



## Sales Tax Exemption - Brewster Mews

[Instructions and Insurance Requirements Document](#)

### Section I: Applicant Background Information

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law.

#### Applicant Information - Company Receiving Benefit

**Project Name** Brewster Mews  
**Project Summary** Brewster Mews - Preservation  
**Applicant Name** Brewster Amherst Preservation, L.P.  
**Applicant Address** 30 Hudson Yards  
**Applicant Address 2** 72nd Floor  
**Applicant City** New York  
**Applicant State** New York  
**Applicant Zip** 10001  
**Phone** (646) 582-2276  
**Fax** (212) 801-3731  
**E-mail** brian.samson@related.com  
**Website** www.brewstermewsapartments.com/  
**NAICS Code** 531110

#### Business Organization

**Type of Business** Partnership  
**Year Established** 2021  
**State in which Organization is established** New York

#### Individual Completing Application

**Name** Brian Samson  
**Title** Senior Associate  
**Address** 30 Hudson Yards  
**Address 2** 72nd Floor  
**City** New York  
**State** New York  
**Zip** 10001

**Phone** (646) 582-2276  
**Fax** (212) 801-3731  
**E-Mail** brian.samson@related.com

Company Contact (if different from individual completing application).

**Name** David Pearson  
**Title** Senior Vice President  
**Address** 30 Columbus Circle  
**Address 2** 72nd Floor  
**City** New York  
**State** New York  
**Zip** 10001  
**Phone** (212) 301-3738  
**Fax** (212) 301-3731  
**E-Mail** dpearson@related.com

Company Counsel

**Name of Attorney** David Boccio  
**Firm Name** Levitt & Boccio, LLP  
**Address** 423 West 55th Street  
**Address 2** 8th Fl  
**City** New York  
**State** New York  
**Zip** 10019  
**Phone** (212) 801-3769  
**Fax** (212) 801-3762  
**E-Mail** dboccio@levittboccio.com

Benefits Requested (select all that apply).

<b>Exemption from Sales Tax</b>	Yes
<b>Exemption from Mortgage Tax</b>	No
<b>Exemption from Real Property Tax</b>	No
<b>Tax Exempt Financing*</b>	No

\* (typically for not-for-profits & small qualified manufacturers)

Applicant Business Description

**Describe in detail company background, history, products and customers. Description is critical in determining eligibility. Also list all stockholders, members, or partners with % ownership greater than 20%.**

The owner is a single-asset entity formed for the purposes of acquiring, rehabilitating, owning, financing, leasing and operating Brewster Mews Apartments, a multi-family property located at 910-937 Robin Road and 501-511 Robin & Little Robin, Amherst, Erie County. New York 14228. The owner will engage a developer to carry out the rehabilitation activities and MJ Peterson Corp to manage the property.

<b>Estimated % of sales within Erie County</b>	100 %
<b>Estimated % of sales outside Erie County but within New York State</b>	0 %

**Estimated % of sales outside New York State but within the U.S.** 0 %

**Estimated % of sales outside the U.S.** 0 %

(\*Percentage to equal 100%)

**For your operations, company and proposed project what percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Erie County?**

45

**Describe vendors within Erie County for major purchases**

For the proposed rehabilitation, it is expected that approximately 45% of materials will be sourced from firms in Erie County and approximately 50% of the cost for goods and services will be subject to State and local sales and use tax. The vendors and suppliers are yet to be determined. For the management of the property, it is expected that approximately 90% of supplies and vendor services will be purchased from firms in Erie County.

## Section II: Eligibility Questionnaire - Project Description & Details

### Project Location

**Address of Proposed Project Facility**

910-937 Robin Road and 501-511 Robin & Little Robin

**Town/City/Village of Project Site**

Amherst

**School District of Project Site**

Williamsville School District

**Current Address (if different)**

**Current Town/City/Village of Project Site (if different)**

**SBL Number(s) for proposed Project**

41.03 & 41.10 / 1 & 3 / 69 & 18

**What are the current real estate taxes on the proposed Project Site**

226,231

**If amount of current taxes is not available, provide assessed value for each.**

Land

\$ 0

Building(s)

\$ 0

If available include a copy of current tax receipt.

**Are Real Property Taxes current at project location?**

Yes

**If no please explain**

**Does the Applicant or any related entity currently hold fee title or have an option/contract to purchase the Project site?**

Yes

**If No, indicate name of present owner of the Project Site**

**Does Applicant or related entity have an option/contract to purchase the Project site?**

Yes

**Describe the present use of the proposed Project site (vacant land, existing building, etc.)**

The Proposed Project site is currently being used as low-income affordable multi-family rental housing.

**Provide narrative and purpose of the proposed project (new build, renovations) square footage of existing and new construction contemplated and/or equipment purchases. Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility)**

The Proposed Project is the acquisition and renovation of Brewster Mews Apartments, a 216-unit affordable, section 8 site for persons 62 or older, handicapped or disabled that was built in 1978. The purpose of the acquisition and renovation is to preserve and improve an important affordable housing resource in the Town of Amherst. The property is situated on 14.8 acres with 19 two-story buildings containing 198 one-bedroom units and 18 two-bedroom units. One of the two-bedroom units is a non-revenue employee unit. The property consists of two non-contiguous parcels, the "Southend", which includes 501-510 Robin Road and 170-192 Little Robin Road and the "Northend", which includes 910-937 Robin Road. In addition, the property contains a management office, community room, and multiple laundry rooms. The subject property is located within Amherst's Audubon neighborhood, which also contains many single family homes. In the years since the property was built, it has never undergone a substantial rehabilitation. Brewster Mews has been well-maintained, but now has physical needs that require significant capital investment. The Applicant is working with New York State Housing Finance Agency ("HFA") to obtain an allocation of 4% LIHTCs and an allocation of tax-exempt bonds to finance the acquisition and rehabilitation of the property. The acquisition closing and start of renovation is expected to occur in the 3rd quarter of 2021 with renovation to be completed over a twelve-month period. The Applicant proposes to invest approximately \$45,000 per unit in direct hard costs (approximately \$56,000 per unit in total construction costs) to complete a comprehensive rehabilitation that will improve the property functionally and aesthetically. The owner is planning a rehabilitation of the property including new cabinets, counters, fixtures, appliances, lighting, tubs, toilets, flooring, doors, painting, electrical outlets, and signage. There will be upgrades to security lighting, cameras, monitoring equipment, access controls and the adaptation of ten (10) units to ADA compliance. In addition, the current clubhouse will be modernized and have an 880 sf addition built to include a computer lab and fitness room as well as additional office space for the on-site management team. Post-renovation, the Applicant is planning to employ a resident services coordinator to assist the senior population. The property will remain livable throughout construction so it is not expected that any tenants will be displaced during the construction period. In addition to the physical upgrades, the owner is planning to enter into regulatory agreements in connection with the LIHTCs and tax exempt bonds to ensure that 100% of the units remain affordable for residents with incomes at or below 60% AMI for at least another 30 years. The ultimate objective is to preserve and improve existing affordable housing in the Town of Amherst for current and future residents.

**Municipality or Municipalities of current operations**

Town of Amherst

**Will the Proposed Project be located within a Municipality identified above?**

Yes

**Will the completion of the Project 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?**

No

**If the Proposed Project is located in a different Municipality within New York State than that Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?**

No

(If yes, you will need to complete the Intermunicipal Move Determination section of this application)

**Is the project reasonably necessary to prevent the project occupant from moving out of New York State?**

No

**If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation available**

**Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies?**

No

**If yes, please indicate the Agency and nature of inquiry below**

**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:**

**Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary)**

The Project could not currently be undertaken without Financial Assistance from the Agency. The Project will be financed with tax-exempt bonds and 4% LIHTCs. In addition, it is anticipated that the Project will receive a PILOT from the Town of Amherst. However, given the extent of the proposed rehabilitation, the aforementioned capital sources and tax benefits will not be sufficient to make the project viable. The Project will also need tax incentives in the form of a sales tax exemption from the Amherst IDA in order to keep project costs at a level that make the substantial rehabilitation that is planned viable. That is to say that without the sales tax exemption, our total costs of goods and services (COGS) would exceed the financing sources available to us for this Project. Therefore, the sales tax exemption is critical for the Applicant to undertake the Project. For this Project, we are anticipating COGS of \$6,000,000. The resulting Sales Tax Exemption would mean a \$525,000 benefit to the property which would be directly re-invested in the proposed renovation of the property. The renovation of the property will enable an investment of approximately \$10 million in direct hard costs (an average of \$45,000 per unit) and over \$12 million in total construction costs, to address physical needs at the property. Built over 40 years ago and never substantially renovated, the property has been maintained but now has significant capital needs. The proposed renovation includes new cabinets, counters, fixtures, appliances, lighting, tubs, toilets, flooring, doors, painting, electrical outlets, and signage. Site improvements include landscaping, asphalt paving, and upgrades to concrete walks, curbs, and ramps. There will be upgrades of security lighting, cameras, monitoring equipment and access controls, as well as the adaptation of ten (10) units to ADA compliance. In addition, the current clubhouse will be modernized to include a computer lab and fitness room as well as have an addition added to accommodate office space for the on-site management team. The proposed renovation will allow the Applicant to preserve and improve an important affordable housing resource in Amherst which continues to have a need for affordable housing. Through this renovation, the Applicant will protect the affordability of 100% of the 216 units with new extended regulatory agreements. The project is also expected to generate approximately 25 construction jobs through the rehabilitation, with an expected average salary of \$80,000/year for full-time roles and \$40K/year for part-time roles, in addition to enabling the retention of six positions on the property management team.

**Please confirm by checking the box, below, if there is likelihood that the Project would not be undertaken but for the Financial Assistance provided by the Agency**

Yes

**If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and Erie County?**

If the Applicant is unable to obtain Financial Assistance for the Project, the Applicant will need to seek other resources to enable the acquisition and rehabilitation, however it is unclear at this time whether other resources will be available for the Project. If other resources are not available, then the Applicant will not be able to acquire the property and complete a much needed rehabilitation. The current owner will continue to work with management to operate the property given available resources, however the property will undoubtedly experience increasing physical needs and declining conditions.

**Will project include leasing any equipment?**

Yes

If yes, please describe equipment and lease terms.

The site leases laundry machines, Printer/copier machine, and postage machine

### Site Characteristics

**Is your project located near public transportation?**

Yes

**If yes describe if site is accessible by either metro or bus line (provide route number for bus lines)**

The property is within approx. 1/2 - 1 mile (depending where on the site you are located) of a Metro Bus line - Line #44 (available from Millersport Blvd).

**Has a project related site plan approval application been submitted to the appropriate planning department?**

Yes

**Will the Project meet zoning/land use requirements at the proposed location?**

Yes

**Describe the present zoning/land use**

According to the Building and Planning Departments in Williamsville, NY, the property is currently zoned as NCD-ND for New Community District. The current land use is as a Multifamily Dwelling which is a Permitted Use.

**Describe required zoning/land use, if different**

The proposed project does not involve a change to the required zoning or land use.

**If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements**

N/A

**Is the proposed Project located on a site where the known or potential presence of contaminants is complicating the development/use**

of the property?

No

If yes, please explain

Has a Phase I Environmental Assessment been prepared, or will one be prepared with respect to the proposed Project Site?

Yes

If yes, please provide a copy.

Have any other studies, or assessments been undertaken with respect to the proposed Project Site that indicate the known or suspected presence of contamination that would complicate the site's development?

No

If yes, please provide copies of the study.

If you are purchasing new machinery and equipment, does it provide demonstrable energy efficiency benefits?

Yes

If yes, describe the efficiencies achieved

Yes, new equipment purchased as part of the Project will provide energy efficiency benefits. The proposed renovation will include the replacement of equipment in residential units, including energy-efficient lighting, windows and appliances. The renovation will also include mechanical equipment upgrades which are expected to meet certain efficiency standards.

You may also attach additional information about the machinery and equipment at the end of the application.

Does or will the company or project occupant perform research and development activities on new products/services at the project location?

No

If yes, include percentage of operating expenses attributed to R&D activities and provide details.

Select Project Type for all end users at project site (you may check more than one)

For purposes of the following, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, you will need to complete the Retail section of this application.

Retail Sales No

Services No

Please check any and all end uses as identified below.

Yes Acquisition of Existing Facility

No Civic Facility (not for profit)

No Facility for the Aging

No Market Rate Housing

No Retail

Yes Other

Leasing Office, resident amenities (e.g. laundry rooms, community room)

No Assisted Living No Back Office

No Commercial Yes Equipment Purchase

No Industrial No Life Care Facility (CCRC)

No Mixed Use Yes Multi-Tenant

Yes Senior Housing No Manufacturing

For proposed facility please include the square footage for each of the uses outlined below

If applicant is paying for FFE for tenants, include in cost breakdown.

		Cost	% of Total Cost
Manufacturing/Processing	0 square feet	\$ 0	0%
Warehouse	0 square feet	\$ 0	0%

<b>Research &amp; Development</b>	0 square feet	\$	0	0%
<b>Commercial</b>	square feet	\$	0	0%
<b>Retail</b>	0 square feet	\$	0	0%
<b>Office</b>	square feet	\$	0	0%
<b>Specify Other</b>	square feet	\$	0	0%

If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building Council?

No

If you answered yes to question above, what level of LEED certification do you anticipate receiving? (Check applicable box)

<BLANK>

Provide estimate of additional construction cost as a result of LEED certification you are seeking < BLANK >

Will project result in significant utility infrastructure cost or uses Yes

What is the estimated project timetable (provide dates)

**Start date : acquisition of equipment or construction of facilities**

9/1/2021

**End date : Estimated completion date of project**

8/31/2022

**Project occupancy : estimated starting date of occupancy**

9/1/2022

Project Information

**Estimated costs in connection with Project**

**1.) Land and/or Building Acquisition**

\$ 20,100,000 764,887 square feet 15 acres

**2.) New Building Construction**

\$ 0 square feet

**3.) New Building addition(s)**

\$ 1,000,000 880 square feet

**4.) Reconstruction/Renovation**

\$ 8,708,432 118,674 square feet

**5.) Manufacturing Equipment**

\$ 0

**6.) Infrastructure Work**

\$ 0

**7.) Non-Manufacturing Equipment: (furniture, fixtures, etc.)**

\$ 0

**8.) Soft Costs: (Legal, architect, engineering, etc.)**



\$ 2,627,333

**9.) Other Cost**

\$ 2,003,435

**Explain Other Costs** The Other Costs include an estimated \$884,068 in financing and legal costs (e.g. attorneys' fees, issuer fees, lender fees, tax credit equity-related fees) and an estimated \$1,119,367 in lender and investor reserves and escrows.

**Total Cost** \$ 34,439,200

Construction Cost Breakdown:

<b>Total Cost of Construction</b>	\$ 9,708,432 (sum of 2, 3, 4 and 6 in Project Information, above)
<b>Cost of materials</b>	\$ 6,000,000
<b>% sourced in Erie County</b>	20%

Sales and Use Tax:

**Gross amount of costs for goods and services that are subject to State and local sales and use tax- said amount to benefit from the Agency's sales and use tax exemption benefit** \$ 6,000,000

**Estimated State and local Sales and Use Tax Benefit (product of 8.75% multiplied by the figure, above):** \$ 525,000

\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.

**Project refinancing estimated amount, if applicable (for refinancing of existing debt only)** \$ 0

**Have any of the above costs been paid or incurred as of the date of this Application?** Yes

**If Yes, describe particulars:** The Applicant has ordered third-party reports required for the tax exempt bond financing and low income housing tax credit applications (e.g. market study, environmental Phase I report). There have also been architect fees paid.

Sources of Funds for Project Costs:

**Equity (excluding equity that is attributed to grants/tax credits):** \$ 213,724

**Bank Financing:** \$ 0

**Tax Exempt Bond Issuance (if applicable):** \$ 24,000,000

**Taxable Bond Issuance (if applicable):** \$ 0

**Public Sources (Include sum total of all state and federal grants and tax credits):** \$ 15,782,000

**Identify each state and federal grant/credit: (ie Historic Tax Credit, New Market Tax Credit, Brownfield, Cleanup Program, ESD, other public sources)** 0

**Total Sources of Funds for Project Costs:** \$39,995,724

**Have you secured financing for the project?** No

Mortgage Recording Tax Exemption Benefit:

Amount of mortgage, if any that would be subject to mortgage recording tax:

**Mortgage Amount (include sum total of**

construction/permanent/bridge financing).

Lender Name, if Known

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by 3/4 of 1%): \$0

Real Property Tax Benefit:

**Identify and describe if the Project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit (485-a, 485-b, other):**

IDA PILOT Benefit: Agency staff will indicate the estimated 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 and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in the PILOT worksheet in the additional document section.

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 the Sources of Funds for Project Costs as depicted above. The percentage of Project Costs financed from public sector sources will be depicted in the PILOT worksheet in the additional document section.

**Is project necessary to expand project employment?**

Yes

**Is project necessary to retain existing employment?**

Yes

**Will project include leasing any equipment?**

Yes

If yes, please describe equipment and lease terms. The site leases laundry machines, Printer/copier machine, and postage machine

Employment Plan (Specific to the proposed project location)

You must include a copy of the most recent NYS-45 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return. The Labor Market Area consists of the following six counties: Erie, Niagara, Chautauqua, Cattaraugus, Wyoming and Genessee.

By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO Year time period following Project completion. Agency staff converts PT jobs into FTE jobs by dividing the number of PT jobs by two (2).

	Current # of jobs at proposed project location or to be relocated at project location	If financial assistance is granted – project the number of FT and PT jobs to be retained	If financial assistance is granted – project the number of FT and PT jobs to be created upon 24 months (2 years) after Project completion	Estimate number of residents of the Labor Market Area in which the project is located that will fill the FT and PT jobs to be created upon 24 months (2 years) after project completion **
Full time	5	5	1	1
Part time	1	1	0	0
Total	6	6	1	

**If you estimated new job growth over the next 2 years, please provide a short description of how those estimates were calculated (i.e. jobs per square foot, new contracts/increased revenues, etc.)**

If the Agency is able to grant the property a PILOT, we plan to hire a resident services coordinator to assist the elderly population.

Salary and Fringe Benefits for Jobs to be Retained and Created

Category of Jobs to be Retained and/or Created	# of Employees Retained and/or Created	Average Salary for Full Time	Average Fringe Benefits for Full Time	Average Salary for Part Time (if applicable)	Average Fringe Benefits for Part Time (if applicable)
Management	2	\$ 47,153	\$ 1,673	\$ 15,990	\$ 1,673
Professional	4	\$ 28,451	\$ 1,673	\$ 0	\$ 0
Administrative	1	\$ 40,000	\$ 1,673	\$ 0	\$ 0
Production	0	\$ 0	\$ 0	\$ 0	\$ 0
Independent Contractor	0	\$ 0	\$ 0	\$ 0	\$ 0
Other	0	\$ 0	\$ 0	\$ 0	\$ 0

\*\* Note that the Agency may utilize the foregoing employment projections, among other items, to determine the financial assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.

Employment at other locations in Erie County: (provide address and number of employees at each location):

Address	Full time	Part time	Total
	0	0	0
	0	0	0
	0	0	0

Payroll Information

**Annual Payroll at Proposed Project Site upon completion**

255,128

**Estimated average annual salary of jobs to be retained (Full Time)**

32,192

**Estimated average annual salary of jobs to be retained (Part Time)**

15,990

**Estimated average annual salary of jobs to be created (Full Time)**

40,000

**Estimated average annual salary of jobs to be created (Part Time)**

0

**Estimated salary range of jobs to be created**

<b>From (Full Time)</b>	40,000	<b>To (Full Time)</b>	40,000
<b>From (Part Time)</b>	0	<b>To (Part Time)</b>	0

### Section III: Facility Type - Single or Multi Tenant

Is this a Single Use Facility or a Multi-Tenant Facility?

Multi-Tenant Facility

Multi-Tenant Facility (to be filled out by developer).

**Please explain what market conditions support the construction of this multi-tenant facility**

Erie County has a significant need for safe and decent affordable housing. According to the U.S. Census Bureau (2015-2019 American Community Survey 5-Year Estimates), the percentage of households living in rental units and paying 30% or more of their household income in gross rent is 49.4% in Erie County. As the region continues to experience redevelopment activity, the need for preserving affordable housing will continue to grow. In addition, the recent COVID-19 crisis has resulted in unprecedented unemployment which has put significant financial strain on many residents in the County of Erie. This strain only increases the need for safe, decent and affordable rental housing stock. Brewster Mews Apartments provides much needed affordable rental units in a transit accessible location near Buffalo. The property had an average occupancy rate of 98% in 2020 and has had an average occupancy rate of 99% so far through 2021. This further indicates the need for this valuable affordable housing resource in the community.

**Have any tenant leases been entered into for this project?**

No

If yes, please list below and provide square footage (and percent of total square footage) to be leased to tenant and NAICS Code for tenant and nature of business

Tenant Name	Current Address (city, state, zip)	# of sq ft and % of total to be occupied at new project site	SIC or NAICS-also briefly describe type of business, products services, % of sales in Erie Co.
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\*fill out table for each tenant and known future tenants

## Section V: Retail Determination

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

**Will any portion of the project (including that portion of the costs to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?**

No

If yes, complete the Retail Questionnaire Supplement below.

## **Section VI: Adaptive Reuse Projects**

Adaptive Reuse is the process of adapting old structures or sites for new purposes.

**Are you applying for tax incentives under the Adaptive Reuse Program?**

No

## Section VII: Inter-Municipal Move Determination

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results 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, Agency financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

### Current Address

910-937 Robin Road and 501-511 Robin & Little Robin

### City/Town

Amherst

### State

New York

### Zip Code

14228

**Will the project 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?**

No

**Will the project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?**

No

**If Yes to either question, 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:**

N/A

**Does this project involve relocation or consolidation of a project occupant from another municipality?**

**Within New York State**

No

**Within Erie County**

No

**If Yes to either question, please, explain**

N/A

**Will the project result in a relocation of an existing business operation from the City of Buffalo?**

No

**If yes, please explain the factors which require the project occupant to relocate out of the City of Buffalo (For example, present site is not large enough, or owner will not renew leases etc.)**

**What are some of the key requirements the project occupant is looking for in a new site? (For example, minimum sq. ft., 12 foot ceilings, truck loading docs etc.)**

N/A

**If the project occupant is currently located in Erie County and will be moving to a different municipality within Erie County, has the project occupant attempted to find a suitable location within the municipality in which it is currently located?**

No

**What factors have lead the project occupant to consider remaining or locating in Erie County?**

N/A

**If the current facility is to be abandoned, what is going to happen to the current facility that project occupant is located in?**

N/A

**Please provide a list of properties considered, and the reason they were not adequate. (Some examples include: site not large enough, layout was not appropriate, did not have adequate utility service, etc.) Please include full address for locations.**

N/A



## **Section VIII: Senior Housing**

IDA tax incentives may be granted to projects under the Agency's Senior Citizen Rental Housing policy when the project consists of a multi-family housing structure where at least 90% of the units are (or are intended to be) rented to and occupied by a person who is 60 years of age or older.

**Are you applying for tax incentives under the Senior Rental Housing policy?**

No



that the Agency shall not be liable for and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.

6. Applicant understands that, in granting financial assistance, the Agency is required to comply with the New York State Environmental Quality Review Act (SEQRA) and must complete required determinations under SEQRA. The Applicant has completed and submitted with this Application the appropriate Environmental Review Form with respect to the Project and understands that it is required, at its sole expense, to take all necessary action in order for the Agency to comply with SEQRA.
7. Applicant has received and agrees to the Agency's sales tax procedures and understands that, if the Project is approved for a sales tax exemption through the Agency, the Applicant will be required to comply with the Agency's sales tax procedures, including filing required forms and providing information regarding the amount of sales exemptions claimed in connection with the Project. Failure to comply with the Agency's sales tax procedures, or claiming a sales tax exemption in excess of that authorized by the Agency, could result in loss of benefits and recapture of sales tax exemptions claimed.
8. Applicant understands that if the Project receives any financial assistance from the Agency, the Applicant and any occupant of the Project will be required to comply with requirements regarding the listing of jobs created as a result of the Project and reporting of employment by the Applicant and any occupant of the Project.
9. The Applicant represents and warrants that the provisions of Section 862(1) of the New York General Municipal Law (GML), contained 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.

10. 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.
11. 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.

12. Applicant acknowledges receipt of and agrees to the Agency's fee schedule which is attached hereto and made a part hereof.

13. Applicant acknowledges and agrees to the Agency's Inducement Resolution Policy as follows:

It shall be the policy of the Town of Amherst Industrial Development Agency that any inducement resolution adopted by the Board of Directors shall remain in full force and effect for a period of one (1) year from the date of its adoption. Thereafter, the Board of Directors may, in its discretion and upon good cause shown, adopt a further resolution extending the period of inducement for one (1) additional year from the date of the expiration of the original inducement. An Agency Extension Fee in the amount of \$500.00 shall be charged to the applicant for each such extension granted. Such Extension Fee shall be in addition to any other Administrative Fee or other fees incurred with respect to the project. Any request for an extension of the period of inducement beyond the one (1) additional year extension contemplated herein shall be addressed by the Board of Directors on a case-by-case basis.

14. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants 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. This Application is subscribed and affirmed under penalties of perjury.

Brewster Amherst Preservation, L.P.

(Applicant Name)

By:

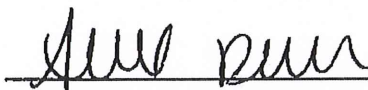
  
\_\_\_\_\_

(Signature of Officer)

NOTARY

Sworn to before me this

day of May 25, 2021

  
\_\_\_\_\_

Notary Public

ALEX DEIXLER  
Notary Public, State of New York  
Registration #01DE6362285  
Qualified In New York County  
Commission Expires July 31, 2021

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY/  
TOWN OF AMHERST DEVELOPMENT CORPORATION  
FEE AND EXPENSE SCHEDULE**

**The following sets forth the Administrative Fee and Expense Policy of the Town of Amherst Industrial Development Agency (“Agency”) and the Town of Amherst Development Corporation (“ADC”), effective as of December 13, 2019.**

**Application Fee:** At the time of application for approval by the Agency or the ADC of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00).

For an extension of an inducement, each extension of six months shall require payment of one quarter of the Agency Administrative Fee.

**Agency Administrative Fees:**

**1. New Projects**

The Agency Administrative Fee for For-Profit Projects shall be the greater of: (a) one percent (1%) of the bond amount, if bonds are to be issued, (b) one percent (1%) of the mortgage amount, if a mortgage with note is utilized or (c) one percent (1%) of the project value. One quarter of the Agency Administrative Fee, or .25%, must be received by the Agency prior to the issuance of a Sales Tax Letter by the Agency except for installment sale transactions when the entire Agency Administrative Fee of 1% is due at time of the issuance of the Sales Tax Letter. The balance of the Agency Administrative Fee or .75% shall be due on the closing of the transaction.

**2. Re-financings**

The Agency Administrative Fee for For-Profit Re-financings shall be \$1,000 plus one half of one percent (.5%) of any new money being financed for projects that provide additional economic benefit to the community.

**3. Second Mortgage**

The Agency fee for a second mortgage is one half of one percent (.5%) for all projects requiring a second mortgage that provide additional economic benefit to the community. Second Mortgages that occur for strictly financial purposes are not eligible for a Mortgage Recording Tax Exemption. If the project involves additional PILOT or sales tax benefits, then the fee is one percent (1%) and calculated as explained previously under “**New Projects**”.

**4. Approval of Lease Assignment and Assumptions**

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall one percent (1%) of the Project Cost except as otherwise agreed to by the Agency-

**5. Tax-Exempt Financing**

The Agency Administrative Fee for approval of all Tax-Exempt projects shall be one half of one percent (.5%) based on the issuance amount of the bond as agreed to by the Agency. This is the fee regardless of whether it is a refinancing of a previous AIDA or ADC bond or a new issuance for a new project. For those bond issuances where a PILOT is necessary, the project fee is one percent (1%) and calculated as previously detailed under "**New Projects**". The fee is due in full at closing.

Tax-exempt Bond Counsel fees for tax-exempt financing projects will be charged separately, based upon time expended with respect to such project. Agency Counsel fees will be charged in accordance with the Bond/Mortgage/Lease schedule below.

**6. Additional Fees**

Additional costs associated with meeting the Agency's current environmental policy are the responsibility of the Applicant.

If the Project Application is withdrawn at any time following submission, or the inducement or authorizing resolution of the Agency relating to the Project expires without extension, or the Project does not close for any reason, the Applicant is responsible for and shall pay costs, including without limitation Agency Counsel Fees, incurred by the Agency in connection with the Project.

**Agency Counsel Fees**

Agency Counsel fees will be paid by the Applicant in accordance with the following schedules:

**Bond/Mortgage/Lease Transactions:**

<u>Project Costs:</u>	<u>Legal Fee*:</u>
to \$750,000	\$5,000**
\$750,001 to \$1,500,000	\$9,000
\$1,500,001 to \$3,000,000	\$12,500
\$3,000,001 to \$5,000,000	\$15,000
\$5,000,001 to \$10,000,000	\$17,500
above \$10,000,000	\$22,500 minimum with additional legal fees payable based upon the circumstances and work involved

\*The Legal Fee will be paid as follows: One-quarter of the Legal Fee will be due and payable prior to issuance of a Sales Tax Exemption Letter (if applicable). The balance of the Legal Fee will be due at closing or at such time it is determined by the Agency that the Project will not proceed to closing.

\*\* With respect to legal fees for Bond/Mortgage/Lease Transactions up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Applicant or the Lender, the closing is delayed beyond a sixty-day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the Agency Counsel's standard hourly rate then in effect.

*Re-financing Transactions*

Legal Fees for re-financings shall be based upon the dollar amount refinanced in accordance with the above schedule. In the case of minor amendments of the prior loan documents, Agency Counsel Fees shall be charged on a time basis at the Agency Counsel's standard hourly rate then in effect. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole but reasonable discretion.

Normal Installment Sale Transactions

<u>Project Cost:</u>	<u>Legal Fee:*</u>
to \$750,000	\$3,000**
\$750,001 to \$1,500,000	\$5,000
\$1,500,001 to \$3,000,000	\$7,500
over \$3,000,000	\$10,000 minimum with additional legal fees payable based upon the circumstances and work involved

\*The Legal Fee will be paid as follows: One-quarter of the Legal Fee will be due and payable prior to issuance of a Sales Tax Exemption Letter (if applicable). The balance of the Legal Fee will be due at closing or at such time it is determined by the Agency that the Project will not proceed to closing.

\*\* With respect to legal fees for Normal Installment Sale Transactions up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty-day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the standard hourly rate of Agency Counsel then in effect.

**Other Transactions:**

Legal Fees for the following transactions will be billed on a time basis at Agency Counsel's current standard hourly rate:

- Lease Assignments and Assumptions
- Lease and PILOT Agreement amendments
- Sublease approvals and modifications
- Lease terminations
- Project reconveyances
- Other miscellaneous transactions

In addition to Agency Counsel fees, disbursements of up to \$1,000 will be added to each closing. If additional transcripts above the normal amount are required (5 for lease only and 7 for bond or mortgage transactions), they will be billed to reflect the additional copy cost and the additional binding costs and may exceed the \$1,000 total.

The above Administrative Fee and Expense Policy have been reviewed and agreed to by the Applicant.

  
Initial



## ATTACHMENT TO AIDA APPLICATION FOR FINANCIAL ASSISTANCE

### Local Labor Workforce Certification

Project applicants (the “Company”), as a condition to receiving Financial Assistance (including a sales tax exemption, mortgage recording tax exemption, real property tax abatement, and/or bond proceeds) from the Town of Amherst Industrial Development Agency (the “Agency”), will be required to utilize Local Labor, as defined below, for all projects involving the construction, expansion, equipping, demolition and/or remediation of new, existing, expanded or renovated facilities (collectively, the “Project”).

#### Local Labor Defined

Local Labor is defined as individuals residing in Erie County, Niagara County, Chautauqua County, Cattaraugus County, Allegany County, Wyoming County, Genesee County, and Orleans County (collectively, the “Local Labor Area”).

#### Local Labor Requirement

At least 90% of all Project employees of the general contractor, subcontractor, or subcontractor to a subcontractor (collectively, the “Workers”) working on the Project must reside within the Local Labor Area. Companies do not have to be local companies as defined herein, but must employ local Workers residing within the Local Labor Area to qualify under the 90% local labor criteria.

It is understood that at certain times, Workers residing within the Local Labor Area may not be available with respect to a Project. Under this condition, the Company is required to contact the Agency to request a waiver of the Local Labor Requirement (the “Local Labor Waiver Request”) based on the following circumstances:

- (i) Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers;
- (ii) Specialized construction for which Local Labor Area Workers are not available;
- (iii) Documented lack of Workers meeting the Local Labor Area requirement. The Agency shall evaluate the Local Labor Waiver Request and make its determination related thereto based upon the supporting documentation received with such waiver request; or
- (iv) Significant cost differentials in bids whereby use of Local Labor significantly increases the cost of the project. A cost differential of 25% is deemed significant.

### Local Labor Reporting Requirement

Companies authorized to receive Financial Assistance from the Agency will be required to file or cause to be filed a Local Labor Utilization Report (the "Report") on such form as made available by the Agency, and as directed by the Agency, which will identify, for each Worker, the city, town, or village and associated zip code that each such Worker is domiciled in. The Report shall be submitted to the Agency as follows: (i) immediately prior to commencement of construction activities; and (ii) on or by the next following quarterly dates of January 1, April 1, July 1, and October 1 and each quarterly date thereafter through the construction completion date.

In addition, the Agency, or its designated agents, shall have the right, during normal business hours, to examine and copy the applicable books and records of the Company and to perform spot checks of all Workers at the Project site to verify compliance with the Local Labor Requirement throughout the construction period.

### Enforcement

If Agency staff determines that: (i) the Local Labor Requirement is not being met; or (ii) Agency staff, upon use of its reasonable discretion, discovers or becomes aware of a compliance issue related to the Local Labor Requirement, then written notice of said Local Labor Requirement violation (the "Notice of Violation") shall be provided to the Company. The Company shall have 10 business days thereafter to either: (i) provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement; (ii) submit the Local Labor Waiver Request as described above; or (iii) confirm in writing its inability to meet the Local Labor Requirement. If the Company does not respond to the Agency's Notice of Violation, or if the Company confirms its inability to meet the Local Labor Requirement then the Agency shall immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project. If a Local Labor Waiver Request is submitted and the Agency declines to issue the requested waiver, then the Company shall have 10 business days after receipt of the notice of the waiver request denial to provide written confirmation to the Agency indicating that it has cured the violation and is now in compliance with the Local Labor Requirement. If the Agency does not receive such confirmation, the Agency shall then immediately terminate any and all Financial Assistance being provided to the Project in accordance with the terms of the underlying agreements between the Agency and the Company with respect to the Project.

June 21, 2013

The foregoing terms have been read, reviewed and understood by the Company and all appropriate personnel. The undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialmen. Furthermore, the undersigned realizes and understands that failure to abide by the terms herein could result in the Agency revoking all or any portion of Financial Assistance, whether already received or to be received by the Company, as it deems reasonable in its sole discretion for any violation hereof.

**Brewster Amherst Preservation, L.P.**

By: 

Name: Matthew Finkle

Title: Vice President of General Partner

Sworn to before me this 25 day  
of MAY, ~~2000~~ 2021

  
Notary Public

ALEX DEIXLER  
Notary Public, State of New York  
Registration #01DE6362285  
Qualified In New York County  
Commission Expires July 31, 2021