

11-8-2024

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### Section 1 of #: Applicant Information

Please read and understand the following policies before proceeding:

Fee Schedule Policy ([http://www.hamburgida.com/download\\_file/4695/0](http://www.hamburgida.com/download_file/4695/0)) | Local Labor Policy ([http://www.hamburgida.com/download\\_file/4665/0](http://www.hamburgida.com/download_file/4665/0)).

A) Company receiving benefit

Project Name \*

The Oaks at South Park

Applicant Name

South Park Equity Enterprises, LLC

Applicant Address

4221 N. Buffalo Street  
Orchard Park, New York 14127

**Phone**

716-662-0340

**Fax**

716-316-1244

**Website**

npmainc.com

**Email**

mgacioch@npmainfo.com

**Federal ID#**

[REDACTED]

**NAICS**

531110

**State and Year of Incorporation/Organization**

New York / 2024

**Will a Real Estate Holding Company be utilized to own the Project property/facility? If yes, Name of the Real Estate Holding Company**

Yes

**Real Estate Holding Company Federal ID #**

[REDACTED]

**State and Year of Incorporation/Organization**

[REDACTED]

**List of stockholders members, or partners of Real Estate Holding Company**

Michael T. Gacioch  
David W. Gacioch  
Katherine A. Hannon

**B) Individual Completing Application**

**Name**

Michael T. Gacioch

**Title**

Manager of the Sole Member

**Address**

4221 N. Buffalo Street, Orchard Park, NY 14127

**Phone**

716-662-0340

**Email**

mgacioch@npmainfo.com

**C) Company Contact (if different from individual completing application)**

**Name**

Daniel Kersch

**Title**

Director of Finance

**Address**

4221 N. Buffalo Street, Orchard Park, New York 14127

**Phone**

716-662-0340

**Fax**

716-316-1244

**Email**

dkersch@npmainfo.com

**D) Company Counsel**

**Name of Attorney**

Thomas P. Fitch

**Firm Name**

Zdarsky, Sawicki & Agostinelli LLP

**Address**

1600 Main Place Tower  
350 Main Street  
Buffalo, New York 14202

**Phone**

716-855-3200

**Fax**

716-855-3101

**Email**

tfitch@zsalawfirm.com

**E) Assistance being requested of the Agency**

What assistance are you requesting (select all that apply)

- 1. Exemption from Sales Tax

- 2. Exemption from Mortgage Tax
- 3. Exemption from Real Property Tax
- 4. Tax Exempt Financing (typically for not-for-profit & small qualified manufacturers)

F) Business Organization

What is your business organization (check appropriate category)

- Corporation
- Partnership
- Public Corporation
- Joint Venture
- Sole Proprietorship
- Limited Liability Company

Type of Business

Multifamily Housing

Type of Ownership

Limited Liability Company

Year Established

2024

State of Organization

New York

G) List all stockholders, members, partners with % of ownership greater than 20%

Name

% Ownership

HG Equity Enterprises, LLC	100 %
	%
	%

H) Applicant Business Description

**Describe in detail company background, customers, goods and services. Description is critical in determining eligibility**

See attached Narrative

**Estimated % of sales**

Estimated % of sales within County:

N/A %

Estimated % of sales outside County but within New York State

N/A %

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

N/A %

Estimated % of sales outside of U.S.

N/A %

(Percentage to equal 100%)

%

**What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in the Town of Hamburg? Include list of vendors, raw material suppliers and percentages for each. Provide supporting documentation including estimated percentage of local purchases.**

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## Section II of #: Project Description and Details

### A) Project Location

#### Municipality or Municipalities of current operations

Hamburg, New York

#### In which municipality will the proposed project be located

Hamburg, New York

#### Property address of the proposed project

5138 South Park Ave. Hamburg, NY 14075

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?

Yes

No

If the proposed project is located in a different Municipality than the 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? (If Yes, you will need to complete Section II (Q) and Section IV of this Application.)

Yes

No

**SBL Number for Property upon which proposed project will be located**

171.10-3-21 and 171.10-3-1

**Current real estate taxes on the proposed project site**

PILOT

**Assessed value of Land**

\$4,417,500.00

**Assessed value of building(s)**

\$13,804,688.00

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

Land

\$

Building

\$

**Are Real Property Taxes current? If no, please explain**

Yes

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

Town of Hamburg

**School District of Project Site**



Frontier

**Does the applicant or any related entity currently hold fee title to the Project site? If No, Indicate the name of present owner of the project site**

No. The Oaks at South Park, LLC is the current owner.

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

Yes

No

**Describe the present use of the proposed project site**

Multifamily Housing

**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)**

See attached narrative

**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 (additional pages if necessary)**

See attached narrative

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

Not likely without financial assistance

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

See attached narrative

**Will Project include leasing any equipment? If yes, please describe equipment and lease terms**

No

**Site Characteristics**

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

Yes

No

**Describe the present zoning/land use**

Zoned R-3 Multifamily District pursuant to the Tr

**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**

N/A

Has a Phase 1 Environmental Assessment been prepared or will one be prepared with respect to the proposed project site?

Yes

No

C) 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

No

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

N/A

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

No

What percentage of annual operating expenses are attributed to the above referenced research and development activities?

N/A

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

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 determination contained in Section IV of the application. Please check any and all end users as identified below

Retail Sales

Services

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.

Project Type for all end users (you may check more than one):

- Manufacturing
- Back Office
- Acquisition of Existing Facility
- Retail
- Housing
- Mixed Use
- Equipment Purchase
- Facility for Aging
- Multi-Tenant
- Civic Facility (not for profit)
- Commercial
- Other

**D) Project Information**

**Estimated costs in connection with Project**

	Acres	Sq ft	\$
Land and/or Building Aquisition	27		\$33,500,000.00
New Building Construction			\$
New Building Addition(s)			\$
Infrastructure Work			\$
Renovation			\$
Manufacturing Equipment			\$
Non-Manufacturing Equipment (furniture, fixtures, etc.)			\$
Soft Costs: (professional services, etc.):			\$
<i>Estimated Closing Costs</i>			\$500,000.00

**Project refinancing, estimated amount (for refinancing of existing debt only)**

Have any of the above costs been paid or incurred as of the date of this application? If yes, describe the particulars

N/A

**Sources of Funds for Project Costs**

Bank Financing

Equity (excluding equity that is attributed to grants/tax credits)

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)

Identify each state and federal grant/credit:

\$

\$

\$

\$

Total Sources of Funds for Project Costs

Has a financing preapproval letter or loan commitment letter been obtained?

Yes

No

**Mortgage Recording Tax Exemption Benefit**

Estimated mortgage amount (sum total of all financing- construction and bridge)	\$ 21,775,000.00
Amount of mortgage, if any, that would be subject to mortgage recording tax.	\$ 0.00
Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by .0075)	\$ 0.00

**Name of Lender (if known)**

Walker & Dunlop, LLC

**Construction Cost Breakdown**

Total Cost of Construction (This can be a calculation of sum 2,3,4,5, 7 in D) (above))	\$N/A
Cost for materials	\$ N/A
% sourced in Town of Hamburg	%
% sourced in Erie County	%
% sourced in New York State	%
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	\$ N/A
Estimated State and Local Sales Tax and Use Benefit (product of 8.75% multiplied by the figure above)	\$ N/A

\*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.

**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**

N/A

**E) Square footage for project**

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

	Square Footage	Cost	% of Total Cost of Project
Manufacturing		\$	%
Warehouse		\$	%
Research and Development		\$	%
Commercial		\$	%
Retail		\$	%
Office		\$	%
Specify Other	152 housing units	\$34,000,000.00	100 %

If you are undertaking new construction or renovations, are you seeking LEED certification from the US Green Building council? If yes, what level of LEED certification do you anticipate receiving?

N/A

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

mm/dd/yyyy

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

N/A

**Estimated completion date of project**

mm/dd/yyyy

Will project result in significant utility infrastructure cost or uses

Yes

No

**Project Occupancy - estimated starting date of operations**

mm/dd/yyyy

**F) Project Timetable (please provide dates)**

Have construction contracts been signed?

Yes

No

Have site plans been submitted to the appropriate planning department?

Yes

No

Has the Project received site plan approval from the appropriate planning department?

Yes

No

**G) Employment**

Is the project necessary to expand project employment

Yes

No

Is the project necessary to retain existing employment

Yes



No

**Employment Plan (Specific to the proposed project location)**

	Current # of jobs at proposed location or to be relocated at project location	IF FINANCIAL ASSISTANCE IS GRANTED - project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED - project the number of FTE and PTE jobs to be CREATED 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 two years after Project completion
Full Time (FTE)	6	6		
Part Time (PTE)	2	2		
Total	8	8		

\*For purpose 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 the Town of Hamburg and balance of Erie 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).

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

Category of Jobs to be Retained and Created	#of employee Retained and 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	1	\$ 58,000	\$ 6,200	\$	\$
Professional	5	\$ 23/hr	\$ 6,200	\$ 23/hr	\$

Administrative	1	\$ 20/hr	\$ N/A	\$ 20/hr	\$
Production		\$	\$	\$	\$
Independent Contractor		\$	\$	\$	\$
Other		\$	\$	\$	\$

**Employment at other locations in the Town of Hamburg or Erie County (provide address and number of employees at each location)**

	Address1	Address2	Address3
Full Time			
Part Time			
Total			

**H) Operations**

Will any of the facilities described above be closed or subject to reduced activity?

Yes

No

**I) Payroll Information**

Annual payroll at proposed project site	\$ 295,750.00
Estimated average annual salary of jobs to be retained (FULL time)	\$ 53,000.00
Estimated average annual salary of jobs to be retained (PART time)	\$ 21,500.00
Estimated average annual salary of jobs to be created (FULL time)	\$
Estimated average annual salary of jobs to be created (PART time)	\$
Estimated salary range of jobs to be created	

FULL Time from

to

PART Time from

to

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

Single Use Facility

Multi-Tenant Facility

Is this project reasonably necessary to prevent the project occupant from moving out of New York State? If yes, please explain and identify out-of-state locations investigated

What competitive factors led you to inquire about sites outside of New York State

Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies? If yes, please indicate the Agency and nature of inquiry below

Do you anticipate in applying for any other assistance for this project? If yes what type of assistance (Historic Tax Credits, 485-a, Grants, Utility Loans, Energy Assistance, Workforce Training)

Single Use Occupant Name



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Single Use Occupant Address

Section III of #: facility Type - Single or Multi-Tenant

Single Use Contact Person

Single Use Contact Person Phone

Single Use Occupant Fax

**Single Use Contact Person Email**

**Single Use Federal ID#**

**Single Use SIC/NAICS Code**

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

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

**Have any tenant leases been entered into for this project? If yes, please fill out a tenant form in section VII, for each tenant.**

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## Section V of #: Environmental Questionnaire

### General Background Information

#### Address of Premises

5138 South Park Avenue Hamburg, New York 14075

#### Name and Address of Owner of Premises

The Oaks at South Park LLC

Describe the general features of the Premises (include terrain, location of wetlands, coastlines, rivers, streams, lakes, etc.)

The subject property is currently occupied by The Oaks at South Park which is a multifamily apartment complex. Onsite operations consist of operating and maintaining 19, two story apartment buildings containing eight units each

**Describe the Premises (including the age and date of construction of any improvements) and each of the operations or processes carried out on or intended to be carried on at the Premises**

The complex was constructed over several years 2022-2023 and includes a community center (aka clubhouse) and contains a leasing office, gymnasium, auditorium, yoga studio, 24/7 fitness room, and exterior heated pool. Also

**Describe all known former uses of the Premises**

The subject property was formerly unimproved land and/or farmland as through 1951 at which point it was developed and used as Immaculata Academy girls school between 1953 and 2020.

**Does any person, firm or corporation other than the owner occupy the Premises or any part of it? If yes, please identify them and describe their use of the property**

Hilbert College leases the 2 baseball fields.

**Have there been any spills, releases or unpermitted discharges of petroleum, hazardous substances, chemicals or hazardous wastes at or near the Premises? If yes, describe and attach any incident reports and the results of any investigations**

Unknown

**Has the Premises or any part of it ever been the subject of any enforcement action by any federal, state or local government entity, or does the preparer of this questionnaire have knowledge of: a) any current federal, state or local enforcement actions; b) any areas of non-compliance with any federal, state or local laws, ordinances, rules or regulations associated with operations over the past 12 months?. If yes, please state the results of the enforcement action (consent order, penalties, no action, etc.) and describe the circumstances.**

Unknown

**Has there been any filing of a notice of citizen suit, or a civil complaint or other administrative or criminal procedure involving the Premises? If yes, describe in full detail.**

Unknown

**Solid And Hazardous Wastes And Hazardous Substances**

**Does any activity conducted or contemplated to be conducted at the premises generate, treat or dispose of any petroleum, petroleum-related products, solid and hazardous wastes or hazardous substances? If yes, provide the Premises' applicable EPA (or State) identification number.**

Unknown

**Have any federal, state or local permits been issued to the Premises for the use, generation and/or storage of solid and hazardous wastes? If yes, please provide copies of the permits.**

Unknown

**Identify the transporter of any hazardous and/or solid wastes to or from the Premises**

Unknown

**Identify the solid and hazardous waste disposal or treatment facilities which have received wastes from the Premises for the past two (2) years.**

Unknown



Does or is it contemplated that there will occur at the Premises any accumulation or storage of any hazardous wastes on-site for disposal for longer than 90 days? If yes, please identify the substance, the quantity and describe how it is stored.

Unknown

#### Discharge Into Waterbodies

Briefly describe any current or contemplated industrial process discharges (including the approximate volume, source, type and number of discharge points). Please provide copies of all permits for such discharges.

Unknown

Identify all sources of discharges of water, including discharges of waste water, process water, contact or noncontact cooling water, and storm water. Attach all permits relating to the same. Also identify any septic tanks on site.

Unknown

Is any waste discharged into or near surface water or groundwaters? If yes, please describe in detail the discharge including not only the receiving water's classification, but a description of the type and quantity of the waste.

Unknown

#### Air Pollution

Are there or is it contemplated that there will be any air emission sources that emit contaminants from the Premises? If yes, describe each such source, including whether it is a stationary combustion installation, process source, exhaust or ventilation system, incinerator or other source.

Unknown

Are any of the air emission sources permitted? If yes, attach a copy of each permit.

Yes

No

### Storage Tanks

List and describe all above and underground storage tanks at the Premises used to store petroleum or gasoline products, or other chemicals or wastes, including the contents and capacity of each tank. Please also provide copies of any registrations/permits for the tanks.

Unknown

Have there been any leaks, spills, releases or other discharges (including loss of inventory) associated with any of these tanks?. If yes, please provide all details regarding the event, including the response taken, all analytical results or reports developed through investigation (whether internal or external), and the agencies which were involved.

Unknown

### Polychlorinated Biphenyls ("PCB" or "PCBs") And Asbestos

Have there been any PCB spills, discharges or other accidents at the Premises? If yes, relate all the circumstances.

Unknown

Do the Premises have any asbestos containing materials? If yes, please identify the materials.

Unknown

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### Section VI of #: 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.

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?

Yes

No

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

Yes

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:**

**Does the Project involve relocation or consolidation of a project occupant from another municipality? Within New York State:**

Yes

No

**Does the Project involve relocation or consolidation of a project occupant from another municipality? Within Erie County:**

Yes

No

**If yes to either question, please explain:**

**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 docks etc.)**

**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?**

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

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

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

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### Section VII of #: Adaptive Reuse Projects

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

Yes

No

What is the age of the structure (in years)?

Has the structure been vacant or underutilized for a minimum of 3 years? (Underutilized is defined as a minimum of 50% of the rentable square footage of the structure being utilized for a use for which the structure was not designed or intended)

Yes

No

If vacant, number of years vacant

If underutilized, number of years underutilized

Describe the use of the building during the time it has been underutilized:

Is the structure currently generating insignificant income? (Insignificant income is defined as income that is 50% or less than the market rate income average for that property class)  
If yes, please provide dollar amount of income being generated, if any

If apartments are planned in the facility, please indicate the following:

Does the site have historical significance?

Yes

No

Are you applying for either State/Federal Historical Tax Credit Programs? If yes, provide estimated value of tax credits

Briefly summarize the financial obstacles to development that this project faces without agency or other public assistance. Please provide the agency with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without agency and other tax credits included indicating below average return on investment rates compared to regional industry averages)



**Briefly summarize the demonstrated support that you intend to receive from local government entities. Please provide agency with documentation of this support in the form of signed letters from these entities.**

**Please indicate other factors that you would like HIDA to consider such as: structure or site presents significant public safety hazard and or environmental remediation costs, site or structure is located in a distressed census tract, structure presents significant costs associated with building code compliance, site has historical significance, site or structure is presently delinquent in property tax payments.**

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### Section VIII of #: Senior Citizen Rental Housing Projects

Agency 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? If yes, please answer the following questions. If no, please proceed to the next section of this application.**

No

Projects applying for tax incentives under the Senior Citizen Rental Housing program will be evaluated based upon the answers you supply to the following criteria based questions. Please note that approval of Senior Citizen Rental Housing project incentives does not require that all of the following criteria be met, but rather this information will be considered by the Agency's Board when the project is presented for Board approval.

Has the project received written support from the city, town or village government in which it is located?

Yes

No

**Describe the location of the project as it relates to the project's proximity to the town / village / city center or to a recognized hamlet.**

**Is the project consistent with the applicable municipal master plan? If yes, please provide a narrative identifying the master plan (by name) and describing how the project aligns with the plan details**

**Does the project advance efforts to create a walkable neighborhood and community in proximity to important local amenities and services? If yes, please provide a narrative describing the walkable nature of the project including access seniors would have to specific neighborhood amenities.**

**Has a market study shown that there is a significant unmet need in the local community or specific neighborhood where seniors are unable to find appropriate housing opportunities?**

**Is the project located in an area (defined as a 1 - 5 mile radius of the project site) where there are significant local resident populations that are at or below the median income level? If yes, please describe how you made this determination based upon census tract and other relevant third party data.**

**Does the project provide amenities that are attractive to seniors and differentiates the project from standard market rate housing? If yes, please describe these amenities (examples may include: community rooms, social / recreational activity areas, senior-oriented fixtures and safety amenities, security systems, call systems, on site medical services)**

**Are there impediments that hinder the ability to conventionally finance this project and /or negatively impact the project's return on investment? If yes, please briefly summarize the financial obstacles to development that this project faces without agency or other public assistance. Please provide the agency with documentation to support the financial obstacles to development (you will be asked to provide cash flow projections documenting costs, expenses and revenues with and without agency and other tax credits included indicating below average return on investment rates compared to regional industry averages)**

**Will the project target (and maintain during the incentive period) a minimum 50% occupancy rate of senior citizens whose income is at or below 60-80% of the median income for Erie County? If yes, please describe provide a narrative citing key facts that substantiate this finding.**

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### Section IX of #: 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.

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? \*If yes, please complete the retail questionnaire supplement below. If no, proceed to Section X

Yes

No

For purposes of Question A, the term "retail sales" means (i) sales by 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?**

If the answer is less than 33% do not complete the remainder of the retail determination. If the answer to Question 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

No

2. Is this Project location or facility likely to attract a significant number of visitors from outside the economic development region (Erie, Niagara, Allegheny, Chautauqua and Cattaraugus counties) in which the project will be located? \*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? Are services provided at proposed project site needed because of a lack of reasonably accessible retail trade facilities offering such goods or services? \*if yes, please provide market analysis 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

No

5. Is the project located in a Highly Distressed Area?

Yes

No



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## Section X of #: Estimate of Real Property Tax Abatement Benefits and Percentage of Project Costs Financed from Public Sector Sources

Section X of this Application will be (i) completed by Agency Staff based upon information contained with the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA (Apply equalization rate to value)	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/100
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\*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							

\*Estimates provided are based on current property tax rates and assessment values  
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.)
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~ Excerpt from Original Application

**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 with 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
26,700,000	7,494,620	9.184187	7.49914	28.229806

\*Apply equalization rate to value

PILOT year	% Payment	County PILOT	Local PILOT	School PILOT	Total PILOT	Full Tax Payment	Net Exemption
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Pilot Year	% Payment	County PILOT	Town PILOT	School PILOT	Total PILOT	Full Taxable Amount	Net Exemption
1	90	\$6,883.20		\$5,560.94	\$21,157.17	\$33,601.31	\$302,411.79
2	90	\$6,883.20		\$5,560.94	\$21,157.17	\$33,601.31	\$302,411.79
3	80	\$13,766.40		\$11,121.89	\$42,314.33	\$67,202.62	\$268,810.48
4	80	\$13,766.40		\$11,121.89	\$42,314.33	\$67,202.62	\$268,810.48
5	70	\$20,649.60		\$16,682.83	\$63,471.50	\$100,803.93	\$235,209.17
6	70	\$20,649.60		\$16,682.83	\$63,471.50	\$100,803.93	\$235,209.17
7	70	\$20,649.60		\$16,682.83	\$63,471.50	\$100,803.93	\$235,209.17
						Total property tax exemption	\$1,848,072.06

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

**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)
28,700,000	1,848,072	875,000	195,000	0

Calculate %

(Est. PILOT + Est. Sales Tax + Est. Mortgage Tax + Other)/Total Project Costs: 10 %

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### Section XI: Representations, Certifications and Indemnification

#### Certification

Michael T. Gacioch

(name of CEO or other authorized representative of Applicant) confirms and says that he/she is the

Manager of HG Equity Enterprises, LLC, Sole Member

(title) of

South Park Equity Enterprises, LLC

(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.

B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law.

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 the 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 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 assessment, audit, inspection or investigation report completed hereunder 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 describes herein or the tax exemptions and other assistance requires 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 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 correct.

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 submitted 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: a. A non-refundable \$500 application and publication fee (the "Application Fee"); b. A \$500 expense deposit for the Agency's Counsel Fee Deposit c. Unless otherwise agreed to by the Agency, an amount equal to one percent (  1  %) of the total project costs. d. 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 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. [LINK TO FEE SCHEDULE](#)

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 read and understands of the LINK 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. Restriction 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 are 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. 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 any amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement in 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.

### Signature

1. That I am the

Manager of HG Equity Enterprises, LLC, Sole Member

(Corporate Office) of

South Park Equity Enterprises, LLC

(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 Yes, accurate and complete.

(Signature of Officer)

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