

# Jefferson County Industrial Development Agency

800 Starbuck Avenue, Suite 800  
Watertown, New York 13601  
Telephone 315-782-5865 / 800-553-4111  
Fax 315-782-7915  
[www.jcida.com](http://www.jcida.com)

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**TO:** **JCIDA Loan Review Committee**  
Robert E. Aliasso, Jr., Chair  
David Converse  
John Jennings

**FROM:** David J. Zembiec, CEO

**DATE:** May 19, 2021

**SUBJECT:** **JCIDA Loan Review Committee Meeting**

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A JCIDA Loan Review Committee meeting has been scheduled for **Wednesday, May 26, 2021 at 8:00 a.m.** in the board room, 800 Starbuck Avenue, Watertown, NY.

Please confirm your attendance with Peggy Sampson [pssampson@jcida.com](mailto:pssampson@jcida.com) at your earliest convenience.

**Zoom Information:**

<https://us02web.zoom.us/j/84355250468?pwd=R0t4VjRPdGJBZDJrL2JQYVVjKytDdz09>

Meeting ID: 843 5525 0468

Passcode: 011440

1-929-205-6099 US (New York)

Thank you.

pss

C: Lyle Eaton  
Marshall Weir  
W. Edward Walldroff  
Paul Warneck  
William Johnson  
Lisa L'Huillier  
Kent Burto  
Greg Gardner  
Christine Powers  
Rob Aiken  
Justin Miller, Esq.  
Media

# **Jefferson County Industrial Development Agency**

800 Starbuck Avenue, Suite 800

Watertown, New York 13601

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## **JCIDA LOAN REVIEW COMMITTEE**

**Wednesday, May 26, 2021**

**8:00 a.m.**

### **AGENDA**

- I. Call to Order**
- II. Pledge of Allegiance**
- III. RBM Manufacturing Corporation (subordination request)**
- IV. Other/Unfinished business**
  - 1. Brennans Bay Inc. (Sales tax abatement request – REDI)**
- V. Adjournment**

**DRAFT**

**JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
Resolution Number 06.03.2021.01**

**RESOLUTION FOR AUTHORIZING A SUBORDINATION FOR THE REVOLVING  
LOAN TO RBM MANUFACTURING CORP.**

**WHEREAS**, RBM Manufacturing Corp. desires to increase their existing line of credit with Watertown Savings Bank, and

**WHEREAS**, Watertown Savings Bank is requesting approval of a subordination agreement, and

**WHEREAS**, the current balance on the \$400,000 loan is \$400,000 as of May 31, 2020, and

**WHEREAS**, Staff recommends approval of the request, and

**WHEREAS**, on May 26, 2021 the Loan Review Committee of the Jefferson County Industrial Development Agency reviewed this request and agreed to move it to the full Board of Directors, and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Jefferson County Industrial Development Agency that it herein approves the modification request and that all terms and conditions of the original loan remain in effect, and be it further,

**RESOLVED**, that the Chairman, Vice Chairman, Secretary and/or Chief Executive Officer are authorized and directed to execute any and all documents necessary to carry out the purposes of this Resolution.

This resolution shall take effect immediately.

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David J. Zembiec  
CEO

## SUBORDINATION

WHEREAS, RBM MANUFACTURING CORP., hereinafter referred to as "Borrowers", are presently indebted to JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY, an agency, with an office located at 800 Starbuck Avenue, Suite 800, Watertown, NY 13601 (hereinafter referred to as "Second Lienholder"), as evidenced by that certain Note executed by said "Borrowers" in favor of Second Lienholder dated November 22, 2019, in the original principal amount of Four Hundred Thousand (\$400,000.00) Dollars; and

WHEREAS, the said Note is secured by, among other things, a Four Hundred Thousand Dollar (\$400,000.00) Term Loan executed by RBM Manufacturing Corp., hereinafter referred to as "Borrowers", in favor of the Jefferson County Industrial Development Agency dated November 22, 2019, and filed at Instrument No. 201911228512344, with the New York State Department of State Uniform Commercial Code on November 22, 2019 (Schedule A); and

WHEREAS, said Borrowers are desirous of obtaining an increased Line of Credit for an increase in the amount of \$220,000.00 and a new Line of Credit in the amount of \$100,000.00 from Watertown Savings Bank, hereinafter referred to as "Lender", and,

WHEREAS, the Lender requires the Borrowers to secure said Lines of Credit with all business assets and further requests that the Jefferson County Industrial Development Agency subordinate its Term Loan to those Lines of Credit having been taken or to be taken by said Lender,

NOW THEREFORE, in and for good valuable consideration, and in order to induce said Lender to make said loan to said Borrowers, the Second Lienholder does herewith **subordinate** its Term Loan, to those Lines of Credit taken or to be taken by the Lender, which secures said loan.

IT IS EXPRESSLY AGREED AND UNDERSTOOD, HOWEVER, that neither this Subordination, nor anything contained herein shall in any way alter or affect the validity of the Term Loan of the Second Lienholder first mentioned herein, or the lien on the business assets so subordinated herein, or any of the other collateral securing the indebtedness of the Borrowers to the Second Lienholder.

IT IS FURTHER EXPRESSLY AGREED AND UNDERSTOOD that this Subordination is to extend only to the amount of the current loan made to the Borrowers, for the purpose or purposes expressly set forth herein; and will not be valid for or extend to any future advances by Lender to Borrowers, on the Note evidencing Lender's loan. This clause, however, is NOT intended to prevent or inhibit advances by Lender for expenses incidental to the preservation of its collateral, protection of its security interest, collection of its debt, and/or the like.

IN WITNESS WHEREOF, the Mortgagee has caused the Subordination agreement to be executed on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

STATE OF \_\_\_\_\_,  
County of \_\_\_\_\_ )  
 ) SS:  
City of \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2021, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the persons upon behalf of which the individual(s) acted, executed the instrument.

Notary Public



## Schedule A

448360

2019 Nov 22 AM11:19

## UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)  
Peggy Sampson (315-762-3885)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

Jefferson County Industrial Development Agency  
800 Starbuck Avenue, Suite 800  
Watertown, NY 13601, USA

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME RBM Manufacturing Corp.

OR	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS	19138 US Route 11		CITY	Watertown
	STATE	NY	POSTAL CODE	13601
	COUNTRY	USA		
1d. SEE INSTRUCTIONS	ADDL INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any
		Corporation	New York	<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

OR	2a. ORGANIZATION'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX
2b. INDIVIDUAL'S LAST NAME				
2c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
2d. SEE INSTRUCTIONS	ADDL INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR SP) - Insert only one secured party name (3a or 3b)

OR	3a. ORGANIZATION'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX
	Jefferson County Industrial Development Agency			
3b. INDIVIDUAL'S LAST NAME				
3c. MAILING ADDRESS	800 Starbuck Avenue, Suite 800		CITY	Watertown
	STATE	NY	POSTAL CODE	13601
	COUNTRY	USA		

4. This FINANCING STATEMENT covers the following collateral:

All assets and property of every description including without limitation, all accounts, general intangibles, chattel paper (whether tangible or electronic), instruments, letter-of-credit rights, investment property, deposit accounts, documents and goods (including inventory, equipment and embedded software, and all accessions to any goods) as are defined in the New York State Uniform Commercial Code.

5. ALTERNATIVE DESIGNATION (if applicable)	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. This FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS - Assign Debtor's name	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (Additional Fee)		At Debtors		Debtor 1	Debtor 2
8. OPTIONAL FILER REFERENCE DATA						

FILING OFFICE COPY - NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

Filing Number-201911228512344

# Application to

## Jefferson County Industrial Development Agency (JCIDA)

- ☐ Tax Exempt Bond Financing
- ☐ Taxable Bond Financing
- ☐ Lease Leaseback Transaction

Please contact the agency for more information  
regarding project eligibility and application process.

Applicant (Company) Name:

BRENNAS Bay INC

Applicant Address:

9240 RENSLOW Bay Rd  
MANNSVILLE N.Y. 13664

Phone:

315-387-3868(0) 315 727-2193(C)

E-mail:

bbay@frontier.net

Application Date:

5/8/2021

### Internal Use Only

Staff Signature and Date of Submission:

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Completed Application Date: \_\_\_\_\_ Staff Initial \_\_\_\_\_

Document Date: November 1, 2018

# Fee Schedule

Updated as of the date of the document

## Taxable and Tax Exempt Industrial Development Revenue Bonds

<b>Application Fee:</b>	A non-refundable fee of \$2,500.00 is payable to the JCIDA at the time the application is submitted. This fee will be credited towards the total fee at closing.
<b>Fee:</b>	First \$10 million □ 2% of the principal amount of the bond series. \$10 million - \$20 million □ 1% of the bond series. Any amount over \$20 million □ 0.5% of the bond series.  Annual Fee - \$1,500.00
<b>Point of Contact:</b>	Donald Alexander □ CEO JCIDA+1 (315) 782-5865

## Lease Leaseback Transactions

<b>Application Fee:</b>	A non-refundable fee of \$2,500.00 is payable to the JCIDA at the time the application is submitted. This fee will be credited towards the total fee at closing.
<b>Fee:</b>	With a PILOT: First \$10 million □ 2% Second \$10-\$20 million - 0.5% Any amount over \$20 million - 0.25%  No PILOT □ 25% of the abatement value
<b>Point of Contact:</b>	Donald Alexander - CEO JCIDA +1 (315) 782-5865

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

### Section I: Applicant Information

Please answer all questions. Use ☐ None ☐ or ☐ Not Applicable ☐ where necessary.

**A) Applicant Information-company receiving benefit:**

Applicant Name: BRENNANS BAY INC  
 Applicant Address: 9240 RENSSELAIR Bay Rd, MANNSVILLE N.Y 13661  
 Phone: 315 387-3868 Fax: N/A  
 Website: BRENNANS Bay RVPARK.COM E-mail: bbay@FrontierNet.NET  
 Federal ID#: 16-1589654 NAICS: 721211  
 Will a Real Estate Holding Company be utilized to own the Project property/facility? ☐ Yes or ☒ No  
 What is the name of the Real Estate Holding Company: N/A  
 Federal ID#: \_\_\_\_\_  
 State and Year or Incorporation/Organization: NY 2000  
 List of stockholders, members, or partners of Real Estate Holding Company: \_\_\_\_\_

**B) Individual Completing Application:**

Name: MICHAEL BRENNAN  
 Title: PRESIDENT  
 Address: 9240 RENSSELAIR Bay Rd MANNSVILLE NY 13661  
 Phone: 315 387-3868 Fax: N/A  
 E-Mail: bbay@FrontierNet.NET

**C) Company Contact (if different from Section B above):**

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

**D) Company Counsel:**

Name of Attorney: N/A  
 Firm Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**E) Identify the assistance being requested of the Agency (select all that apply):**

1. Exemption from Sales Tax ☒ Yes or ☐ No
2. Exemption from Mortgage Tax ☐ Yes or ☒ No
3. Exemption from Real Property Tax ☐ Yes or ☒ No
4. Tax Exempt Financing \* ☐ Yes or ☒ No

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

**F) Applicant Business Information (check appropriate category):**

Corporation	<input checked="" type="checkbox"/>	Partnership	<input type="checkbox"/>
Public Corporation	<input type="checkbox"/>	Joint Venture	<input type="checkbox"/>
Sole Proprietorship	<input type="checkbox"/>	Limited Liability Company	<input type="checkbox"/>

Other (please specify) \_\_\_\_\_  
 Year Established: \_\_\_\_\_  
 State in which Organization is established: \_\_\_\_\_

**G) List all Applicant stockholders, members, or partners with % of ownership greater than 20%:**

<u>Name</u>	<u>% of ownership</u>
<u>MICHAEL BRENNAN</u>	<u>100%</u>
_____	_____
_____	_____

**H) Applicant Business Description:**

Describe in detail company background, products, customers, goods and services. Description is critical in determining eligibility: 165 SITE RV PARK WITH

131 SLIP MARINA SINCE 2000

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

Estimated % of sales within Jefferson County : 45  
 Estimated % of sales outside Jefferson County, but within New York State: 45  
 Estimated % of sales outside New York State but within the U.S.: 10  
 Estimated % of sales outside the U.S. -0-  
 (\*Percentage to equal 100%)

I) What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Jefferson County. Include list of vendors, raw material suppliers and percentages for each. Provide supporting documentation including estimated percentage of local purchases.

Rural Hd SAND & GRAVEL, Whites LUMBER, GLIDER oil, Sams, Home Depot, Lowes

## Section II: Project Description & Details

### A) Project Location:

List your current operation(s) locations in Jefferson County:

RV PAAC & MARINA

List your current operation(s) locations in New York State:

only in Jefferson Co

List the Proposed Project location(s) : 9240 Rensselaer Bay Rd, Montsullo NY 13661

Provide the Property Address of the proposed Project:

9240 Rensselaer Bay Rd Montsullo N.Y. 13661

Will the completion of the Project result in the removal, or reduction of an industrial or manufacturing plant of the Applicant from: one area of New York State to Jefferson County; or within Jefferson County?

☐ Yes or ☒ No

If Yes, please provide details \_\_\_\_\_

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

Will the completion of the Project result in the abandonment of one or more plants or facilities of the Applicant located within New York State?

☐ Yes or No ☒

If Yes, please provide details \_\_\_\_\_

Will the Proposed Project affect Applicant's current operations within Jefferson County to be closed or be subjected to reduced activity?

☐ Yes or No ☒

If Yes, please provide details \_\_\_\_\_

If Yes to any of the above three (3) questions, Applicant must complete Section II (Q) and Section IV of this Application.

Will the completion of the Project result in the abandonment, removal, or reduction of an industrial or manufacturing plant of a closely aligned competitor from one area of New York State or Jefferson County?

☐ Yes or No ☒

If Yes, please provide details \_\_\_\_\_

SBL Number for Property upon which proposed Project will be located: 128.05 - 75.22 75.3  
What are the current real estate taxes on the proposed Project Site? 26,880.00 75.21/75.1

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

Land: \$ \_\_\_\_\_ Buildings(s): \$ \_\_\_\_\_

\*\* If available please include a copy of current tax bill.

Are Real Property Taxes current? ☒ Yes or ☐ No. If no, please explain \_\_\_\_\_

Town/City/Village: Ellisburg School District: Bellville/Henderson

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

Does the Applicant or any related entity currently hold fee title to the Project site? ☒ Yes or ☐ No

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 or ☒ No

B) Please provide narrative of project and the purpose of the project (new build, renovations, 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): \_\_\_\_\_

TO REPAIR Flood damage from 2017 & 2019 Lake Ontario  
flooding & Rebuild mitigating future high water  
Flood Damage.

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): \_\_\_\_\_

NYS REDI GRANT requires 5% Local Funding

Please confirm by checking the box, below, if there is a strong possibility that the Project would not be undertaken but for the Financial Assistance provided by the Agency?

☐ Yes or ☒ No

If Yes, please provide details: \_\_\_\_\_

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: \_\_\_\_\_

Require by NYS to release \$200,000  
in grant money

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018



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

Will not receive \$200,000 from NYS

C) Will Project include leasing any equipment? ☒ Yes or ☐ No

If Yes, please describe: Heavy Equipment to construct  
new MARINA WALLS

D) Site Characteristics:

Describe the present use of the proposed Project site: RV PARK & MARINA

Will the Project meet zoning/land use requirements at the proposed location? ☒ Yes or ☐ No

If Yes, please provide local zoning reference that applies: Project AREA IS IN A CAMPGROUND  
ZONE

Describe the present zoning/land use: RESORT

Describe required zoning/land use, if different: N/A

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? If yes, please explain: NO

Have site plans been submitted to the appropriate planning department?

☐ Yes or ☒ No

\*\* If yes, please provide the Agency with a copy of the related State Environmental Quality Review Act (SEQRA) Environmental Assessment Form that may have been required to be submitted along with the site plan application to the appropriate planning department. Please provide the Agency

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018



**PERMIT**  
**Under the Environmental Conservation Law (ECL)**

**GENERAL PERMIT GP-0-20-004**  
**Great Lakes Erosion Control General Permit**

**Permittee and Facility Information**

**Permit Issued To:**  
BRENNANS BAY INC  
9240 RENSHAW BAY RD  
MANNSVILLE, NY 13661  
(315) 387-3868

**Facility:**  
BRENNAN'S BAY RV PARK & MARINA  
9240 RENSHAW BAY RD  
MANNSVILLE, NY 13661

**Applicable DEC Region(s):** 6, 7, 8, 9

**General Permit Authorized Activity:** Description of Authorized Activities: For the purposes of shore protection to safeguard existing functional erosion control structures, roads, bridges, infrastructure, and property along the Lake Ontario shoreline, Lake Erie shoreline, Niagara River, and Saint Lawrence River, including affected portions of wetlands, navigable bays and tributaries, the following activities are authorized under this General Permit:

1. Repair and in-kind replacement of existing functional erosion protection structures. The repair or replacement of these structures must not extend waterward of the pre-existing footprint except where the Department accepts an applicant's demonstration that minor deviations are necessary for the stability of the structure. Increase in structure height may be approved if appropriate. Replacement structures must be adequately sized and designed.
2. New stone necessary for the stabilization of existing, functional, vertical erosion protection structures installed along coastal erosion hazard area (CEHA) bluffs or non-CEHA areas. Stone must be sized appropriately for the location. Minor deviations in the original structure's configuration, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. **Not applicable along CEHA beach or dune shorelines.**
3. New sloped rock revetment structures along CEHA bluffs or non-CEHA areas, that are necessary for the emergency stabilization of existing and functional dwellings. Structures must be no greater than 100 feet in length and 10 feet in height, and must be sloped no steeper than 1.5H to 1V and not extend waterward of the existing shoreline, or the shoreline as it existed immediately prior to a discrete erosion event occurring no more than 6 months prior to the time of permit application. Stone must be sized appropriately and placed as close to the toe of the slope as possible. **Not applicable along CEHA beach or dune shorelines.**
4. Emergency repair of functional concrete or steel vertical breakwalls along CEHA bluffs or non-CEHA areas, by installation of sheet piling immediately adjacent to the existing lakeward vertical face when in place repair is not possible. **Not applicable along CEHA beach or dune shorelines.**
5. Repair or in-kind reconstruction of existing public roads, bridges, utilities and other public infrastructure.



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Facility DEC ID 6-2234-00019**

6. Stabilization of existing functional storm-damaged dwellings, decks and walkways with temporary bracing and pilings.
7. Repair or in-kind reconstruction of elevated walk ways or stairways necessary for water access. The stairs and landings shall be a maximum of 4 feet in width and constructed a minimum of 18 inches above grade over the dune/bluff face.
8. Minor grading back of the top of eroded bluffs landward to a stable slope. Project must include an approved vegetation plan. Toe stone for stabilization may be allowed in specific circumstances.
9. Removal of debris by use of motorized equipment.
10. Temporary installation of sand bags or other Department approved temporary flood protection devices located above MHW. Sand bags may be conventional size or large (cubic yard or larger).
11. Removal of channel blockages of streams tributary to Lake Ontario and Lake Erie blocked by shoreline sediment or other naturally-deposited materials. Application must include an upland disposal plan.
12. Repair or in-kind reconstruction of previously-authorized docks, catwalks and floats located within CEHA areas and within DEC regulated freshwater wetlands or wetland adjacent areas.
13. New shoreline stabilization measures that consist predominately of vegetative stabilization or bioengineering techniques. Structures must be no greater than 200 feet in length and 10 feet in height, and must be sloped no steeper than 1.5H to 1V and not extend waterward of the existing shoreline, or the shoreline as it existed immediately prior to a discrete erosion event occurring no more than 6 months prior to the time of permit application. Stone or other materials used must be sized appropriately and placed as close to the toe of the slope as possible.

**Facility Location:** in ELLISBURG in JEFFERSON COUNTY

**Facility Principal Reference Point:** NYTM-E: 404.7 NYTM-N: 4837.1

**Specific Activities Authorized for this Permit:** Remove 1500' of failing timber wall and replace with concrete

<b>Permit Authorizations</b>
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**Excavation & Fill in Navigable Waters - Under Article 15, Title 5**

Permit ID 6-2234-00019/00013

New Permit

Effective Date: 9/30/2020

Expiration Date: 5/7/2025

**Water Quality Certification - Under Section 401 - Clean Water Act**

Permit ID 6-2234-00019/00014

New Permit

Effective Date: 9/30/2020

Expiration Date: 5/7/2025

<b>NYSDEC Approval</b>
------------------------

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

**General Permit Authorized by**



**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Facility DEC ID 6-2234-00019**

Permit Administrator: SCOTT E SHEELEY, Deputy Chief Permit Administrator  
Address: NYSDEC Headquarters  
625 Broadway  
Albany, NY 12233

Date: 05/08/2020

**This permit is not effective without the signature below:**

**Validation under this General Permit**

Authorized By: JESSICA J HART, Deputy Permit Administrator  
Address: NYSDEC Region 6 Headquarters  
State Office Building - 317 Washington St  
Watertown, NY 13601

Authorized Signature:

Date 10/05/20

**Permit Components**

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

**NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following  
Permits: EXCAVATION & FILL IN NAVIGABLE WATERS; WATER  
QUALITY CERTIFICATION**

- 1. Coverage Authorization** This permit is valid only after the Application/Authorization form or project-specific copy of the General Permit has been countersigned by an authorized representative of the Department of Environmental Conservation.
- 2. Geographic Extent of Coverage** This permit is valid only in the municipalities of Erie, Chautauqua, Niagara, Orleans, Monroe, Wayne, Cayuga, Oswego, Jefferson, and St. Lawrence Counties that border Lake Ontario, Lake Erie, St. Lawrence River, or Niagara River.
- 3. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by the applicant or their authorized representative.
- 4. Minimize Waterward Encroachment** Every effort should be made to minimize encroachment waterward. All repair or rehabilitation activities on previously authorized structures should focus on using the area immediately landward of the existing vertical structure. Where toe stone protection is

with the status with respect to any required planning department approval: \_\_\_\_\_

NONE REQUIRED

Has the Project received site plan approval from the planning department? ☐ Yes or ☒ No.

If Yes, please provide the Agency with a copy of the planning department approval along with the related SEQR determination.

E) Has a Phase I Environmental Assessment been prepared, or will one be prepared with respect to the proposed project site? ☒ Yes or ☒ No If yes, please provide a copy.

F) 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?

☐ Yes or ☒ No. If yes, please provide copies of the study

G) Provide any additional information or details: General PERMIT FROM NYSDEC  
Good to 5/7/2025 (Attachment)

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

\*\* Please check any and all end users as identified below.

\*\* Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, complete the Retail Questionnaire contained in Section IV of the Application.

Retail Sales: ☒ Yes or ☐ No

Services: ☒ Yes or ☐ No

For purposes of this question, 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.

Industrial ☐  
Acquisition of Existing Facility ☐  
Housing ☐  
Equipment Purchase ☐  
Multi-Tenant ☐  
Commercial ☐

Back Office ☐  
Retail ☒  
Mixed Use ☐  
Facility for Aging ☐  
Civic Facility (not for profit) ☐  
Other ☐

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

## I) Project Information:

Estimated costs in connection with Project:

1. Land and/or Building Acquisition: \$ \_\_\_\_\_  
\_\_\_\_\_ acres \_\_\_\_\_ square feet
2. New Building Construction: 400 square feet \$ 12,000
3. New Building Addition(s): \_\_\_\_\_ square feet \$ \_\_\_\_\_
4. Infrastructure Work \$ 368,980
5. Reconstruction/Renovation: \_\_\_\_\_ square feet \$ 65,800
6. Manufacturing Equipment: \$ 78,300
7. Non-Manufacturing Equipment (furniture, fixtures, etc.): \$ 68,800
8. Soft Costs: (professional services, etc.): \$ \_\_\_\_\_
9. Other, Specify: \_\_\_\_\_ \$ \_\_\_\_\_

TOTAL Capital Costs: \$ 593,880Project refinancing: estimated amount  
(for refinancing of existing debt only)

\$ \_\_\_\_\_

Sources of Funds for Project Costs:

Bank Financing: \$ 50,000

Equity (excluding equity that is attributed to grants/tax credits) \$ 343,880

Tax Exempt Bond Issuance (if applicable) \$ \_\_\_\_\_

Taxable Bond Issuance (if applicable) \$ \_\_\_\_\_

Public Sources (Include sum total of all state and federal grants and tax credits) \$ 200,000

Identify each state and federal grant/credit:

NYS REDI \$ 200,000

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Total Sources of Funds for Project Costs:

\$ 593,880

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018



**SECTION 5 FINANCIALS (cont'd)****B. PROPOSED BUDGET - TOTAL RESILIENCY PROJECT**


Provide a total budget for all eligible project capital costs for ALL Resiliency Components, numbering each Resiliency Component accordingly.

Resiliency Project Component Name (from Section 5 A Above)	Amount
1. Replace & Raise existing bulkhead walls	\$ 263,190
2. Build levy wall	\$ 58,190
3. New floating docks	\$ 78,300
4. Raise & Replace existing entrance and exit security	\$ 48,700
5. Raise existing marina parking area	\$ 77,800
6. Remove & Replace gas dock	\$ 27,900
7. Replace & Raise water damaged facilities	\$ 24,200
8. Resurface damaged Park roads	\$ 15,600
9.	\$
10.	\$
<b>Resiliency Project Eligible Cost Budget Total:</b>	<b>\$ 593,880</b>
<b>Lake Ontario Business Resiliency Program Assistance Request: (50% of total Project Budget, maximum not to exceed \$200,000)</b>	<b>\$ 200,000</b>
<b>Required Local Government Match (5% of total Program Assistance Request)</b>	<b>10,000</b>
<b>Applicant's Match</b>	<b>383,880</b>

**C. THIRD-PARTY ASSISTANCE**

Third-party assistance from 2019 flooding refers to losses that have been reimbursed or covered by grants or other assistance received from the local, state or federal governments, third-party payors and/or insurance carriers received. List all insurance claims and other assistance you have received, applied for or will receive.

Name of Applicant:

Source of Potential Assistance	Status	Amount Anticipated or Received
1. None		\$ 0
2.		\$
3.		\$
4.		\$
5.		\$
<b>Total Reimbursed Loss Anticipated or Received:</b>		<b>\$ 0</b>
Please initial if no assistance was received to-date nor will it be received in the future.		Initial:  MJB

## **SECTION 4: APPLICANT, SITE & PROJECT DESCRIPTION**

### **A. APPLICANT DESCRIPTION**

1. Brennans Bay RV Park and Marina consists of a 165 full hook-up Recreational vehicle resort with a 132-boat slip marina on a 32-acre parcel on North Sandy Pond. It is a seasonal business that is open from May 1 to Oct 15. Of the 165 rental RV sites and 132 boat slips over 95% are rented on a seasonal basis. In the past 3 years these seasonal rentals have been at a 100% capacity with an established waiting list. Brennans Bay Inc. does all of the construction and maintenance of the Park & Marina on a daily basis as well as opening and closing and off season. This includes road access, electrical, water and sewer service to all individual sites and slips.
2. Brennans Bay Inc. is the legal IRS C corporation that has only one officer: Michael J Brennan  
Michael J Brennan is the only owner of this 32-acre parcel.

### **B. PROJECT SITE INFORMATION AND FLOODING HISTORY/VULNERABILITY**

1. The building and structures affected by the 2019 flood level include the following:
  - A. Wood lighthouse structure that contains a gas pump, fuel tank and water & electric plus storage for Boaters.
  - B. Gas pump and underground control wiring to the office.
  - C. 10' x 24' wood gazebo
  - D. Entrance and exit gates with buried loops
  - E. Electrical distribution services with water, phone and cable connections.
2. The entire 132 slip marina had to be closed when the water exceeded 248'el. due to the docks and bulkhead walls being underwater and the boat wakes that would cause extensive damage to the RV sites. No boat gas was sold in 2019 due to lack of access and damage to the gas pump & wiring. The closing of the marina caused our transient RV and boat dockage & launches to be down over 50% from 2018. This coupled with fewer nights occupied for our seasonal Rvers & boaters drove down not only our profits but the surrounding businesses that depend on our customers for their patronage. At the same time our maintenance budget increased substantially in trying to keep the RV sites in operation and providing access to the boat slips when the flood waters receded.
3. As shown on the inundation map page 4 the RV park and marina are totally functional at 247.3'el which was the limit of Plan 1958DD. In fact, flooding does not impede the recreational activities until just over 248'el.. In 2019 when the water level exceeded 249'el. As shown on inundation map page 5 the entire Marina and over 20 RV sites were flooded rendering them unusable. If this was a short-term flooding event (under 2 weeks) there would have been a small impact. However, with the flooding lasting over 2 months in the start of our seasonal business it had a crippling effect. As shown on page the inundation map for 250' el. has not only the entire Marina but a 1/3 of the RV sites as well as the recreational area that has the Park's swimming pool, pavillion, playground and courts.  
The areas of the park and marina that have been previously mentioned were also under flooding conditions in May-July 2017. The wood retaining walls that were damaged were repaired but not raised higher. Prior to 2017 the Marina has never been closed or docks and RV sites inaccessible. By replacing



## **SECTION 4: APPLICANT, SITE & PROJECT DESCRIPTION**

### **B. PROJECT SITE INFORMATION AND FLOODING HISTORY/VULNERABILITY continued**

and raising the bulkhead walls (RC#1) and installing a levy wall (RC#2) out of the marina area high water events will not flood any of the areas of the park that occurred in 2017 & 2019.

5. In 2017 sand bags were placed at the most vulnerable areas of the RV sites.
6. The negative effects of the surrounding land have on the Park when flooding occurs is, because of our geographical location, sediment erosion dumping, chunks of broken land masses, docks and debris wash into the Marina.
7. The Marina area has approximately 3200' of bulkhead walls that not only provide boat dockage but also erosion control for the RV sites that border the canals. The only component proposed is a levy wall behind the RV sites that are vulnerable to flooding that do not have bulkhead walls presently. This will replace the temporary sandbags, and wood structures from 2017 & 2019. This area is behind sites 201 - 224

Have any of the above costs been paid or incurred as of the date of this Application? ☒ Yes or ☐ No

If Yes, describe particulars: Construction of LEVY wall is complete  
(2) Bulkhead walls ARE 25% complete

**Mortgage Recording Tax Exemption Benefit:** Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ 0

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage Amount as indicated above multiplied by    %): \$ 0

**Construction Cost Breakdown:**

Total Cost of Construction \$ 593,880 (sum of 2,3,4,5, and/or 7 in Question I, above)

Cost for materials: \$ 240,000  
 % sourced in Jefferson County: 50 %  
 % sourced in New York State 50 % (including Jefferson County)  
 List major material suppliers if known Daniel Hill Smith & Co. Inc.

Cost for labor: \$ 356,380  
 Expected Full-Time Equivalent Jobs during construction 6  
 Expected Total Labor Hours during construction 4900  
 List major subcontractors, if known N/A

**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:

\$ 240,000

Estimated State and local Sales and Use Tax Benefit (product of 0 % multiplied by the figure, above):

\$ 19,200

**\*\* 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.**

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

**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: 1/1

**JCIDA 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 in Section II(I) of the Application.

**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 in Section II(I) of the Application.

**J)** For the proposed facility, please indicate the square footage for each of the uses outlined below:

\*If company is paying for FFE for tenants, please include in cost breakdown

	Square Footage	Cost	% of Total Cost of Project
Manufacturing/Processing			
Warehouse			
Research & Development			
Commercial			
Retail (see section K)			
Office			
Specify Other			

**K)** What is your project timetable (Provide dates): 12/31/2022

1. Start date: acquisition of equipment or construction of facilities: OK GOING
2. Estimated completion date of project: 12-31-2022
3. Project occupancy ☐ estimated starting date of operations: 2020
4. Have construction contracts been signed? ☐ Yes or ☒ No
5. Has Financing been finalized? ☒ Yes or ☐ No

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

**\*\* If constructions contracts have been signed, please provide copies of executed construction contracts and a complete project budget. The complete project budget should include all related construction costs totaling the amount of the new building construction, and/or new building addition(s), and/or renovation.**

L) Is the proposed Project necessary to expand Applicant employment: ☒ Yes or ☐ No

Is the proposed Project necessary to retain existing employment: ☒ Yes or ☐ No

M) Employment Plan (Specific to the proposed project location):

	Current # of jobs at proposed project location or to be relocated at project location	IF FINANCIAL ASSISTANCE IS GRANTED <input type="checkbox"/> project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED <input type="checkbox"/> project the number of FTE and PTE jobs to be CREATED upon TWO 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 TWO Years after Project Completion **
Full time (FTE)	4	4		
Part Time (PTE)	4	4		
Total ***	8	8		

**\*\* 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 Market Area, in the fourth column. The Labor Market Area includes Jefferson County as well as the following Areas:**

**\*\*\* 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 PTE jobs into FTE jobs by dividing the number of PTE jobs by two (2). A FTE job is one that works the equivalent of a 40-hour week for 48 weeks. A PTE job is one that works the equivalent of a 20-hour week for 24 weeks.**

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

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

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management	40,000	0
Professional	—	0
Administrative	20,000	0
Production	855,000	0
Other		0

Employment at other locations in County/City/Town/Village: (provide address and number of employees at each location):

N/A

	Address	Address	Address
Full time			
Part Time			
Total			

N) Will any of the facilities described above be closed or subject to reduced activity? ☐ Yes or ☐ No

**\*\* If any of the facilities described above are located within the State of New York, and you answered Yes to the question, above, you must complete Section IV of this Application.**

**\*\* Please 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.**

O) Is the proposed Project reasonably necessary to prevent the Applicant from moving out of New York State? N/A ☐ Yes or ☐ No. Out of Jefferson County? ☐ Yes or ☐ No.

If yes, please explain and identify the other locations being investigated, type of assistance offered and provide supporting documentation if available: \_\_\_\_\_

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

P) What competitive factors led you to inquire about sites outside of Jefferson County or New York State? \_\_\_\_\_

Q) Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies? ☐ Yes or ☐ No.

Have you applied, or intend to apply for additional Grant Funding, or tax incentives? ☒ Yes or ☐ No.

If yes, please identify which agencies and what other Local, State and/or Federal assistance and the assistance sought and dollar amount that is anticipated to be received: \_\_\_\_\_

*SEE ATTACHED RETAIL PROPERAN*

### Section III Retail Questionnaire

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:

- A. Will any portion of the Project (including that portion of the cost 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?

☒ Yes or ☐ No. If the answer is yes, please continue. If no, proceed to section V

For purposes of Question A, 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.

- B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? 100 %. If the answer is less than 33% do not complete the remainder of the retail determination and proceed to section V.

If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:

1. Will the Project be operated by a not-for-profit corporation ☐ Yes or ☒ No.

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

2. Is the Project location or facility likely to attract a significant number of visitors from outside the economic development region (list specific County or ED region) in which the project will be located?

☒ Yes or ☒ No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the municipality within which the proposed Project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

☐ Yes or ☒ No

If yes, please provide a third party market analysis or other documentation supporting your response.

4. Will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

☒ Yes or ☐ No.

If yes, explain \_\_\_\_\_

5. Is the Project located in a Highly Distressed Area? ☐ Yes or ☒ No

#### Section IV 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 Applicant from one area of New York State to another area of the State; or in the abandonment of one or more plants or facilities of the Applicant located within the New York State, Agency Financial Assistance is required to prevent the Applicant from relocating out of the New York State, or is reasonably necessary to preserve the Applicant's competitive position in its respective industry.

Explain how the Agency's Financial Assistance is required to prevent the Project from relocating out of New York State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry: IF FLOODING CONTINUES, RV SITES & MARINA SITES  
will not be AVAILABLE FOR RENT.

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

**Section V: Estimate of Real Property Tax Abatement Benefits and Percentage of Project Costs  
financed from Public Sector sources**

**\*\* Section V of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.**

**PILOT Estimate Table Worksheet**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
<b>TOTAL</b>							

**\*Estimates provided are based on current property tax rates and assessment values**

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018



**Percentage of Project Costs financed from Public Sector Table Worksheet:**

Total Project Cost	Estimated Value of PILOT	Estimated Value of Sales Tax Incentive	Estimated Value of Mortgage Tax Incentive	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)

Calculate %

(Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: \_\_\_\_\_%

JCIDA will also complete a Cost-Benefit analysis using information contained within this Application, and available to the Public.

**Section VI Representations, Certifications and Indemnification**

**\*\* This Section of the Application can only be completed upon the Applicant receiving, and must be completed after the Applicant receives, JCIDA Staff confirmation that Section I through Section V of the Application are complete.**

MICHAEL BRENNAN (name of CEO or other authorized representative of Applicant) confirms and says that he/she is the PRESIDENT (title) of BRENNAN BAY INC (name of corporation or other entity) named in the attached Application (the ☐ Applicant), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the ☐ DOL) and with the administrative entity (collectively with the DOL, the ☐ TPA Entities) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (☐ TPA) in which the Project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

- C. Annual Sales Tax Filings: In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax 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. Copies of all filings shall be provided to the Agency.
- D. Employment Reports: The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, ☐ Employment Reports ☐ that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys' ☐ consultants ☐ and experts ☐ fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.

- G. **Hold Harmless Provision:** The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the 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. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.
- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and the Agency's general counsel and/or the Agency's bond/transaction counsel, the same to be paid at the times indicated:
- (i) a non-refundable \$ 500 application and publication fee (the ☐ Application Fee);
  - (ii) a \$ \_\_\_\_\_ expense deposit for the Agency's Counsel Fee Deposit.
  - (iii) Unless otherwise agreed to by the Agency, an amount equal to \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the total project costs.
  - (iv) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.

- J. If the Applicant fails to conclude or consummate the 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 Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.
- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- M. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
- N. The Applicant acknowledges that it has been provided with a copy of the Agency's Policy for Termination of Agency Benefits and Recapture of Agency Benefits Previously Granted (the [Termination and Recapture Policy]). The Applicant covenants and agrees that it fully understands that the Termination and Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Termination and Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
- O. The 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

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018

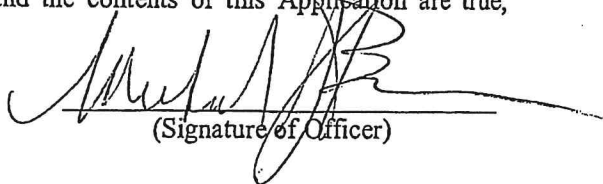
determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

- P. 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.
- Q. 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.
- R. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.
- S. 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.

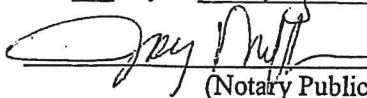
STATE OF NEW YORK )  
COUNTY OF JEFFERSON ) ss.:

Michael Brennan, being first duly sworn, deposes and says:

1. That I am the PRESIDENT (Corporate Office) of BRENNAN BAY LTD. (Applicant) 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 11<sup>th</sup> day of May, 2021.

  
(Notary Public)

**JOY NUFFER**  
NOTARY PUBLIC - STATE OF NEW YORK  
Registration No. 01NU6152633  
Qualified in Jefferson County  
Commission Expires September 18, 2022

Revised Date: \_\_\_\_\_, Revision #: \_\_\_\_\_

Document Date: 11/1/2018