

August 27, 2019

HARRIS BEACH LLP
ATTORNEYS AT LAW

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

AMY E. STOCKDALE
PARALEGAL
DIRECT: (585) 419-8976
FAX: (585) 419-8801
ASTOCKDALE@HARRISBEACH.COM

VIA FEDERAL EXPRESS

Hampton Park LLC
Attn: Mark Servidone, Member
1364 U.S. 9
Castleton, New York 12033

Re: Hampton Park LLC ("Company") and Orange County Industrial Development Agency ("IDA")

Sales and Use Tax Exemption Package for Project at Vacant Land on Neelytown Road, Town of Hamptonburgh, Orange County, New York ("Project")


Dear Mr. Servidone:

Enclosed please find the original signed Project Agreement for the Project referenced above. Attached as schedules and exhibits to the Project Agreement are the sales and use tax exemption forms to be used by the Company for the Project. A summary of each schedule and exhibit is included at the end of this letter.

Kindly note that if the Company anticipates incurring savings in excess of the amount indicated on the as-filed NYS ST-60 Form (a copy of which is enclosed for your records) or desires an extension of the term of the Company's agent status, which terminates on December 31, 2020, kindly contact the IDA as soon as possible.

If you have questions regarding use of the sales tax exemption, the completion and filing of any state forms or other issues please contact me by phone at (585) 419-8976 or email at astockdale@harrisbeach.com or Russ Gaenzle by phone at (585) 419-8718 or email rgaenzle@harrisbeach.com and reference both the project name and the matter number: 307639.

Very truly yours,


Amy E. Stockdale
Paralegal

AES

Enclosures

cc: Anthony Maney, Esq. (via email - w/attachments)
OCIDA (w/encs.)

Project Agreement
Schedules and Exhibits

SCHEDULE A (List of Appointed Agents): This blank list may be used by Hampton Park LLC, as primary agent of IDA, to track any subagents appointed by Hampton Park LLC. Hampton Park LLC may opt to track appointed subagents in its own Excel spreadsheet, etc. The mechanics of how Hampton Park LLC administers and tracks the appointment of subagents and their respective purchases and savings shall be determined by Hampton Park LLC.

SCHEDULE B (Mandatory Agent and Subagent Contract Language): This Mandatory Agent and Subcontract Contract Language must be completed and attached to (or inserted into) any written contract for goods and services by and between Hampton Park LLC (or its appointed subagent) and a vendor (seller) with respect to the IDA Project.

EXHIBIT A (NYS Form ST-60 for the Appointment of Subagents by Hampton Park LLC): As and when Hampton Park LLC appoints a subagent to make purchases/rentals of goods and services on a tax-exempt basis for the IDA project, Hampton Park LLC must complete and submit a NYS Form ST-60 for such appointed subagent with NYS IDA Unit.

As a reminder, prior to filing NYS Form ST-60 with NYS IDA Unit, you must indicate, where highlighted in yellow: (1) the date on which the subagent was appointed by Hampton Park LLC (generally, this is the date of any written contract between Hampton Park LLC and the subagent), (2) the estimated value of goods of goods and services to be exempt from State/local sales tax when purchased/rented by subagent, and (3) the corresponding savings.

Upon filing a NYS Form ST-60 with NYS IDA Unit, please simultaneously send copy of the same to the IDA at the following address: Attn: Laurie Villasuso, Orange County IDA, Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553.

EXHIBIT B-1 (NYS Form ST-123): This form should be completed, signed and presented by Hampton Park LLC to IDA project vendor(s). NOTE: This form triggers the IDA exemption from State/local sales and use tax upon proper completion and presentation to the vendor.

EXHIBIT B-2 (NYS Form ST-123): This form should be completed and signed and presented by subagents of Hampton Park LLC to IDA project vendor(s). NOTE: This form triggers the IDA exemption from State/local sales and use tax upon proper completion and presentation to the vendor.

EXHIBIT B-3 (Invoice Rider Form): When a vendor (e.g., Home Depot) generates an invoice for the purchase of goods/services by Hampton Park LLC (or its subagents) in connection with the IDA project, the vendor (e.g. Home Depot) should attach this Invoice Rider Form to its respective vendor copy of the invoice and Hampton Park LLC should attach this Invoice Rider Form to its respective purchaser copy of invoice.

EXHIBIT C (NYS Form ST-340): This Form must be completed and submitted by Hampton Park LLC to the NYS Tax Department and show the total value of all state and local sales and use taxes exempted during the calendar year as a result of the Project's designation as an IDA Project.

EXHIBIT D (Employment Verification Report): Hampton Park LLC must complete and submit to the IDA annually a completed employment verification report.

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

HAMPTON PARK LLC

AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

Dated as of August 21, 2019

Project Address:
Vacant Land, Neelytown Road
Town of Hamptonburgh
Orange County, New York

Tax Map ID Nos.:
1-1-9.1 and 1-1-9.2

AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

THIS AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (the "Project Agreement"), dated as of August 21, 2019, is by and between the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, having its offices at Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553 (the "Agency"), and **HAMPTON PARK LLC**, a limited liability company formed and validly existing under the laws of the State of New York, with offices at 1364 U.S. 9, Castleton, New York 12033 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 390 of the Laws of 1972 of the State of New York (the "State") pursuant to Title I of Article 18-A of the General Municipal Law of the State (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State; and

WHEREAS, the Company has submitted an Application (as hereinafter defined) to the Agency requesting the Agency's assistance with respect to a certain project (the "Project"), consisting of: (A) the acquisition by the Agency of a leasehold interest in an aggregate approximately 11.8±-acre parcel of vacant land located on Neelytown Road in the Town of Hamptonburgh, Orange County, New York (collectively, the "Land"); (B)(i) development of the Land, including construction of an access road, grading, installing a well and septic system and creating a pond area; and (ii) the construction on the Land of (1) an approximately 1,750 square-foot one-story office building; and (2) an approximately 6,000 square-foot two-story building to be used as an equipment maintenance facility for repairing dump trucks and heavy construction equipment (collectively, the "Improvements"); and (C) the acquisition and installation in, on and around the Improvements of certain items of machinery, equipment and other tangible personal property, including, but not limited to, hydraulic jacks, compressors, air tools, motor lifts, tool sets, storage cabinets, copiers, computers, furniture and fixtures (collectively, the "Equipment" and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, by Resolutions duly adopted by the Agency on January 10, 2019 and February 14, 2019 (collectively, the "Resolutions"), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Project Agreement; and

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

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

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

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

WHEREAS, no agent status in favor of the Company or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Company by the Agency prior to the effective date of this Project Agreement.

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

1. Purpose of Project and Scope of Agency. The purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the undertaking of the Project to advance job opportunities, health, general prosperity and economic welfare of the people of Orange County, New York, and to specifically promote the investment, employment and other commitments of the Company contained herein and in the Company's Application.

Pursuant to the Resolutions, the Agency has appointed the Company as agent to undertake the Project. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolutions to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. Pursuant to the Resolutions and this Project Agreement, the Company has the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on Schedule A attached hereto (collectively, the "Subagent"). The Company shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent of the Agency. The Company's right to appoint subagents is expressly conditioned upon updating Schedule A, along with the timely filing of Form ST-60 (non-primary) for each subagent, with such updated Schedule A and a copy of and proof of filing of such ST-60 (non-primary) being immediately filed with the Agency. The right of the Company and all duly appointed subagents to act as agent of the Agency shall expire on **December 31, 2020**, unless extended as contemplated by the Resolutions. The aggregate amount of work performed by the Company and all subagents as agent for the Agency shall not exceed the amounts identified in the Resolutions and Section 2(h)(i) of this Project Agreement.

All contracts entered into by the Company and all subagents thereof as agent for the Agency shall include the language contained in Schedule B, attached hereto. Failure by the Company and/or any subagent thereof to include such language shall disqualify the agent status and sales tax exemptions derived by virtue of this Project Agreement. The Company, for itself and on behalf of all duly appointed subagents, hereby agrees that all contracts entered into by the Company and any subagents thereof shall be available to the Agency for inspection and confirmation of the foregoing mandatory language.

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

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

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

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

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

(e) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in

writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents (other than the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the Town of Hamptonburgh, Orange County, New York, except for temporary periods during ordinary use.

(g) In accordance with Section 875(3) of the Act, the policies of the Agency, and the Resolutions, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture and/or termination of any and all Financial Assistance, as described below, if the Company receives, or any duly appointed subagents receives any Financial Assistance from the Agency, and it is determined by the Agency that (each a "Recapture Event Determination"):

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the Application or supporting documentation false or misleading in any material respect; or

(5) the Company fails to meet and maintain the following thresholds and requirements:

(i) The Company recognizes and acknowledges that the Agency is entering into this Project Agreement based in part on representations made by the Company in its application to the Agency, dated on or about November 21, 2018 (the "Application") regarding job creation and retention at the Facility.

(ii) For the purposes of this Project Agreement, "Full-Time Equivalent Employee" shall mean, with respect to any specific date or period, a person or persons directly employed on such date or during such period by the Company (inclusive of its affiliates, tenants and other occupants and users of the Facility), and who shall on such date or for such period have carried out the terms of such

employment on a "full-time equivalent basis" at the Facility. "Full-time equivalent basis" shall mean a person or persons who shall on an aggregate basis work at least 35 hours per week, or 140 hours per month which shall be measured on a quarter annual basis.

(iii) The Application represents that, for the purpose of this Project Agreement, the Company intends to employ and maintain a workforce of no less than thirty-two and one-half (32.5) Full-Time Equivalent Employees which in the aggregate shall work at least 35 hours per week at the Facility within three (3) years from the completion date of the Project, which date is estimated as December 31, 2024.

(iv) The Company is required under this Project Agreement and hereby agrees to submit a copy of quarterly NYS-45 reports, and any other reports required by the Agency to evidence the employment commitment.

(v) If it is determined upon review of the Annual Report (as hereinafter defined) that the number of Full-Time Equivalent Employees at the Facility is less than what was represented in the Application, the Agency shall have the right to require the Company pay to the Agency for the benefit of the affected tax jurisdictions an amount equal to the benefits provided hereunder and any sales, real property and mortgage tax exemptions provided by the Agency to the Company in connection with the Project.

(vi) In addition, in the event that (i) the Company closes or sells/transfers the Facility without the consent of the Agency; (ii) the use of the Facility or contemplated business activities at the Facility are materially changed or modified; (iii) there is a material non-compliance by the Company with the Lease Agreement (as hereinafter defined), the Leaseback Agreement (as hereinafter defined) or any other agreement with the Agency or any state or federal law or regulation, the Agency shall have the right to require the Company pay to the Agency for the benefit of the affected tax jurisdictions an amount equal to the benefits provided hereunder and any sales, real property tax and mortgage tax exemptions, if any, provided by the Agency to the Company in connection with the Project.

In order to certify and verify the foregoing, the Company shall annually complete and submit to the Agency the Annual Certification Report in the form attached hereto as **Exhibit D** or such other form as the Agency prefers (the "Annual Report"). **Failure by the Company to complete and submit said form to the Agency by February 15 of each year that the Leaseback Agreement is valid, shall constitute an Event of Default hereunder, whereby the Agency, in its sole and absolute discretion, may terminate this Project Agreement and recapture any or all Financial Assistance.**

If the Agency makes a Recapture Event Determination, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such

amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner and/or local taxing authorities may assess and determine the Financial Assistance due from the Company, together with any relevant penalties and interest due on such amounts.

(h) The Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$1,115,077 unless subsequently modified and approved by the Agency, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 2(g) of this Project Agreement, cannot exceed \$90,600 unless subsequently modified and approved by the Agency, and (ii) confirms that if there is mortgage recording tax exemption granted, the amount shall not exceed \$6,000 unless subsequently modified and approved by the Agency.

(i) The Company further covenants and agrees to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60), in the form attached hereto as Exhibit A, for each Subagent, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(j) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as Exhibits B-1 and B-2), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, "I, [NAME OF COMPANY OR SUBAGENT], certify that I am a duly appointed agent of the ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY and that I am purchasing the tangible personal property or services for use in the Hampton Park LLC Project located on Neelytown Road in the Town of Hamptonburgh, Orange County, New York [TMID #'s: 1-1-9.1 and 1-1-9.2], IDA Project Number 3305-19-01A". For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a copy of which is attached hereto as Exhibit B-3) can be utilized for record keeping purposes.

(k) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as Exhibit C) regarding the value of sales and use tax exemptions the Company and its Subagents, if any, have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency; provided, however, in no event later than February 15th of each year. The Company understands and agrees that the failure to file such

annual statement will result in the removal of the Company's authority to act as agent of the Agency.

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

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

(n) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Agency in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company agrees that it will, throughout the term of this Project Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to this Section 2(n). In such event, the Company, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld) may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency shall notify the Company that it must comply with such requirement or requirements.

(o) The Company covenants and agrees that it has reviewed the Agency's Labor Policy and agrees that at least eighty-five percent (85%) of the construction workers, as that term is defined in the Labor Policy, shall, pursuant to said policy, reside within one of the following counties in the State: Orange, Dutchess, Putnam, Rockland, Sullivan, Ulster or Westchester (the "Local Labor Area"), unless the Agency's Executive Director or Chief Operating Officer exempts the Company from such requirement.

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, members, officers, employees, agents (other than the Company), representatives, successors and assigns harmless from and against, any and all (i)

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

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

(a) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company; or as an alternative to the foregoing the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well, provided a periodic appraisal is performed and provided to the Agency. The foregoing property insurance coverage shall be in place no later than commencement of construction of the Facility.

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

(c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 of the Leaseback Agreement) and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

(d) Flood insurance in an amount at least equal to the lesser of (i) the cash replacement value of the Facility, or (ii) the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1974, as amended. In the

alternative, a letter from the appropriate office of the municipality in which the Facility is located to the effect that the Facility is not located in an area designated as a flood hazard area by the Federal Insurance Administration or the Department of Housing and Urban Development.

5. Additional Provisions Respecting Insurance. (a) All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 above shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days' written notice of the cancellation thereof to the Company and the Agency.

(b) All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with the Agency on or before the commencement of the term of the Leaseback Agreement; provided, however, that certificates evidencing property coverage shall be deposited with the Agency on or before commencement of construction of the Facility. Prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by the Leaseback Agreement.

(c) Within one hundred twenty (120) days after the end of each of its fiscal years, the Company shall file with the Agency a certificate of the Company to the effect that the insurance it maintains with respect to the Project complies with the provisions of Article III of the Leaseback Agreement and that duplicate copies of all policies or certificates thereof have been filed with the Agency and are in full force and effect.

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

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by a nationally-recognized overnight courier, addressed as follows:

To the Agency: Orange County Industrial Development Agency
Orange County Business Accelerator
4 Crotty Lane, Suite 100
New Windsor, New York 12553
Attn: Laurie Villasuso, Chief Operating Officer and
Executive Vice President

With a Copy to: Kevin T. Dowd, Esq.
Attorney - Orange County IDA
46 Daisy Lane
Montgomery, New York 12549

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

To the Company: Hampton Park LLC
1364 U.S. 9
Castleton, New York 12033
Attn: Mark Servidone, Member

With a Copy to: Maney, McConville, Liccardi & Powis, P.C.
77 Troy Road
East Greenbush, New York 12061
Attn: Anthony Maney, Esq.

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

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

9. The warranties, representations, obligations and covenants of the Company under this Project Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Project Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Project Agreement to the Agency, regardless of any investigation made by the Agency. This Project Agreement shall survive any termination or expiration of the Leaseback Agreement, as described below.

10. The parties are contemplating that unless the Agency and Company enter into a Lease Agreement (the "Lease Agreement"), and related Leaseback Agreement (the "Leaseback Agreement"), the Company agrees not to take title to any real property as agent for the Agency.

11. The Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency, as set forth in the Application, for (a) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project; and (c) with respect to Agency's enforcement of any event of default or failure to comply with the terms of this Project Agreement (including reasonable attorney fees). The Company further covenants and agrees that

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

[Remainder of Page Intentionally Left Blank]

[Signature Page to Agent, Financial Assistance and Project Agreement]

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

**ORANGE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Laurie Villasuso, Chief Operating Officer and
Executive Vice President

HAMPTON PARK LLC

By: 

Mark Servidone, Member

SCHEDULE A

LIST OF APPOINTED AGENTS¹

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

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

SCHEDULE B

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

"This contract is being entered into by [NAME OF COMPANY OR NAME OF SUBAGENT] (the "Agent"), as agent for and on behalf of the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency"), in connection with a certain project of the Agency for the benefit of **HAMPTON PARK LLC**, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at Neelytown Road in the Town of Hamptonburgh, Orange County, New York [TMID #s: 1-1-9.1 and 1-1-9.2] (the "Premises"). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Agent, Financial Assistance and Project Agreement, by and between Hampton Park LLC and the Agency, dated as of August 21, 2019. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

EXHIBIT A

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

[See Attached]



Department of Taxation and Finance

**IDA Appointment of Project
Operator or Agent
For Sales Tax Purposes****ST-60**
(1/18)

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

For IDA use only

IDA Information

Name of IDA Orange County Industrial Development Agency			IDA project number (use QSC numbering system for projects after 1998) 3305-19-01A	
Street address 4 Croft Lane, Suite 100			Telephone number (845) 234-4192	
City New Windsor	State NY	ZIP code 12553	Email address (optional)	

Project operator or agent information

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

Project Information

Name of project Hampton Park LLC Project			
Street address of project site Vacant Land Located on Neelytown Road			
City Hamptonburgh (Town)	State NY	ZIP code 12549	Email address (optional)
Purpose of project The development of an approximately 11.8± acre parcel of vacant land, including the construction of an access road, grading, installing a well and septic system and creating a pond area and the construction and equipping on the land of (1) an approximately 1,750 square-foot one-story office building and (2) an approximately 6,000 square-foot two-story building to be used as an equipment maintenance facility for repainting dump trucks and heavy construction equipment in the Town of Hamptonburgh, Orange County, New York.			

Description of goods and services intended to be exempted from New York State and local sales and use taxes

Goods and services, inclusive of fuel and utilities, whether the goods and services are purchased or rented, and notwithstanding that they continue to constitute personal property or the item is used after the completion of the project, or the item is geographically located outside the legal boundaries of the project facility; provided there is a reasonable basis to acquire the item to benefit the project.

Date project operator or agent appointed (mm/dd/yyyy)	Date project operator or agent status ends (mm/dd/yyyy)	123120	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:		All Agents, All In 1,115,077.00	Estimated value of New York State and local sales and use tax exemption provided: All Agents, All In 90,600.00

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

Print name of officer or employee signing on behalf of the IDA Laura Villaluso		Print title Chief Operating Officer and Executive Vice President	
Signature 		Date 08/21/2019	Telephone number (845) 234-4192

EXHIBIT B-1

**NYS FORM ST-123
FOR
COMPANY**

[See Attached]



New York State Department of Taxation and Finance
New York State Sales and Use Tax

ST-123
(2/14)

IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

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

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, for more information.

Name of seller	Name of agent or project operator Hampton Park LLC		
Street address	Street address 1364 U.S. 9		
City, town, or village	State	ZIP code	
Castleton	NY	12033	
Agent or project operator sales tax ID number (see instructions)			

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

To the seller:

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

Project information

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

Name of IDA Orange County Industrial Development Agency		
Name of project Hampton Park LLC Project	IDA project number (use OSC number) 3305-19-01A	
Street address of project site Vacant Land located on Neelytown Road		
City, town, or village Hamptonburgh (Town)	State NY	ZIP code 12549
Enter the date that you were appointed agent or project operator (mm/dd/yy) 08 / 21 / 2019	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 2020	

Exempt purchases

(Mark an X in boxes that apply)

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

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

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

Instructions

To the purchaser

You may use Form ST-123 if you:

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

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?




	<p>Visit our Web site at www.tax.ny.gov</p> <ul style="list-style-type: none"> • get information and manage your taxes online • check for new online services and features
	<p>Sales Tax Information Center: (518) 485-2889</p> <p>To order forms and publications: (518) 457-5431</p>
	<p>Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082</p>

EXHIBIT B-2

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

[See Attached]



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator**Exempt Purchase Certificate**

Effective for projects beginning on or after June 1, 2014

ST-123

(2/14)

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

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, for more information.

Name of seller	Name of agent or project operator
Street address	Street address
City, town, or village State ZIP code	City, town, or village State ZIP code
Agent or project operator sales tax ID number (see instructions)	

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

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

Project information

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

Name of IDA Orange County Industrial Development Agency		
Name of project Hampton Park LLC Project	IDA project number (use OSC number) 3305-19-01A	
Street address of project site Vacant Land located on Neelytown Road		
City, town, or village Hamptonburgh (Town)	State NY	ZIP code 12549
Enter the date that you were appointed agent or project operator (mm/dd/yy)	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 2020	

Exempt purchases

(Mark an X in boxes that apply)

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

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

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

Instructions

To the purchaser

You may use Form ST-123 if you:

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

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



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

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



Sales Tax Information Center: (518) 485-2889

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



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

EXHIBIT B-3

INVOICE RIDER FORM

I, _____, the

_____ of _____

certify that I am a duly appointed agent of the Orange County Industrial Development Agency (the "Agency") and that I am purchasing the tangible personal property or services for use in the following Agency Project and that such purchases qualify as exempt from sales and use taxes under the Agent, Financial Assistance and Project Agreement, dated as of August 21, 2019, by and between the Agency and Hampton Park LLC.

Name of the Project: Hampton Park LLC Project

Street address of the Project Site: Vacant Land, Neelytown Road
Town of Hamptonburgh
Orange County, New York
[TMID #'s: 1-1-9.1 and 1-1-9.2]

IDA OSC project number: 3305-19-01A

EXHIBIT C

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

[See Attached]



Department of Taxation and Finance

**Annual Report of Sales and Use
Tax Exemptions Claimed by
Agent/Project Operator of Industrial
Development Agency/Authority (IDA)****ST-340**
(1/18)

For period ending December 31, _____ (enter year)

Project information

Name of IDA agent/project operator Hampton Park LLC		Employer identification number (EIN) 30-0998960	
Street address 1364 U.S. 9		Telephone number (518) 732-7773	
City Castleton		State NY	ZIP code 12033
Name of IDA Orange County Industrial Development Agency	Name of project Hampton Park LLC Project		IDA project number 3305-19-01A
Street address of project site Vacant Land on Neelytown Road			
City Hamptonburgh (Town)		State NY	ZIP code 12549
Date project began 08/21/2019		Completion date of project 12/31/2020 Actual <input type="checkbox"/> Expected <input checked="" type="checkbox"/>	
Total sales and use tax exemptions (actual tax savings; not total purchases)			\$ 90,600.00

Representative information (not required)

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

Certification

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

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

Mail completed report to:

NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Instructions

General information

Who must file

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

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

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

What you must report

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

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

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

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

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

When the report is due

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

Project information

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

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

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

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

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

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

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

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

Representative information

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

Certification

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

Mail completed report to:

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

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

Need help?



Visit our website at www.tax.ny.gov

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

Telephone assistance

Sales Tax Information Center:	518-485-2889
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

Privacy notification

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

EXHIBIT D

FORM OF ANNUAL EMPLOYMENT AND FINANCIAL ASSISTANCE CERTIFICATION LETTER

Company name and address: Hampton Park LLC, 1364 U.S. 9, Castleton, New York 12033

Project Name: **HAMPTON PARK LLC PROJECT**

Job Information

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

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

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

Financing Information

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

Yes No

If financing assistance was provided, please provide:

- Original principal balance of bond or note issued _____
- Outstanding principal balance of such bond or note
as of December 31 _____
- Outstanding principal balance of such bond or note
as of December 31 _____

Final maturity date of the bond or note _____

Sales Tax Abatement Information

Did your Company or any appointed subagents receive Sales Tax Abatement for your Project during the prior year? Yes No

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

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

Mortgage Recording Tax Information

Did your company receive Mortgage Tax Abatement on your Project during the prior year? Yes No

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

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

TAX INFORMATION:

County Real Property Tax without Tax Agreement	\$ _____
City/Town Property Tax without Tax Agreement	\$ _____
School Property Tax without Tax Agreement	\$ _____
TOTAL PROPERTY TAXES WITHOUT TAX AGREEMENT	\$ _____

Total Tax Payments made for reporting period: \$ _____

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

County Tax w/Tax Agreement	\$ _____
City/Town w/Tax Agreement	\$ _____
Village w/Tax Agreement	\$ _____
School w/Tax Agreement	\$ _____
TOTAL Tax Payments w/Tax Agreement	\$ _____

Net Exemptions \$ _____
(subtract Total Tax Payments from TOTAL property taxes without Tax Agreement)

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

Signed: _____

Name: _____

Title: _____

(authorized company representative)

Date: _____