involves significant cost increases due to local labor requirements (collectively, the "Labor Policy").

The Agency will require a Ten Thousand and 00/100 Dollars (**\$10,000.00**) monitoring fee (the "Monitoring Fee") for a monitoring firm to be determined by the Agency (the "Monitoring Firm") to monitor the Labor Policy. The Monitoring Firm will hold the Monitoring Fee in escrow and will either (i) return any unused funds to the Company or (ii) require replenishment of funds if the Monitoring Fee is exhausted.

Section 8. Subject to the Company executing the Project 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 acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (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 Project Agreement shall expire on **December 31, 2025** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, the Leaseback Agreement and the PILOT Agreement contemplated have not been executed and delivered

Section 9. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed One Hundred Seventy-Six Thousand Four Hundred Seventy-Six and 00/100 Dollars (**\$176,476.00**).

Section 10. The Executive Director, Chair and/or Vice Chair of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the PILOT Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 11. The Executive Director, Chair and/or Vice Chair of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record any mortgage, 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") (collectively, the

"Mortgage") necessary to undertake the Project, acquire the Facility and/or finance or refinance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, PILOT Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Executive Director, Chair and/or Vice Chair of the Agency shall approve, the execution thereof by the Executive Director, Chair and/or Vice Chair 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 12. 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 13. These Resolutions shall take effect immediately upon adoption.

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>
Irene Rodriguez	[x]	[]	[]	[]
Anne Nenneau	[x]	[]	[]	[]
R.J. Passalacqua	[x]	[]	[]	[]
Rick Bley	[x]	[]	[]	[]
Lowell Dewey	[x]	[]	[]	[]
Benjamin Vasquez	[x]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Lake's Edge Inn & Suites, LLC Project)

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 December 3, 2021, with the original thereof on file in the Agency's 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 10th day of December, 2021.

Glenn L Rodriguez
Secretary

Exhibit A

Notice Letter, Notice of Public Hearing,
of Publication of *The Finger Lakes Times* and Minutes of Public Hearing

[Attached Hereto]



NOTICE LETTER
LAKE'S EDGE INN & SUITES, LLC PROJECT

November 10, 2021

To: Chief Executive Officers of
Affected Taxing Jurisdiction Listed on Attached Schedule A

Re: City of Geneva Industrial Development Agency and
Lake's Edge Inn & Suites, LLC: – Proposed Project and Financial Assistance

Ladies and Gentlemen:

On Monday, November 30, 2021, at 7:00 p.m., local time, at the offices of the City of Geneva Industrial Development Agency (the "Agency") at 47 Castle Street, Geneva, New York 14456, the Agency will conduct a public hearing regarding the above-referenced project for the benefit of Lake's Edge Inn & Suites, LLC (the "Company"). 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.

In accordance with Section 859-a of the Act, a representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application, which is also available for viewing on the Agency's website at: <https://ny-geneva.civicplus.com/295/Industrial-Development-Agency-IDA>.

The Agency will provide access to the public hearing by broadcasting the public hearing in real time online at <https://www.youtube.com/c/CityofGenevaNY>. The Agency will also be broadcasting live on a video conference at <https://us02web.zoom.us/j/89027740744?pwd=b0lBN0tvVIR0OHhaZytwQjFjdDladz09>, meeting ID 890 2774 0744, passcode 516846, with written comments accepted on that platform in real time.

City of Geneva Industrial Development Agency

CITY HALL- 47 CASTLE STREET- GENEVA, NEW YORK 14456
(315) 798-6104- sgerling@geneva.ny.us - www.geneva.ny.us

The Agency encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to Any written comments may be sent to City of Geneva Industrial Development Agency, City Hall, 47 Castle Street, Geneva, New York, 14456, Attention: Executive Director and/or via email at sgerling@geneva.ny.us with the subject line being "Re: Lake's Edge Inn & Suites, LLC" no later than November 29, 2021.

The public hearing is being conducted pursuant to subdivision 2 of Section 859-a of the General Municipal Law. 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.

CITY OF GENEVA INDUSTRIAL
DEVELOPMENT AGENCY

By: Sage Gerling, Executive Director

Enclosure

Schedule A

Chief Executive Officers
of Affected Tax Jurisdictions

Via Certified Mail

No. 9489-0090-0027-6389-5372-49

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

Via Certified Mail

No. 9489-0090-0027-6389-5372-63

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

Via Certified Mail

No. 9489-0090-0027-6389-5372-87

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

Via Certified Mail

No. 9489-0090-0027-6389-5372-56

Ontario County
Attn: County Administrator
20 Ontario Street
Canandaigua, New York 14424

Via Certified Mail

No. 9489-0090-0027-6389-5372-70

Geneva City Council
Attn: Mayor
City Hall
47 Castle Street, 3rd Floor
Geneva, New York 14456

Via Certified Mail

No. 9489-0090-0027-6389-5372-94

Geneva City School District
Attn: Superintendent
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 on November 30, 2021, at 7:00 p.m., local time, by the City of Geneva Industrial Development Agency (the "Agency") at 47 Castle Street, Geneva, New York 14456, in connection with the following matter: Lake's Edge Inn & Suites, LCC Project.

Lake's Edge Inn & Suites, LLC, a New York limited liability company, for itself or on behalf of an entity to be formed (the "Company") has 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 a leasehold or other interest in a certain property located at 1115 Lochland Road in the City of Geneva, New York, Ontario County, New York (the "Land", being more particularly described as tax parcel No. 119.16-1-11) and the existing improvements thereon, consisting principally of an approximately 3,109 square foot building a/k/a the Main Building, an approximately 1,536 square foot building a/k/a the Carriage House, an approximately 690 square foot building a/k/a the Pool Building and numerous outbuildings (collectively, the "Existing Improvements"), (ii) the construction of an approximately 97,000 square-foot, 111-room full service Marriot/Hilton hotel consisting of a rooftop bar and restaurant, wine cellar, outdoor fire pits with seating area, direct access to the lake via walking paths, a boat dock and boat house and an approximately 7,000 square foot farm-to-table restaurant and brewery (collectively, the "Improvements"), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and Improvements are the "Facility").

The Agency will acquire title to or a leasehold interest in the Facility as well as an interest in the Equipment and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase 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 in the form of (i) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (ii) an exemption New York State and local mortgage recording taxes as permitted by law, consistent with the policies of the agency, and (iii) a partial real property tax abatement structure under a Tax Agreement.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application 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.

The Agency will provide access to the public hearing by broadcasting the public hearing in real time online at <https://www.youtube.com/c/CityofGenevaNY>. The Agency will also be broadcasting live on a video conference at <https://us02web.zoom.us/j/89027740744?pwd=b0lBN0tvVlR0OHaZytwQjFjdDladz09>,

meeting ID 890 2774 0744, passcode 516846, with written comments accepted on that platform in real time.

The Agency encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to City of Geneva Industrial Development Agency, City Hall, 47 Castle Street, Geneva, New York, 14456, Attention: Executive Director and/or via email at sgerling@geneva.ny.us with the subject line being "Re: Lake's Edge Inn & Suites, LLC" no later than November 29, 2021.

Dated: November 12, 2021

CITY OF GENEVA INDUSTRIAL
DEVELOPMENT AGENCY

By: Sage Gerling, Executive Director



City of Geneva Industrial Development Agency

Meeting Agenda

Title: City of Geneva IDA
Location: City Hall 2nd Floor Conference Room and via Zoom Call/Video (See Details Below)
Date: 11/30/2021
Time: 7PM

Agenda Item	Potential Outcome	Person Responsible
Call to Order		Anne Nenneau
New Business		
Industrial Development Agency Public Hearing	Public hearing pursuant to Article 18-A of the New York General Municipal Law will be held on November 30, 2021, at 7:00 p.m., local time, by the City of Geneva Industrial Development Agency (the "Agency") at 47 Castle Street, Geneva, New York 14456, in connection with the following matter: Lake's Edge Inn & Suites, LCC Project.	
Adjournment	Motion to adjourn	Anne Nenneau
Next Regular Meeting:	Friday, December 3rd 2021 8:30am Geneva Housing Authority	
Quorum (Confirmation Required)	<p>Per Executive Order No. 202.1, this meeting will take place via videoconference, and can be viewed on the City of Geneva's YouTube Channel</p> <p>Join Zoom Meeting</p> <p>Meeting ID: 890 2774 0744 Passcode: 516846 One tap mobile: 9292056099</p>	
Anne Nenneau, Chair		
R.J. Passalacqua		
Rick Bley		
Irene Rodriguez		
Benjamin Vasquez		
Staff		
Adam Blowers		
Sage Gerling		
Erica Collins		

SCHEDULE A

"Total PILOT Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County and City Tax Years</u>	<u>School Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2023	2022-23	Base Valuation
Year 2	2024	2023-24	Base Valuation, plus (Added Value of Improvements x .15)
Year 3	2025	2024-25	Base Valuation, plus (Added Value of Improvements x .30)
Year 4	2026	2025-26	Base Valuation, plus (Added Value of Improvements x .35)
Year 5	2027	2026-27	Base Valuation, plus (Added Value of Improvements x .35)
Year 6	2028	2027-28	Base Valuation, plus (Added Value of Improvements x .45)
Year 7	2029	2028-29	Base Valuation, plus (Added Value of Improvements x .50)
Year 8	2030	2029-30	Base Valuation, plus (Added Value of Improvements x .55)
Year 9	2031	2030-31	Base Valuation, plus (Added Value of Improvements x .60)
Year 10	2032	2031-32	Base Valuation, plus (Added Value of Improvements x .65)
Year 11	2033	2032-33	Base Valuation, plus (Added Value of Improvements x .70)
Year 12	2034	2033-34	Base Valuation, plus (Added Value of Improvements x .72)
Year 13	2035	2034-35	Base Valuation, plus (Added Value of Improvements x .75)
Year 14	2036	2035-36	Base Valuation, plus (Added Value of Improvements x .77)
Year 15	2037	2036-37	Base Valuation, plus (Added Value of Improvements x .80)

For the term of this Agreement, the Company shall continue to pay full taxes based on the assessed value of the Land and any Existing Improvements located on the Land as of the date of this Agreement prior to the completion of any Improvements (the "Base Valuation"). During the term of this Agreement, the Base Valuation and the Land shall be increased from time to time by the percentage increase in the assessed valuation in all taxable real property in the City of Geneva, Ontario County, New York, as of the respective tax status date for the tax year for which the recalculation is being made.

The Total Taxable Valuation shall be calculated such that a graduated abatement factor ("Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Facility by the Company, as an agent of the Agency (the "Added Value"). The abatement schedule shall allow for a eighty-five percent (85%) exemption from taxation for the Added Value of the Improvements in Tax Year 1, with such exemption thereafter being eliminated in increments determined by the Company through Tax Year 15.

Once the Total Taxable Valuation of the Facility is established using the Abatement Factor, the Total Tax Payment for the Facility shall be determined by multiplying the Total Taxable Valuation of the Facility by the respective tax rate for each affected tax jurisdiction (after application of any applicable equalization rate). After the fifteenth Tax Year, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

Total Taxable Valuation = Base Valuation + (Added Value of Improvements x Abatement Factor)

Total Tax Payment = Total Taxable Valuation of the Facility (after equalization) x Tax Rate.

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (hereinafter, the "Project Agreement"), is made as of December 28, 2021, by and between the **CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 47 Castle Street, Geneva, New York 14456 (the "Agency"), and **LAKE'S EDGE DEVELOPMENT GROUP, LLC**, a New York limited liability company with offices at 1095 Broad Street, Montoursville, Pennsylvania 17754 (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 (the "State"); and

WHEREAS, the Company has 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 a leasehold or other interest in a certain property located at 1115 Lochland Road in the City of Geneva, New York, Ontario County, New York (the "Land") and the existing improvements thereon, consisting principally of an approximately 3,109 square foot building a/k/a the Main Building, an approximately 1,536 square foot building a/k/a the Carriage House, an approximately 690 square foot building a/k/a the Pool Building and numerous outbuildings (collectively, the "Existing Improvements"), (ii) the construction of an approximately 97,000 square-foot, 111-room full service Marriot/Hilton hotel consisting of a rooftop bar and restaurant, wine cellar, outdoor fire pits with seating area, direct access to the lake via walking paths, a boat dock and boat house and an approximately 7,000 square foot farm-to-table restaurant and brewery (collectively, the "Improvements"), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and Improvements are the "Facility"); and

WHEREAS, by Resolution adopted on December 10, 2021 (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 Project Agreement; and

WHEREAS, by the Resolution, the Agency approved certain financial assistance for the benefit of the Company in connection with the Project consisting of: (a) an exemption from all New York State and local sales and use tax for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) a partial exemption from any mortgage recording tax as permitted by the laws of the State of New York, and (c) a partial abatement from real property taxes conferred through a certain payment-in-lieu-of-PILOT Agreement, between the Agency and the Company (the "PILOT Agreement") requiring the Company to make payments-in-lieu-of-taxes for the benefit of each municipality and school district having taxing jurisdiction over the Project (collectively, the sales and use tax exemption

benefit, the partial mortgage recording tax exemption benefit, and the partial abatement from real property taxes benefit are hereinafter collectively referred to as, the "Financial Assistance"); and

WHEREAS, pursuant to and in accordance with Sections 859-a and 874 of the Act, the Agency requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Company enter into this Project Agreement for the purposes of, among other things, to govern the administration of, and provide assurances with respect to, the provision and recapture of said Financial Assistance upon the terms herein set forth; and

WHEREAS, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no agency appointment of the Company or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Company by the Agency prior to the effective date of this Project 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:

ARTICLE I. DEFINITIONS

Section 1.1 Definitions of Terms. The words and terms as used in this Project shall have the same meanings as used in **Schedule A** attached hereto and made a part hereof, unless the context or use indicates another or different meaning or intent.

ARTICLE II. REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

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

(b) Neither the execution and delivery of this Project Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Project 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, and building 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 Section 2.1(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 the Company's ability to fulfill its obligations under this Project 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, (ii) that 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 2.1(e) 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 (other than the Company), 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 2.1(e). 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.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the City of Geneva, except for temporary periods during ordinary use.

(g) The Company hereby represents to the Agency that facilities and property that are primarily used in making retail sales of goods and services to customers who personally visit the Facility will not constitute more than one-third (1/3) of the total costs of the Facility, except in accordance with New York General Municipal Law (the "GML") Section 862.

(h) The Company acknowledges and agrees that, except to the extent of bond proceeds (to the extent bonds are issued by the 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.

(i) The Company covenants and agrees that at all times, it will (i) maintain its existence and not dissolve, (ii) continue to be a limited liability company subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets. This Project Agreement may not be assigned in whole or part without the prior written consent of the Agency or otherwise in accordance with the Leaseback Agreement.

(j) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Agency in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company agrees that it will, throughout the term of this Project Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2.1(j). In such event, the Company, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld), may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency shall notify the Company that it must comply with such requirement or requirements.

(k) The Company covenants and agrees that:

(i) The hotel portion of the Facility shall be operated by a National Flag (i.e., Marriot, Hilton, etc.);

(ii) The fifty-one (51) condominium units shall be completed within five (5) years of execution of the Agency Documents; and

(iii) The Project shall:

(A) Uses at least 60% Local Labor (defined below) for the construction or renovation of new, expanded, or renovated facilities. "Local Labor" shall mean persons residing in Ontario, Monroe, Livingston, Seneca, Wayne, Yates, Steuben, Chemung, or Schuyler Counties. A waiver process will be available if the Project requires specialty contractors and/or involves significant cost increases due to local labor requirements;

(B) Purchases at least 60% of the building materials used by the Company, its contractors or sub-contractors and used in connection with the acquisition, construction and equipping of the Facility are purchased from

within Ontario, Monroe, Livingston, Seneca, Wayne, Yates, Steuben, Chemung, or Schuyler Counties. A waiver process will be available if the Project requires specialty contractors and/or involves significant cost increases due to local labor requirements (collectively, the "Labor Policy").

The Agency will require a Ten Thousand and 00/100 Dollars (**\$10,000.00**) monitoring fee (the "Monitoring Fee") for a monitoring firm to be determined by the Agency (the "Monitoring Firm") to monitor the Labor Policy. The Monitoring Firm will hold the Monitoring Fee in escrow and will either (i) return any unused funds to the Agency or (ii) require replenishment of funds if the Monitoring Fee is exhausted.

ARTICLE III. GENERAL

Section 3.1 Purpose of Project. The purpose of the Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, equipping and furnishing of the Facility, to advance job opportunities, health, general prosperity and economic welfare of the people of the City of Geneva, New York, and to specifically promote the investment commitment, employment commitment, and other commitments of the Company contained herein and in the Company's Application.

ARTICLE IV. FINANCIAL ASSISTANCE AND RECAPTURE OF BENEFITS

Section 4.1 In accordance with the Resolution, the Company further: (i) covenants, with respect to the Sales Tax Exemption, that it shall comply with this Project Agreement, specifically, but not limited to, Section 4.3 hereof; (ii) confirms that the Mortgage Recording Tax Exemption (as defined in Section 4.7 hereof) shall not exceed Maximum Mortgage Principal Amount, as more fully described in Section 4.7 hereof; and (iii) confirms that real property tax abatement to be provided to the Company shall conform to those disclosed at the Agency's public hearing for the Project (the "Public Hearing") and as contained within the PILOT Agreement, a form of which PILOT Agreement is attached hereto as **Exhibit A**.

Section 4.2 Tax Agreement. The parties hereto have executed or will execute the Lease Agreement, Leaseback Agreement and PILOT Agreement. As provided in the PILOT Agreement, the Company agrees to certain payments (as described in the PILOT Agreement) in addition to paying all special ad valorem levies, special assessments or special district taxes and service charges against real property in the jurisdiction where the Facility is located.

Section 4.3 Sales Tax Exemption.

(a) The Agency hereby appoints and confirms its appointment of the Company as the true and lawful agent of the Agency to undertake the Project. Such appointment was made by the Agency pursuant to the Resolution.

(b) The Company, as agent of the Agency, will undertake the Project. The Company hereby agrees to limit its activities as agent of the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction, rehabilitation and

equipping of the Facility. The right of the Company to act as agent of the Agency shall expire on the earlier of (x) the completion of the Project, or (y) December 31, 2025 ("Termination Date"); provided, however, that the Agency, through its Chair or Executive Director, may extend the Company's agent appointment at its discretion upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

(c) Agency's Exempt Status. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of Sales and Use Taxes. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required. Notwithstanding the foregoing, the Agency makes no representation to the Company, any Agent (as defined in **Schedule C** attached hereto) or any third party that any Sales Tax Exemption is available under this Project Agreement.

(d) Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Company, subject to the terms and conditions of this Project Agreement, to act as its agent in connection with the Project for the purpose of effecting purchases and leases of certain items so that such purchases and leases are exempt from the imposition of Sales and Use Taxes. The Agency's authorization with respect to such Sales Tax Exemption provided to the Company and its Agents pursuant to this Project Agreement shall be subject to the following limitations:

(i) The Sales Tax Exemption shall be effective only for a term commencing on the date hereof and expiring upon the earliest of (A) the termination of this Project Agreement, (B) the Termination Date, (C) failure of the Company to file Form ST-340, as described in Section 4.5 below, (D) the termination of the Sales Tax Exemption authorization pursuant to Section 6.2 or (E) the date upon which the Company received the Maximum Sales Tax Exemption.

(ii) The Sales Tax Exemption authorization set forth herein shall automatically be suspended upon written notice to the Company that the Company is in default under this Project Agreement (or related document) until such default is cured to the satisfaction of the Agency.

(iii) The Sales Tax Exemption authorization shall be subject to all of the terms, conditions and provisions of this Project Agreement.

(iv) The Sales Tax Exemption shall only be utilized for items which shall be purchased, incorporated, completed or installed for use only by the Company at the Facility or in connection with the Project (and not with any intention to sell, transfer or otherwise dispose of any such item to a Person as shall not constitute the Company), it being the intention of the Agency and the Company that the Sales Tax Exemption shall not be made available with respect to any item unless such item is used solely by the Company at the Facility or in connection with the Project.

(v) Except as otherwise related to the acquisition, construction and equipping of the Facility, Sales Tax Exemption shall not be used to benefit any person or entity, including any tenant or subtenant located at the Facility, other than the Company, without the prior written consent of the Agency.

(vi) By execution by the Company of this Project Agreement, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of the Sales Tax Exemption by the Company or by any Agent is strictly for the purposes stated herein.

(vii) Upon the Termination Date, the Company and each Agent shall cease being agents of the Agency, and the Company shall immediately notify each Agent in writing of such termination.

(viii) The Company agrees that the aggregate amount of the Sales Tax Exemption realized by the Company and by all Agents of the Company, if any, in connection with the Facility shall not exceed in the aggregate the Maximum Sales Tax Exemption.

Section 4.4 Procedures for Appointing Subagents. If the Company desires to seek the appointment of a contractor, a subcontractor or other party to act as the Agency's agent, including, but not limited, to the individuals and entities described on **Schedule B** attached hereto (a "Subagent") for the purpose of effecting purchases which are eligible for the Sales Tax Exemption pursuant to authority of this Project Agreement, it must complete the following steps:

(i) The Company shall have the right to amend **Schedule B** from time to time and shall be solely responsible for maintaining an accurate list of all parties acting as agent for the Agency. The Company's right to appoint Subagents is expressly conditioned upon updating of **Schedule B** attached hereto, along with, for each Subagent, the Company must complete and submit Form ST-60 to the Agency, attached hereto as **Exhibit B**. An Authorized Representative of the Agency must sign the Form ST-60 and return the same to the Company. Following receipt of the signed Form ST-60, the Company must file such Form ST-60 within thirty (30) days of the date that the Agency appoints a project operator or other person or entity to act as a Subagent of the Agency for purposes of extending the Sales Tax Exemption to such Subagent. The Company acknowledges and agrees that it shall be the Company's sole and exclusive responsibility to file a completed Form ST-60 with respect to any Subagent and the failure to timely do so could result in an Event of Default and Recapture Event (as hereinafter defined).

(ii) The Company shall ensure that each Subagent shall observe and comply with the terms and conditions of this Project Agreement.

(iii) Form ST-60 Not an Exemption Certificate. The Company acknowledges that the executed Form ST-60 designating the Company or any Subagent as an agent of the Agency shall not serve as a Sales Tax Exemption

certificate or document. Neither the Company nor any other Agent may tender a copy of the executed Form ST-60 to any person required to collect sales or use tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN LAW. IN ADDITION, THE USE BY A SUBAGENT, THE COMPANY, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY-EIGHT AND THIRTY-SEVEN OF THE NEW YORK STATE TAX AND FINANCE LAW (THE "TAX LAW"), THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

(iv) Form ST-123 Requirement and Form FT-123 Requirement. As an agent of the Agency, the Company agrees that it will, and will cause each Subagent to, present to each seller or vendor a completed and signed Form ST-123, attached hereto as **Exhibit C-1**, for each contract, agreement, invoice, bill or purchase order entered into by the Company or by any Subagent, as agent for the Agency, for the purpose of undertaking the Project.

As an agent of the Agency, the Company agrees that it will, and will cause each Subagent to, present to each seller or vendor a completed and signed Form FT-123, attached hereto as **Exhibit C-2**, for each contract, agreement, invoice, bill or purchase order **for fuel** entered into by the Company or by any Subagent, as agent for the Agency, for the purpose of undertaking the Project.

Form ST-123 and Form FT-123 require that each seller or vendor accepting Form ST-123 or Form FT-123 identify the Facility on each bill or invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Company, as project operator of the Agency, was the purchaser. For the purposes of indicating who the purchaser is, each bill or invoice should state:

"I, Lake's Edge Development Group, LLC [OR, NAME OF SUBAGENT: _____], certify that I am a duly appointed agent or subagent of the City of Geneva Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the "Lake's Edge Inn & Suites, LLC Project" located at 1115 Lochland Road, City of Geneva, New York, and any lands located in the City of Geneva and occupied by license or easement during construction or improved by third parties for the benefit of the Project, being IDA OSC Project Code 3201-21-02A".

For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a

copy of which is attached hereto as Exhibit C-3) can be utilized for record keeping purposes. The Company shall retain copies of all such contracts, agreements, invoices, bills and purchase orders for a period of not less than six (6) years from the date thereof. For each Subagent, the Form ST-123 or Form FT-123 shall be completed as follows: (i) the "Project information" section of Form ST-123 or Form FT-123, attached hereto as Exhibit C-1 and Exhibit C-2 respectively, should be completed using the name and address of the Facility as indicated on the Form ST-60 used to appoint the Subagent and; (ii) the date that the Subagent was appointed as indicated on the Form ST-60.

All contracts entered into by the Company and all Subagents thereof as agent for the Agency shall include the language contained within Schedule C attached hereto. Failure by the Company and/or any Subagent thereof to include such language may disqualify the agent status and Sales Tax Exemption derived by virtue of this Project Agreement. The Company, for itself and on behalf of all duly appointed Subagents, hereby agrees that all contracts entered into by the Company and any Subagents thereof shall be available to the Agency for inspection and confirmation of the foregoing mandatory language.

Section 4.5 Form ST-340 Filing Requirement. The Company shall annually file a statement with the State Department of Taxation and Finance (the "Commissioner") on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as Exhibit D) regarding the value of Sales Tax Exemption the Company and its Subagents, if any, have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). **Please note, the Company is to report only the Sales Tax Exemption derived as a result of the Agency's participation in the Project and not those received as a result of other available State exemptions. For the avoidance of doubt, other State exemptions, which the Company should not report on its NYS Form ST-340, include, but are not limited to, exemptions available to certain manufactures or those exemptions that apply to capital improvements.** On or before February 15th of each year, the Company shall provide a copy of same to the Agency. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Agency and/or Recapture of Agency Benefits as described in Section 4.8 hereof.

Section 4.6 GML Provisions Relating to Sales Tax Savings.

(a) The Company covenants and agrees to comply, and to cause each of its contractors, subcontractors, Subagents, persons or entities to comply, with the requirements of GML Sections 875(1) and (3) (the "GML Provisions"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Project Agreement and the GML Provisions, the GML Provisions shall control.

(b) The Company acknowledges and agrees that pursuant to GML Section 875(3), the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Company, Sales Tax Savings taken or purported to be taken by the Company, any Subagent or any other person or entity acting on behalf of the Company to which the Company is not entitled or which are in excess of the Maximum Sales Tax Exemption or which are for property or

services not authorized or taken in cases where the Company, any Subagent or any other person or entity acting on behalf of the Company failed to comply with a material term or condition to use property or services in the manner required by this Project Agreement. The Company shall, and shall require each Subagent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such Sales Tax Savings and shall promptly pay over any such amounts to the Agency or any other entity that it requests receive the Sales Tax Savings. The failure to pay over such amounts to such recipient shall be grounds for the Commissioner to assess and determine State Sales and Use Taxes due from the Company under Article 28 of the Tax Law, together with any relevant penalties and interest due on such amounts.

Subject to the provisions set forth above in this Section 4.6(b), in the event that the Company or any Subagent shall utilize the Sales Tax Exemption in violation of the provisions of this Project Agreement, the Company shall promptly deliver notice of same to the Agency, and the Company shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized Sales Tax Savings together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized Sales Tax Exemption was availed of by the Company or any Subagent (as applicable).

(c) Upon request by the Agency with reasonable notice to the Company, the Company shall make available at reasonable times to the Agency and/or the Independent Accountant all such books, records, contracts, agreements, invoices, bills or purchase orders of the Company and any Agent, and require all appropriate officers and employees of the Company to respond to reasonable inquiries by the Agency and/or the Independent Accountant, as shall be necessary (i) to indicate in reasonable detail those costs for which the Company or any Subagent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (ii) to permit the Agency to determine any amounts owed by the Company under this Section 4.6(c).

Section 4.7 Mortgage Recording Tax Exemption. Section 874 of the Act exempts the Agency from paying certain mortgage recording taxes except for the portion of the mortgage recording tax allocated to transportation districts referenced in Section 253(2)(a) of the New York State Real Property Tax Law. The Agency hereby grants to the Company exemption from mortgage recording taxes for one or more mortgages (collectively, the "Mortgage") securing an aggregate principal amount not to exceed Maximum Mortgage Principal Amount, or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project and any future financing, refinancing or permanent financing of the costs of the Project (the "Mortgage Recording Tax Exemption").

Section 4.8 Recapture of Agency Benefits.

(a) It is understood and agreed by the parties hereto that the Agency is entering into this Project Agreement in order to provide the Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event (as defined below) after the date hereof, the Company shall pay to the Agency, or to the State of New York, if so directed by

the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, one hundred percent (100%) of the Recaptured Benefits.

(b) The term "Recaptured Benefits" shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency's participation in the transaction contemplated by this Project Agreement, including, but not limited to, the amount equal to 100% of:

- (i) the Mortgage Recording Tax Exemption; and
- (ii) Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Subagent; and
- (iii) real property tax abatements granted pursuant to the PILOT Agreement;

which Recaptured Benefits from time to time shall upon the occurrence of a Recapture Event in accordance with the provisions of Section 4.8(c) below and the declaration of a Recapture Event by notice from the Agency to the Company be payable directly to the Agency or the State of New York if so directed by the Agency within ten (10) days after such notice.

(c) The term "Recapture Event" shall mean any of the following events:

- (i) The occurrence and continuation of an Event of Default under this Project Agreement which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or
- (ii) The Project shall cease to be a "Project" within the meaning of the Act as in effect on the date hereof, through the act of omission of the Company; or
- (iii) The Company triggers recapture under the Agency's Uniform Tax Exemption Policy, as set forth below:

(A) The Agency, in its sole discretion and on a case-by-case basis may determine (but shall not be required to do so) with respect to a particular project to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's Involvement. Events that the Agency may determine will trigger recapture may include, but shall not be limited to, the following:

- (1) Sale or closure of facility;
- (2) Significant employment reduction;
- (3) Significant change in use of facility;
- (4) Significant change in business activities of project applicant or operator; or

(5) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use laws or regulations or federal state or local environmental laws or regulations.

If the Agency determines to provide for recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

(B) In addition to the provisions for recapture set forth in subparagraph (A), the Agency may, in its sole discretion and on a case by-case basis, require recapture of benefits with respect to any project or project applicant for:

(1) Failure to respond to Agency inquiries concerning payment of principle and interests;

(2) Failure to respond to Agency inquiries concerning insurance coverage or failure to provide insurance certificates when and as required by the Agency transaction documents;

(3) Failure to respond to Agency Inquiries regarding payment of monies in lieu of taxes;

(4) Failure to respond to Agency Inquiries or to provide facts requested by the Agency in connection with any proceedings or determinations pursuant to Paragraph D or Paragraph E of this policy;

(5) Failure to respond to the inquiries of the Agency or failure to provide the Agency with any information or document requested by the Agency in order to provide and federal, state or local agency with information or reports required under any applicable law, rule or regulation;

(6) Failure to provide any other information concerning the project or the project applicant or any project operator requested by the Agency.

Upon the occurrence of any of these events listed in this subsection (B), the Agency will, upon at least 10 calendar days, send a written notice to the project applicant, hold a hearing at which the project applicant will have the opportunity to provide, or explain its failure to provide, the Information requested by the Agency. Within thirty (30) calendar days after the hearing, the Agency will issue a determination whether and to what extent it will require recapture of the value of tax exemptions granted with respect to the project by virtue of the Agency's involvement.

(iv) The Company receives Sales Tax Savings in connection with property or services not authorized by the Agency as part of the Project; or

(v) The Company receives Sales Tax Savings in connection with the Project in excess of the Maximum Sales Tax Exemption; provided, however, that the

foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits; or

(vi) The Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(vii) Failure of the Company to file a copy of the Form ST-340 with the Agency in compliance with Section 4.5 hereof; or

(viii) Failure of the Company to create or cause to be maintained at least twenty (20) FTE jobs and ten (10) part-time jobs at the Facility commencing upon three years after Project completion, which failure is not reflective of the business conditions of the Company or the subtenants of the Company, including, without limitation, loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions.

In order to certify and verify the foregoing, the Company shall provide annually, to the Agency, a certified statement and documentation: (i) enumerating the full-time equivalent jobs retained and the full-time equivalent jobs created as a result of the Financial Assistance, by category, including full-time equivalent independent contractors or employees of independent contractors that work at the project location, (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created, and (iii) such other information, as so requested from time to time, to enable the Agency to assess the progress of the Project toward achieving the investment, job retention, job creation, or other objectives of the Project indicated in the Application for Financial Assistance.

(d) In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

(e) The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including, without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Section 4.8, from amounts received by the Agency pursuant to this Section 4.8.

ARTICLE V. INSURANCE

Section 5.1 Insurance Required. Effective as of the date hereof and until the expiration or termination of the right of the Company to act as agent of the Agency hereunder, the Company shall maintain, or cause to be maintained by its subagent or subcontractors, certain insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type, and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) 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 as an alternative to the foregoing, the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well, provided a periodic appraisal is performed and provided to the Agency.

(b) Workers' 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 (including the contractual liability assumed by the Company under Section 7.1 hereof) 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, **\$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 workers' 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; provided however, the Company's obligations to deliver such blanket excess liability policy shall commence upon the construction and equipping of the Facility. Such liability limits may be satisfied by any combination of primary and excess liability policies.

Section 5.2 Additional Provisions Respecting Insurance. (a) **All insurance required by Section 5.1(a) Hereof shall name the Agency as a named insured and the insurance required by Section 5.1(c) 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 (i) for payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) that the insurance company shall endeavor to give thirty (30) days' prior written notice or such other notice as the policy provides for, of the cancellation thereof to the Company and the Agency.

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

ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1 The following shall each be "Events of Default" under this Project Agreement:

- (a) the failure by the Company to observe and perform any covenant contained in Sections 2.1(e), 2.1(g), 2.1(i), 2.1(j), 2.1(k), 4.3, 4.5, 4.6, 4.7, 5.1, 5.2, 7.1 and 7.6 hereof;
- (b) the failure by the Company to pay the Recapture Benefits on the date due;
- (c) the occurrence and continuation of a Recapture Event;
- (d) the occurrence of an Event of Default under the Leaseback Agreement or PILOT Agreement;
- (e) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors.

Section 6.2 Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing, the Agency may take, to the extent permitted by law, any one or more of the following remedial steps:

- (i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all due and owing Recapture Benefits and (B) all other payments due under this Project Agreement; or

(ii) terminate this Project Agreement and the Sales Tax Exemption authorization; or

(iii) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder, and to enforce the obligations, agreements and covenants of the Company under this Project Agreement.

(b) No action taken pursuant to this Section 6.2 (including termination of the Project Agreement) shall relieve the Company from its obligation to make all payments required by the Leaseback Agreement, the PILOT Agreement or Recapture Benefits.

Section 6.3 Remedies Cumulative. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Project Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right and power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VI it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Project Agreement.

Section 6.4 Agreement to Pay Attorneys' Fees and Expenses. In the event the Company should default under any of the provisions of this Project Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the fees of such attorneys and such other expenses so incurred.

ARTICLE VII. MISCELLANEOUS

Section 7.1 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, members, officers, employees, agents (other than 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 Project Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, 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 executive director, directors, members, 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.

Section 7.2 This Project 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.

Section 7.3 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, or by a nationally-recognized overnight courier, addressed 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: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn: Russell E. Gaenzle, Esq.

To the Company: Lake's Edge Development Group, LLC
1095 Broad Street
Montoursville, Pennsylvania 17754
Attn: Marc F. Demshock

With a copy to: Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, New York 14604
Attn: Betsy D. Brugg

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.

Section 7.4 This Project 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.

Section 7.5 The warranties, representations, obligations and covenants of the Company under this Project Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Project Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Project

Agreement to the Agency, regardless of any investigation made by the Agency. This Project Agreement shall survive any termination or expiration of the Leaseback Agreement or the PILOT Agreement, as described below.

Section 7.6 By executing this Project Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency for (a) legal services, including, but not limited to, those provided by the Agency's general counsel and bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project; and (c) with respect to Agency's enforcement of any event of default or failure to comply with the terms of this Project Agreement (including reasonable attorney fees). 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 (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) 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 (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

Section 7.7 The Land will be subdivided into residential and commercial project areas, and a portion of the Land will be conveyed to Lake's Edge Inn & Suites, LLC or a related entity. The Agency hereby acknowledges and consents to the future assignment of the Agreement to Lake's Edge Inn & Suites, LLC, or an entity to be formed by it or on its behalf. Upon subdivision of the Land, the Agency shall release that portion of the Land not subject to the Project described herein.

[Remainder of page intentionally left blank]

[Signature Page to Project Agreement]

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

**CITY OF GENEVA INDUSTRIAL DEVELOPMENT
AGENCY**

By:

Name: Sage Gerling

Title: Executive Director

LAKE'S EDGE DEVELOPMENT GROUP, LLC

By: LAKE'S EDGE INVESTORS, LLC, Sole Member

By: RIVER'S EDGE CAPITAL, LLC, Managing
Member

By:

Name: Gerard W. Lariviere

Title: Manager

[Signature Page to Project Agreement]

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

**CITY OF GENEVA INDUSTRIAL DEVELOPMENT
AGENCY**

By: _____

Name: Sage Gerling

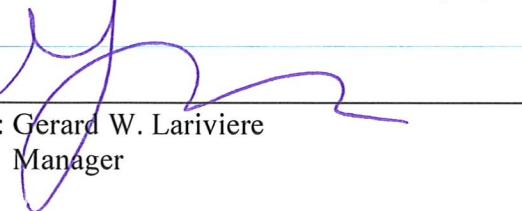
Title: Executive Director

LAKE'S EDGE DEVELOPMENT GROUP, LLC

By: LAKE'S EDGE INVESTORS, LLC, Sole Member

By: RIVER'S EDGE CAPITAL, LLC, Managing
Member

By: _____
Name: Gerard W. Lariviere
Title: Manager



SCHEDULE A

SCHEDULE OF DEFINITIONS

"Authorized Representative" means, in the case of the Agency, the Executive Director, the Secretary, the Assistant Secretary, the Chair or the Vice Chair and such additional persons as, at the time, are designated to act on behalf of the Agency; and in the case of the Company, the members and such additional persons as, at the time, are designated to act on behalf of the Company.

"Independent Accountant" shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Company and approved by the Agency (such approval not to be unreasonably withheld or delayed).

"Lease Agreement" shall mean that certain Lease Agreement, dated as of December 1, 2021, by and between the Company and the Agency.

"Leaseback Agreement" shall mean that certain Lease Agreement, dated as of December 1, 2021, by and between the Company and the Agency.

"Maximum Mortgage Principal Amount" shall mean \$1,190,000.

"Maximum Sales Tax Exemption" shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Subagents acting on behalf of the Company are permitted to receive under this Project Agreement, which shall equal \$1,500,000, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

"Prime Rate" means (i) if no lender, the rate designated by The Wall Street Journal from time to time as its "prime rate", or (ii) if a lender exists, the rate designated by the lender from time to time as its "prime rate".

"Sales Tax Exemption" shall mean an exemption from Sales and Use Taxes resulting from the Agency's participation in the Facility.

"Sales and Use Taxes" shall mean local and State sales and compensating use taxes and fees imposed pursuant to Article 28 of the New York State Tax Law, as the same may be amended from time to time.

"Sales Tax Savings" shall mean all Sales Tax Exemption savings relating to Sales and Use Taxes realized by or for the benefit of the Company, including any savings realized by any Subagent, pursuant to this Project Agreement.

"State Sales and Use Taxes" shall mean sales and compensating use taxes and fees imposed by Article 28 of the New York State Tax Law but excluding such taxes imposed in a city by Section 1107 or 1108 of such Article 28, as the same may be amended from time to time.

SCHEDULE B

LIST OF APPOINTED AGENTS¹

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

¹ FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

SCHEDULE C

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

"This contract is being entered into by Lake's Edge Development Group, LLC [OR, NAME OF SUBAGENT: _____] (the "Agent"), as agent or subagent for and on behalf of the City of Geneva Industrial Development Agency (the "Agency"), in connection with a certain project of the Agency for the benefit of Lake's Edge Development Group, LLC, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at 1115 Lochland Road, City of Geneva, Ontario County, New York, and any lands located in the City of Geneva and occupied by license or easement during construction or improved by third parties for the benefit of the Project (the "Premises"). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Project Agreement by and between Lake's Edge Development Group, LLC and the Agency, dated as of December 28, 2021. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

EXHIBIT A

RESERVED

EXHIBIT B

**FORM OF NYS FORM ST-60 TO BE COMPLETED BY COMPANY AND FILED WITH
THE NYS TAX DEPARTMENT IDA UNIT FOR EACH OF ITS SUBAGENTS WITHIN
THIRTY (30) DAYS OF APPOINTMENT**

[See Attached]



Department of Taxation and Finance

IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60
(1/18)

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only**IDA information**

Name of IDA City of Geneva IDA	IDA project number (use OSC numbering system for projects after 1998) 3201-21-02A		
Street address 47 Castle Street	Telephone number (315) 789-6104		
City Geneva	State NY	ZIP code 14456	Email address (optional) N/A

Project operator or agent information

Name of IDA project operator or agent	Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/> N/A	Employer identification or Social Security number	
Street address	Telephone number ()	Primary operator or agent? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Geneva	State NY	ZIP code 14456	Email address (optional) N/A

Project information

Name of project Lake's Edge Inn & Suites, LLC Project			
Street address of project site 1115 Lochland Road**	**and any lands located in the City of New Rochelle and occupies by license or easement during construction or improved by third parties for the benefit of the Project.		
City Geneva	State NY	ZIP code 14456	Email address (optional) N/A
Purpose of project The purpose of the Project is the: (a) acquisition of the Land consisting of approximately 3,109 square foot building a/k/a the Main Building, an approximately 1,536 square foot building a/k/a the Carriage House, an approximately 690 square foot building a/k/a the Pool Building and numerous outbuildings; and (b) the construction and equipping of approximately 97,000 square-foot, 111-room full service Marriot/Hilton hotel consisting of a rooftop bar and restaurant, wine cellar, outdoor fire pits with seating area, direct access to the lake via walking paths, a boat dock and boat house and an approximately 7,000 square foot farm-to-table restaurant and brewery.			

Description of goods and services intended to be exempted from New York State and local sales and use taxes Goods and services, inclusive of fuel and utilities, whether the goods and services are purchased or rented, and notwithstanding that they continue to constitute personal property or the item is used after the completion of the Project, or the item is geographically located outside the legal boundaries of the Project Facility; provided there is a reasonable basis to acquire the item to benefit the Project.			
Date project operator or agent appointed (mmddyy)	Date project operator or agent status ends (mmddyy)	123125	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:	all agents, all in 20,000,000.00	Estimated value of New York State and local sales and use tax exemption provided:	all agents, all in 1,500,000.00

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.			
---	--	--	--

Print name of officer or employee signing on behalf of the IDA Sage Gerling	Print title Executive Director	
Signature 	Date 12/22/21	Telephone number (315) 789-6104

Instructions

When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866**

Private delivery services – See Publication 55,
Designated Private Delivery Services.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our website at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center:

518-485-2889

To order forms and publications:

518-457-5431

Text Telephone (TTY) or TDD
equipment users

Dial 7-1-1 for the
New York Relay Service

EXHIBIT C-1

**NYS FORM ST-123
FOR USE BY COMPANY**

[See Attached]



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

ST-123

(7/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller	Name of agent or project operator		
Lake's Edge Development Group, LLC			
Street address	Street address		
1095 Broad Street			
City, town, or village	State	ZIP code	City, town, or village
			State
			ZIP code
Montoursville PA 17754			
Agent or project operator sales tax ID number (see instructions)			

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
City of Geneva IDA		
Name of project	IDA project number (use OSC number)	
Lake's Edge Inn & Suites, LLC Project 3201-21-02A		
Street address of project site 1115 Lochland Road**	**and any lands located in the City of New Rochelle and occupied by license or easement during construction or improved by third parties for the benefit of the Project	
City, town, or village Geneva	State NY	ZIP code 14456
Enter the date that you were appointed agent or project operator (mm/dd/yy) 12 / 28 / 21	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 25	

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

EXHIBIT C-1

**NYS FORM ST-123
FOR USE BY SUBAGENTS OF COMPANY**

[See Attached Page]



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

ST-123

(7/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller	Name of agent or project operator		
Lake's Edge Development Group, LLC			
Street address	Street address		
1095 Broad Street			
City, town, or village	State	ZIP code	City, town, or village
			State
			ZIP code
Montoursville PA 17754			
Agent or project operator sales tax ID number (see instructions)			

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
City of Geneva IDA		
Name of project	IDA project number (use OSC number)	
Lake's Edge Inn & Suites, LLC Project 3201-21-02A		
Street address of project site 1115 Lochland Road**	**and any lands located in the City of New Rochelle and occupied by license or easement during construction or improved by third parties for the benefit of the Project	
City, town, or village Geneva	State NY	ZIP code 14456
Enter the date that you were appointed agent or project operator (mm/dd/yy) 12 / 28 / 21	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 25	

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

EXHIBIT C-2

**NYS FORM FT-123 (FUEL)
FOR USE BY COMPANY**

[See Attached Page]



IDA Agent or Project Operator Exempt Purchase Certificate for Fuel

This certificate is not valid unless all entries have been completed.

To be completed by the purchaser and given to the seller.

Name of seller	Name of agent or project operator Lake's Edge Development Group, LLC		
Street address	Street address 1095 Broad Street		
City, town, or village	State	ZIP code	City, town, or village Montoursville State PA ZIP code 17754
Agent or project operator sales tax ID number (see instructions)			

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the fuel for use in the following IDA project and that such purchases qualify as exempt from excise taxes and sales and use taxes under my agreement with the IDA.

Name of IDA City of Geneva IDA			
Name of project Lake's Edge Inn & Suites, LLC Project	IDA project number (use OSC number) 3201-21-02A		
Street address of project site 1115 Lochland Road**	** and any lands located in the City of New Rochelle and occupied by license or easement during construction or improved by third parties for the benefit of the Project.		
City, town, or village Geneva	State	ZIP code	NY 14456
Enter the date that you were appointed agent or project operator (mm/dd/yy) 12 / 28 / 21	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 25		

Exempt purchases – Only fuel or residual petroleum product used to **complete** the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax. Fuel or residual petroleum product used to **operate** a business after the project is completed does not qualify for this exemption (see instructions).

Mark an **X** in boxes that apply:

<input type="checkbox"/> A. Motor fuel	<input type="checkbox"/> C. Non-highway diesel motor fuel
<input type="checkbox"/> B. Highway diesel motor fuel	<input type="checkbox"/> D. Residual petroleum product

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that excise taxes and state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form FT-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from excise taxes and sales and use tax as described in the IDA contract.

You may use Form FT-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number – If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases. However, IDAs do not normally make direct purchases for projects. Commonly, an IDA instead appoints a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax. Purchases made by an agent or project operator to operate a business after the project is completed are subject to tax.

Example: An IDA agreement with its agent, Contractor X, states that Contractor X may make all purchases of materials and equipment necessary for completion of the project as agent for the IDA.

Contractor X purchases non-highway diesel motor fuel for use in construction equipment that will be used to prepare the site for construction. Since the fuel is being used to complete the project, Contractor X may purchase the fuel exempt from taxes.

When the project is completed, Contractor X purchases motor fuel and highway diesel motor fuel for use in snowplows and other maintenance vehicles used to maintain the parking lots for the business. Contractor X may not purchase this fuel exempt from tax because it is being used to operate, not to complete, the project.

Exempt purchases

To qualify for exemption, the purchases must be made within the authority granted by the IDA and used to **complete** the project, but not to **operate** the completed project.

Box A – Motor fuel is gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine. If you are purchasing motor fuel exempt from tax, mark this box.

Box B – Highway diesel motor fuel is any diesel motor fuel that is **not** non-highway diesel motor fuel. If you are purchasing highway diesel motor fuel exempt from tax, mark this box.

Box C – Non-highway diesel motor fuel is any diesel motor fuel designated for use other than on a public highway, and is dyed diesel motor fuel. If you are purchasing non-highway diesel motor fuel exempt from tax, mark this box.

Diesel motor fuel is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and also motor fuel suitable for operating a diesel engine. Diesel motor fuel does not include any product specifically designated "No. 4 diesel fuel."

Box D – Residual petroleum product means the topped crude of refinery operations, including No. 5 fuel oil, No. 6 fuel oil, bunker C, and the special grade of diesel product designated as No. 4 diesel fuel, that is not suitable for use in the operation of a motor vehicle engine. If you are purchasing residual petroleum product exempt from tax, mark this box.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

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- get information and manage your taxes online
- check for new online services and features



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Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

EXHIBIT C-2

**NYS FORM FT-123 (FUEL)
FOR USE BY SUBAGENTS OF COMPANY**

[See Attached Page]



IDA Agent or Project Operator Exempt Purchase Certificate for Fuel

This certificate is not valid unless all entries have been completed.

To be completed by the purchaser and given to the seller.

Name of seller	Name of agent or project operator Lake's Edge Development Group, LLC		
Street address	Street address 1095 Broad Street		
City, town, or village	State	ZIP code	City, town, or village Montoursville State PA ZIP code 17754
Agent or project operator sales tax ID number (see instructions)			

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the fuel for use in the following IDA project and that such purchases qualify as exempt from excise taxes and sales and use taxes under my agreement with the IDA.

Name of IDA City of Geneva IDA			
Name of project Lake's Edge Inn & Suites, LLC Project	IDA project number (use OSC number) 3201-21-02A		
Street address of project site 1115 Lochland Road**	** and any lands located in the City of New Rochelle and occupied by license or easement during construction or improved by third parties for the benefit of the Project.		
City, town, or village Geneva	State	ZIP code	NY 14456
Enter the date that you were appointed agent or project operator (mm/dd/yy) 12 / 28 / 21	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 25		

Exempt purchases – Only fuel or residual petroleum product used to **complete** the project may be purchased by IDA agents or project operators exempt from the fuel excise tax, petroleum business tax, and sales and use tax. Fuel or residual petroleum product used to **operate** a business after the project is completed does not qualify for this exemption (see instructions).

Mark an **X** in boxes that apply:

<input type="checkbox"/> A. Motor fuel	<input type="checkbox"/> C. Non-highway diesel motor fuel
<input type="checkbox"/> B. Highway diesel motor fuel	<input type="checkbox"/> D. Residual petroleum product

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that excise taxes and state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form FT-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from excise taxes and sales and use tax as described in the IDA contract.

You may use Form FT-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number – If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases. However, IDAs do not normally make direct purchases for projects. Commonly, an IDA instead appoints a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax. Purchases made by an agent or project operator to operate a business after the project is completed are subject to tax.

Example: An IDA agreement with its agent, Contractor X, states that Contractor X may make all purchases of materials and equipment necessary for completion of the project as agent for the IDA.

Contractor X purchases non-highway diesel motor fuel for use in construction equipment that will be used to prepare the site for construction. Since the fuel is being used to complete the project, Contractor X may purchase the fuel exempt from taxes.

When the project is completed, Contractor X purchases motor fuel and highway diesel motor fuel for use in snowplows and other maintenance vehicles used to maintain the parking lots for the business. Contractor X may not purchase this fuel exempt from tax because it is being used to operate, not to complete, the project.

Exempt purchases

To qualify for exemption, the purchases must be made within the authority granted by the IDA and used to **complete** the project, but not to **operate** the completed project.

Box A – Motor fuel is gasoline, benzol, reformulated blend stock for oxygenate blending, conventional blend stock for oxygenate blending, E85, fuel grade ethanol that meets the ASTM International active standards specification D4806 or D4814, or other product which is suitable for use in the operation of a motor vehicle engine. If you are purchasing motor fuel exempt from tax, mark this box.

Box B – Highway diesel motor fuel is any diesel motor fuel that is **not** non-highway diesel motor fuel. If you are purchasing highway diesel motor fuel exempt from tax, mark this box.

Box C – Non-highway diesel motor fuel is any diesel motor fuel designated for use other than on a public highway, and is dyed diesel motor fuel. If you are purchasing non-highway diesel motor fuel exempt from tax, mark this box.

Diesel motor fuel is No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil, or other middle distillate, and also motor fuel suitable for operating a diesel engine. Diesel motor fuel does not include any product specifically designated "No. 4 diesel fuel."

Box D – Residual petroleum product means the topped crude of refinery operations, including No. 5 fuel oil, No. 6 fuel oil, bunker C, and the special grade of diesel product designated as No. 4 diesel fuel, that is not suitable for use in the operation of a motor vehicle engine. If you are purchasing residual petroleum product exempt from tax, mark this box.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



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- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



Text Telephone (TTY) Hotline

(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

EXHIBIT C-3
INVOICE RIDER FORM

I, Lake's Edge Inn & Suites, LLC [OR, SUBAGENT NAME: _____], certify that I am a duly appointed agent or subagent CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY (the "Agency") and that I am purchasing the tangible personal property or services for use in the following Agency Project and that such purchases qualify as exempt from sales and use taxes under the Project Agreement, dated as of December 28, 2021, by and between the Agency and Lake's Edge Development Group, LLC.

Name of the Project: Lake's Edge Inn & Suites, LLC Project

Street address of the Project Site: 1115 Lochland Road, City of Geneva, New York and any lands located in the City of Geneva and occupied by license or easement during construction or improved by third parties for the benefit of the Project

IDA OSC project number: 3201-21-02A

EXHIBIT D

**NYS FORM ST-340 TO BE COMPLETED BY THE COMPANY AND FILED
ANNUALLY WITH THE NYS TAX DEPARTMENT IDA UNIT NO LATER THAN
FEBRUARY 15TH OF EACH YEAR**

[See Attached Page]



Department of Taxation and Finance

Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

ST-340

(1/18)

For period ending December 31, _____ (enter year)

Project information

Name of IDA agent/project operator Lake's Edge Development Group, LLC		Employer identification number (EIN) 87-4021346	
Street address 1095 Broad Street		Telephone number ()	
City Montoursville		State PA	ZIP code 17754
Name of IDA City of Geneva IDA	Name of project Lake's Edge Inn & Suites, LLC Project	IDA project number 3201-21-02A	
Street address of project site 1115 Lochland Road**	* and any lands located in New Rochelle and occupied by license or easement during construction or improved by third parties for the benefit of the Project		
City Geneva	State NY	ZIP code 14456	
Date project began 122821	Completion date of project 123125	Actual <input type="checkbox"/>	Expected <input checked="" type="checkbox"/>
Total sales and use tax exemptions (actual tax savings; not total purchases)			\$

Representative information (not required)

Authorized representative, if any	Title
Street address	Telephone number ()
City	State ZIP code

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative	Title of person signing
Signature	Date

If you do not annually file a complete report, we may remove your authority to act as an IDA agent/project operator.

Mail completed report to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Instructions

General information

Who must file

The General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as the *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the Tax Department. The agent/project operator required to file this report is the person **directly** appointed by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operators directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operators should **not** themselves file Form ST-340. However, the agent/project operators must include on Form ST-340 information obtained from such contractors, subcontractors, consultants, and agents, as described below.

What you must report

The report must show the **total value** of all state and local **sales and use taxes exempted** during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions the agent/project operator (you) obtained; and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

Include only the **total combined** exemptions obtained by the above people. A breakdown of the total is not required. However, since the report must include the value of the exemptions they obtained, you must keep records of the amounts others report to you.

You must make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available, so that you can comply with the annual reporting requirements.

Do not include on this report the amount of any sales and use tax exemptions from other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

When the report is due

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.

Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

Name of IDA agent/project operator: Enter your name, address, employer identification number (EIN), and telephone number.

Name of IDA and IDA project number: Enter the name and address of the IDA. If more than one IDA is involved in a particular project, you must file a separate report for the tax exemptions attributable to each IDA. Also enter the ID project number.

Name of project: Enter the name of the project and the address of the project site. If you are involved in more than one project, you

must file a separate report for each project, even if authorized by the same IDA.

Date project began: Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

Completion date of project: Enter the date installation, lease, or rental of property (for example, machinery or computers) on the project ended, or the date the project is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

Total sales and use tax exemptions: Enter the total amount of New York State and local sales and use taxes exempted during the reporting period as a result of the project's receipt of IDA financial assistance (*if none, enter 0*). This includes exemptions obtained at the time of purchase, as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do **not** enter total purchases.

Representative information

If applicable, enter the name, address, title (for example, attorney or accountant), and telephone number of the individual you authorize to submit this report. This section is not required.

Certification

Enter the name and title of the person signing on your behalf (for example, the IDA agent/project operator's officer, employee, or other authorized representative). Your officer, employee, or authorized representative must sign and date the report.

Mail completed report to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Need help?



Visit our website at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features

Telephone assistance

Sales Tax Information Center: 518-485-2889

To order forms and publications: 518-457-5431

Text Telephone (TTY) or TDD equipment users Dial 7-1-1 for the New York Relay Service

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

EXHIBIT E

**FORM OF ANNUAL EMPLOYMENT AND
FINANCIAL ASSISTANCE CERTIFICATION LETTER**

Company name and address: Lake's Edge Development Group, LLC
1095 Broad Street
Montoursville, Pennsylvania 17754

Project Name: Lake's Edge Inn & Suites, LLC Project

Job Information

Current number of full-time equivalent employees ("FTE") retained at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

Category	FTE	Average Salary and Fringe Benefits or Ranges
Management		
Professional		
Administrative		
Production		
Other		
Other		

Current number of full-time equivalent employees ("FTE") created at the project location, including FTE contractors or employees of independent contractors that work at the project location, by job category:

Category	FTE	Average Salary and Fringe Benefits or Ranges
Management		
Professional		
Administrative		
Production		
Other		
Other		

A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full time jobs created, an internal payroll report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Financing Information

Has the Agency provided project financing assistance (generally through issuance of a bond or note)

Yes No

If financing assistance was provided, please provide:

- Original principal balance of bond or note issued \$ _____

- Outstanding principal balance of such bond or note

as of December 31 \$ _____

- Outstanding principal balance of such bond or note

as of December 31 \$ _____

Final maturity date of the bond or note

Sales Tax Abatement Information

Did your Company or any appointed subagents receive Sales Tax Abatement for your Project During the prior year?

Yes No

If so, please provide the amount of sales tax savings received by the Company and all appointed subagents

\$ _____

(Attach copies of all ST-340 sales tax reports that were submitted to New York State by the Company and all subagents for the reporting period. Please also attached all ST-60's filed for subagents for the reporting period)

Mortgage Recording Tax Information

Did your company receive Mortgage Tax Abatement on your Project during the prior year?

Yes No

(note this would only be applicable to the year that a mortgage was placed upon the Project, so if the Agency did not close a mortgage with you during the reporting period, the answer should be no)

The amount of the mortgage recording tax that was exempted during the reporting period:

\$ _____

PILOT INFORMATION:

County Real Property Tax without PILOT	\$ _____
City/Town Property Tax without PILOT	\$ _____
School Property Tax without PILOT	\$ _____
TOTAL PROPERTY TAXES WITHOUT PILOT	\$ _____
 Total PILOT Payments made for reporting period:	\$ _____

Whether paid separately or lump sum to Agency for distribution, please provide break down of allocation of PILOT Payment to individual taxing jurisdictions:

County PILOT	\$ _____
City/Town PILOT	\$ _____
Village PILOT	\$ _____
School PILOT	\$ _____
TOTAL PILOTS	\$ _____
 Net Exemptions	\$ _____

(subtract Total PILOTS from TOTAL property taxes without PILOT)

I certify that to the best of my knowledge and belief all of the information on this form is correct. I further certify that the salary and fringe benefit averages or ranges for the categories of jobs retained and the jobs created that was provided in the Application for Financial Assistance is still accurate and if not, I hereby attach a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: _____

Name: _____

Title: _____
(authorized Company representative)

Date: _____

CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY
AND
LAKE'S EDGE DEVELOPMENT GROUP, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

Dated as of December 1, 2021

Street Address:
1115 Lochland Road
City of Geneva
Ontario County

Tax Map Number:
119.16-1-11

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 December 1, 2021, 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 **LAKE'S EDGE DEVELOPMENT GROUP, LLC**, a New York limited liability company, with offices at 1095 Broad Street, Montoursville, Pennsylvania 17754 (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: (i) the acquisition by the Agency of a leasehold or other interest in a certain property located at 1115 Lochland Road in the City of Geneva, New York, Ontario County, New York (the "Land") and the existing improvements thereon, consisting principally of an approximately 3,109 square foot building a/k/a the Main Building, an approximately 1,536 square foot building a/k/a the Carriage House, an approximately 690 square foot building a/k/a the Pool Building and numerous outbuildings (collectively, the "Existing Improvements"), (ii) the construction of an approximately 97,000 square-foot, 111-room full service Marriot/Hilton hotel consisting of a rooftop bar and restaurant, wine cellar, outdoor fire pits with seating area, direct access to the lake via walking paths, a boat dock and boat house and an approximately 7,000 square foot farm-to-table restaurant and brewery (collectively, the "Improvements"), and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land, the Existing Improvements and Improvements are the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct, reconstruction, renovate and equip the Facility, the Agency is willing to take a leasehold interest in the Facility and lease said Facility back to the Company pursuant to the terms and conditions of a certain Leaseback Agreement, dated as of December 1, 2021 (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, 2022) (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 **2023** City and County tax year and the **2022 – 2023** 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 **February 1** of each calendar year commencing on **February 1, 2023** (for County and City taxes), and on or before **October 1** of each calendar year beginning **October 1, 2022** (for School taxes) (collectively, the "Payment Date") for County, City and School taxes, respectively, 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 an alternative 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 "Increased 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 PILOT 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 **2022 – 2023** School District tax year through the **2036 – 2037** School District tax year, and (ii) the **2023** County and City tax year through the **2037** County and City tax year. This PILOT Agreement shall expire on **December 31, 2037**; *provided, however*, the Company shall pay the **2037 – 2038** School District tax bill and the **2038** 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. During the period of the construction and equipping of the Facility, the Company agrees that it will not challenge the assessed value of the Facility seeking a determination that the assessed value of the Facility is less than the assessed value of the Facility at the time of the execution and delivery of this Agreement.

Section 3 - Transfer of Facility. In the event that the Facility is transferred from the Agency to the Company, 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 During the term of this Agreement, the Company, as it relates to Real Estate Taxes, shall not have 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 not be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall not 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 (other than Real Estate Taxes), 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 PILOT payments to the Affected Tax Jurisdictions.

Section 7 - Assignment.

7.1 No portion of any interest in this Agreement may be assigned by the Company except as contemplated in Section 7.2 below, 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.

7.2 The Land will be subdivided into residential and commercial project areas, and a portion of the Land will be conveyed to Lake's Edge Inn & Suites, LLC or a related entity. The Agency hereby acknowledges and consents to the future assignment of the Agreement to Lake's Edge Inn & Suites, LLC, or an entity to be formed by it or on its behalf. Upon subdivision of the Land, the Agency shall release that portion of the Land not subject to the Project described herein.

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: Executive Director

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

To the Company: Lake's Edge Development Group, LLC
1095 Broad Street
Montoursville, Pennsylvania 17754
Attn: Marc F. Demshock

With a copy to: Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, New York 14604
Attn: Betsy D. Brugg, 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.

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 any member, officer, employee, agent (other than the Company) or servant 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 (other than the Company), 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 (other than the Company), 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.

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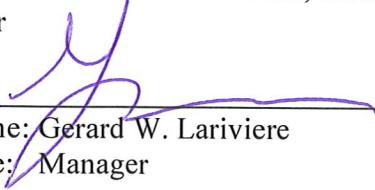
[Signature Page to PILOT Agreement]

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

LAKE'S EDGE DEVELOPMENT GROUP, LLC

By: LAKE'S EDGE INVESTORS, LLC, Sole Member

By: RIVER'S EDGE CAPITAL, LLC, Managing Member

By: 
Name: Gerard W. Lariviere
Title: Manager

CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Name: Sage Gerling
Title: Executive Director

[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.

LAKE'S EDGE DEVELOPMENT GROUP, LLC

By: LAKE'S EDGE INVESTORS, LLC, Sole Member

By: RIVER'S EDGE CAPITAL, LLC, Managing Member

By: _____
Name: Gerard W. Lariviere
Title: Manager

CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY

By: 
Name: Sage Gerling
Title: Executive Director

SCHEDULE A

TO PILOT AGREEMENT DATED AS OF DECEMBER 1, 2021, BY AND BETWEEN
CITY OF GENEVA INDUSTRIAL DEVELOPMENT AGENCY
AND
LAKE'S EDGE DEVELOPMENT GROUP, LLC

"Total PILOT Payment" shall be calculated as follows:

<u>Tax Year</u>	<u>County and City Tax Years</u>	<u>School Tax Year</u>	<u>Total Taxable Valuation</u>
Year 1	2023	2022-23	Base Valuation
Year 2	2024	2023-24	Base Valuation, plus (Added Value of Improvements x .15)
Year 3	2025	2024-25	Base Valuation, plus (Added Value of Improvements x .30)
Year 4	2026	2025-26	Base Valuation, plus (Added Value of Improvements x .35)
Year 5	2027	2026-27	Base Valuation, plus (Added Value of Improvements x .35)
Year 6	2028	2027-28	Base Valuation, plus (Added Value of Improvements x .45)
Year 7	2029	2028-29	Base Valuation, plus (Added Value of Improvements x .50)
Year 8	2030	2029-30	Base Valuation, plus (Added Value of Improvements x .55)
Year 9	2031	2030-31	Base Valuation, plus (Added Value of Improvements x .60)
Year 10	2032	2031-32	Base Valuation, plus (Added Value of Improvements x .65)
Year 11	2033	2032-33	Base Valuation, plus (Added Value of Improvements x .70)
Year 12	2034	2033-34	Base Valuation, plus (Added Value of Improvements x .72)
Year 13	2035	2034-35	Base Valuation, plus (Added Value of Improvements x .75)
Year 14	2036	2035-36	Base Valuation, plus (Added Value of Improvements x .77)
Year 15	2037	2036-37	Base Valuation, plus (Added Value of Improvements x .80)

For the term of this Agreement, the Company shall continue to pay full taxes based on the assessed value of the Land and any Existing Improvements located on the Land as of the date of this Agreement prior to the completion of any Improvements (the "Base Valuation"). During the term of this Agreement, the Base Valuation and the Land shall be increased from time to time by the percentage increase in the assessed valuation in all taxable real property in the City of Geneva, Ontario County, New York, as of the respective tax status date for the tax year for which the recalculation is being made.

The Total Taxable Valuation shall be calculated such that a graduated abatement factor ("Abatement Factor") shall be applied to the increased assessed valuation attributable to the Improvements made to the Facility by the Company, as an agent of the Agency (the "Added Value"). The abatement schedule shall allow for a eighty-five percent (85%) exemption from taxation for the Added Value of the Improvements in Tax Year 1, with such exemption thereafter being eliminated in increments determined by the Company through Tax Year 15.

Once the Total Taxable Valuation of the Facility is established using the Abatement Factor, the Total Tax Payment for the Facility shall be determined by multiplying the Total

Taxable Valuation of the Facility by the respective tax rate for each affected tax jurisdiction (after application of any applicable equalization rate). After the fifteenth Tax Year, the Facility shall be subject to full taxation by the affected taxing jurisdictions.

Total Taxable Valuation = Base Valuation + (Added Value of Improvements x Abatement Factor)

Total Tax Payment = Total Taxable Valuation of the Facility (after equalization) x Tax Rate.