



COUNTY OF MONROE  
**COMIDA**  
INDUSTRIAL DEVELOPMENT AGENCY

## APPLICATION FOR ASSISTANCE

Each applicant seeking assistance must complete this application and provide required supplemental forms/documentation.

Please answer all questions. Use "None" or "Not Applicable" where necessary. Information in this application may be subject to public review under New York State Law, except for information that is considered deniable by the Freedom of Information Law. This form is available at [www.monroecountybusiness.org/application](http://www.monroecountybusiness.org/application).

Please send completed application via email to [EconomicDevelopment@monroecounty.gov](mailto:EconomicDevelopment@monroecounty.gov). A **non-refundable** application fee of \$350.00 is required. Please see page 12 for additional information on costs and fees.

### I. APPLICANT

#### A. Applicant Information

Name: Aker Club LLC  
Address: 100 S Clinton Ave 24th Floor  
City/State/Zip: Rochester, NY 14604  
Tax Id No.: [REDACTED]  
Contact Name: Zack Harper  
Title: Owner/Director  
Telephone: [REDACTED]  
E-Mail: [REDACTED]

#### B. Applicant's Legal Counsel

Name: \_\_\_\_\_  
Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

#### C. Owners of Applicant Company (must total 100%). If an LLC, LP or similar, all members/partners must be listed

| Name                  | %           | Corporate Title       |
|-----------------------|-------------|-----------------------|
| <u>Zachary Harper</u> | <u>100%</u> | <u>Owner/Director</u> |
| _____                 | _____       | _____                 |
| _____                 | _____       | _____                 |
| _____                 | _____       | _____                 |
| _____                 | _____       | _____                 |
| _____                 | _____       | _____                 |
| _____                 | _____       | _____                 |

D. Is the business applying for assistance certified as an MWBE or service-disabled veterans' agency? ☐ Yes ☒ No

## II. PROJECT

### A. Address of proposed project facility

Address: 255 East Main Street

Tax Map Parcel Number: \_\_\_\_\_

City/Town/Village: Rochester

School District: Rochester City SD

Zip: 14604

Current Legal Owner of Property:

Sibley Redevelopment II LP

### B. Benefits Requested (Check all that apply)

☒ Sales Tax Exemption

☐ Mortgage Recording Tax Exemption

☐ Real Property Tax Abatement

☐ Industrial Revenue Bond Financing

### C. Description of project (check all that apply)

☐ New Construction

☒ Existing Facility

☐ Acquisition

☐ Expansion

☒ Renovation/Modernization

☒ Acquisition of machinery/equipment

☐ Other (specify) \_\_\_\_\_

### D. Proposed User(s)/Tenant(s) of the Facility

If there are multiple Users/Tenants, please attach additional pages.

Are the user and owner related entities? ☐ Yes ☐ No

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Tax ID No: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

% of facility to be occupied by user/tenant \_\_\_\_\_

### E. Owners of User/Tenant Company (must total 100%)

If an LLC, LP or similar, all members/partners must be listed

| Name  | %     | Corporate Title |
|-------|-------|-----------------|
| _____ | _____ | _____           |
| _____ | _____ | _____           |
| _____ | _____ | _____           |
| _____ | _____ | _____           |

### F. Project Timeline

Proposed Date of Acquisition: N/A - leased facility

Proposed Commencement Date of Construction: 05/2026

Anticipated Completion Date: 06/2026

### G. Contractor(s)

SWBR

Vasile

## **II.PROJECT (cont'd)**

### **H. DESCRIPTION OF THE PROJECT AND BACKGROUND ON USER(S) OF THE FACILITY**

**NAICS Code:** 445110

Aker Club LLC, a New York LLC controlled by Zachary Harper, proposes to lease and renovate the former DGX space at 255 East Main Street in Sibley Square, Rochester, NY, for its first small-format grocery store. The project will reactivate an existing grocery-ready space with tenant improvements and installation of used refrigeration units sourced through TagEx Brands, NCR Voyix self-checkout kiosks, Alcatraz AI Rock X access-control equipment, and related fixtures. The store is designed to provide reliable access to everyday food and household essentials within walking distance for downtown residents, workers, students, and transit riders.

## **II.PROJECT (cont'd)**

- I. Would the project be undertaken without financial assistance from the Agency?** ☐ Yes ☒ No

Please explain why financial assistance is necessary.

- J. Are other facilities or related companies located within New York State?**

☐ Yes ☒ No

Location:

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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 the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Applicant or User's competitive position in its respective industry:

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- K. State Environmental Quality Review (SEQR) Act Compliance**

COMIDA, in granting assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act (SEQR).

Does the proposed project require discretionary permit, license or other type of approval by the state or local municipality?

- ☐ YES - Include a copy of any SEQR documents related to this Project including Environmental Assessment Form, Final Determination, Local Municipality Negative Declaration, etc.

☒ NO

### III. PROPERTY TAX ABATEMENT/PAYMENT IN LIEU OF TAX AGREEMENT (PILOT)

Check One:

☐ **JOBSPUS**

Requirements:

- Applicant must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is \_\_\_\_\_.

☐ **LEASEPLUS**

Requirements:

- University and/or medical related facilities in which a 501(c)3 entity leases from a for-profit entity.
- Company must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is \_\_\_\_\_.

☐ **ENHANCED JOBSPUS**

Requirements:

- A minimum \$15 million investment **AND**
- A minimum of 100 new jobs

☐ **GREEN JOBSPUS**

Requirements:

- LEED® Certification – Project must be rated as Certified, Gold, Silver or Platinum by the United States Green Building Council's Leadership in Energy and Environmental Design (LEED®) Green Building Rating System.
- Company must commit to a 10% increase in full-time equivalent employment, measured on the existing impacted employee base, over a 3 year period. The required number of jobs is \_\_\_\_\_.

☐ **SHELTER RENT**

For student housing or affordable housing projects.

☐ **Housing**

☐ **Local Tax Jurisdiction Sponsored PILOT**

☒ **NO PROPERTY TAX ABATEMENT IS SOUGHT FOR THIS PROJECT**

#### IV. APPLICANT PROJECT COSTS

- A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement and/or equipment of the project by the APPLICANT.

##### **Building Construction or Renovation**

- a. Materials a. \$ \_\_\_\_\_  
b. Labor b. \$ \_\_\_\_\_

##### **Site Work**

- c. Materials c. \$ \_\_\_\_\_  
d. Labor d. \$ \_\_\_\_\_  
e. Non-Manufacturing Equipment e. \$ 124,500 \_\_\_\_\_  
f. Manufacturing Equipment f. \$ \_\_\_\_\_  
g. Equipment Furniture and Fixtures g. \$ 8,900 \_\_\_\_\_  
h. Land and/or Building Purchase h. \$ \_\_\_\_\_  
i. Soft Costs (Legal, Architect, Engineering) i. \$ 26,470 \_\_\_\_\_  
Other (specify) j. Tenant improve j. \$ 184,194 \_\_\_\_\_  
k. Initial inventory k. \$ 50,000 \_\_\_\_\_  
l. Working capital l. \$ 71,197 \_\_\_\_\_  
m. Software/startup m. \$ 34,524 \_\_\_\_\_  
**Total Project Costs** \$ 499,785 \_\_\_\_\_  
**(must equal Total Sources)**

- B. Sources of Funds for Project Costs:

- a. Tax-Exempt Industrial Revenue Bond a. \$ 0 \_\_\_\_\_  
b. Taxable Industrial Revenue Bond b. \$ 0 \_\_\_\_\_  
c. Bank Financing c. \$ 259,785 \_\_\_\_\_  
d. TOTAL Public Sources d. \$ 200,000 \_\_\_\_\_

Identify below each state and federal grant/credit totaling the amount for d.)

City Grant \$50,000  
RDDC Grant \$50,000  
MC Micro Advantage \$100,000  
\$ \_\_\_\_\_

- e. Equity e. \$ 40,000 \_\_\_\_\_  
**TOTAL SOURCES** \$ 499,785 \_\_\_\_\_  
**(must equal Total Project Costs)**

- C. Has the applicant made any arrangements for the financing of this project

☒ Yes ☐ No

If yes, please specify bank, underwriter, etc.

Monroe County MicroAdvantage  
SBA 7(a) loan  
Grant reimbursement support

#### V. COMPLETE FOR EACH USER/TENANT THAT IS SEEKING SALES TAX EXEMPTIONS USER(S)/TENANT(S) PROJECT COSTS

Use additional sheets as necessary

Company Name \_\_\_\_\_

- A. Estimate the costs necessary for the construction, acquisition, rehabilitation, improvement, and/or equipping of the project by the user(s)/tenant(s) for which a sales tax exemption is requested.

Estimated Costs Eligible for Sales Tax Exemption Benefit

- a. Materials a. \$ \_\_\_\_\_  
b. Labor b. \$ \_\_\_\_\_  
c. Non-Manufacturing Equipment c. \$ \_\_\_\_\_  
d. Manufacturing Equipment d. \$ \_\_\_\_\_  
e. Furniture and Fixtures e. \$ \_\_\_\_\_  
Other (specify): f. \_\_\_\_\_ f. \$ \_\_\_\_\_  
g. \_\_\_\_\_ g. \$ \_\_\_\_\_  
h. \_\_\_\_\_ h. \$ \_\_\_\_\_  
i. \_\_\_\_\_ i. \$ \_\_\_\_\_

**Total Project Costs** \$ \_\_\_\_\_

Value of Incentives  
Aker Club LLC

|                                                                            |            |
|----------------------------------------------------------------------------|------------|
| <b>A. IDA PILOT Benefits:</b>                                              |            |
| Current Assessment                                                         |            |
| Value of New Construction & Renovation Costs                               |            |
| Estimated New Assessed Value Subject to IDA                                | \$0        |
| Current Taxes                                                              | \$0        |
| Current Taxes Escalator                                                    | 2%         |
| PILOT Terms - Years                                                        | 10         |
| County Tax rate/\$1,000                                                    |            |
| Local Tax Rate* Tax Rate/\$1,000                                           |            |
| School Tax Rate /\$1,000                                                   |            |
| Total Tax Rate                                                             | 0.00000    |
| <b>B. Sales Tax Exemption Benefit:</b>                                     |            |
| Estimated value of Sales Tax exemption:                                    | \$28,169   |
| Estimated duration of ST exemption:                                        | 12/31/2026 |
| <b>C. Mortgage Recording Tax Exemption (MRTE) Benefit:</b>                 |            |
| Estimated Value of MRTE:                                                   | \$0        |
| <b>D. Industrial Revenue Bond Benefit</b>                                  |            |
| IRB inducement amount:                                                     | \$0        |
| <b>E. Percentage of Project Costs financed from Public Sector sources:</b> |            |
| Total Value of Incentives:                                                 | \$28,169   |
| Project Construction Costs:                                                | \$499,221  |
|                                                                            | 5.64%      |

**PILOT Schedule**

| PILOT Year | % Abatement  | County PILOT Amount | Local PILOT Amount | School PILOT Amount | Total PILOT Amount | Full Tax Payment w/o PILOT*** | Net Exemption** |
|------------|--------------|---------------------|--------------------|---------------------|--------------------|-------------------------------|-----------------|
|            | <b>Total</b> | <b>\$0</b>          | <b>\$0</b>         | <b>\$0</b>          | <b>\$0</b>         | <b>\$0</b>                    | <b>\$0</b>      |
| 1          | 90%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 2          | 90%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 3          | 80%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 4          | 80%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 5          | 70%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 6          | 70%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 7          | 60%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 8          | 60%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 9          | 50%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| 10         | 50%          | \$0                 | \$0                | \$0                 | \$0                | \$0                           | \$0             |
| -          | 40%          | -                   | -                  | -                   | -                  | -                             | -               |

## VII. PROJECTED EMPLOYMENT

Complete for each Applicant or User/Tenant

**Company Name:** Aker Club LLC

**Applicant:** ☒ **or** **User/Tenant:** ☐

Applicant/Tenant creating jobs must submit most recent NYS-45 or equivalent.

|                 | Current # of jobs at proposed project location or to be relocated to project location | IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be <b>RETAINED</b> | IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be <b>CREATED</b> upon THREE Years after Project completion | Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon THREE Years after Project Completion ** |
|-----------------|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Full time (FTE) | 0                                                                                     | 0                                                                                                 | 3                                                                                                                                          | 3                                                                                                                                                                                    |
| Part Time (PTE) | 0                                                                                     | 0                                                                                                 | 1                                                                                                                                          | 1                                                                                                                                                                                    |
| Total           | 0                                                                                     | 0                                                                                                 | 3.5                                                                                                                                        | 3.5                                                                                                                                                                                  |

\*\* For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Marker Area, in the fourth column. The Labor Marker Area includes: Monroe County, Orleans County, Genesee County, Wyoming County, Livingston County, Ontario County, Wayne County, Yates County, and Seneca County chosen at the Agency's discretion.

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

| Category of Jobs to be Retained and Created | Average Annual Salary or Range of Salary | Average Annual Fringe Benefits or Range of Fringe Benefits (stated as a percentage) |
|---------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------|
| Management                                  | 52,000                                   | 41%                                                                                 |
| Professional                                |                                          |                                                                                     |
| Administrative                              |                                          |                                                                                     |
| Production                                  |                                          |                                                                                     |
| Independent Contractor                      |                                          |                                                                                     |
| Other                                       | 23,920 - 47,840                          | 14% - 76%                                                                           |

### Estimated Annual Salary of **NEW** jobs

|                |        |
|----------------|--------|
| <b>AVERAGE</b> | 40,040 |
| <b>HIGH</b>    | 52,000 |
| <b>LOW</b>     | 23,920 |

\* This information constitutes a “trade secret” and/or “information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise”, and, is thereby exempt from disclosure pursuant to New York Freedom of Information Law.

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## VIII. LOCAL LABOR

**To be completed by all Applicants and Users/Tenants of Projects which include the construction of new, expanded or renovated facilities:**

**Company Name** Aker Club LLC

**Applicant:** ☒ **and/or User/Tenant:** ☐

The County of Monroe Industrial Development Agency (IDA) was established for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of Monroe County. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in Monroe County. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs are vital to the overall employment opportunities and economic growth in Monroe County. The IDA believes that companies benefiting from its incentive programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices ("construction workers"), during the construction phase of projects.

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### **100% Local Labor**

Applicants receiving IDA benefits **must** ensure that the it and/or its contractor/developer hire **100% of its construction workers from the local labor market.**

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### **Local Labor Market**

For the purpose of this policy, the local labor market is defined as construction workers residing in the following counties in New York State: Monroe, Genesee, Livingston, Orleans, Ontario, Seneca, Steuben, Wayne, Wyoming and Yates.

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### **Bid Processing**

Local participation in qualified projects receiving IDA economic incentives and benefits is vital to the economic growth of Monroe County. As such, all applicants/contractors/developers of a qualified project with a minimum \$5,000,000 investment must place any and all invitations to bid in the Builders Exchange of Rochester Plan Room (<https://robex.com/planroom/>) two weeks before the bids are due.

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### **Monitoring**

A third-party auditing firm ("Project Monitor") will be engaged to monitor construction work commencing on the date benefits are granted by resolution of the IDA Board.

Once approved for IDA benefits, all applicants will be required to provide to the Project Monitor and the Exemption Processor (as hereinafter defined) the following information:

1. Contact information for the applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the applicant's project; and
2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions.

All Monroe County IDA projects are subject to local monitoring by the IDA and the Project Monitor. Proof of residency or copy of drivers' license shall be checked by the Project Monitor during the Project Monitor's periodic inspection of the project.

The Project Monitor shall issue a report to the IDA staff immediately when an applicant or applicant's contractor is not in compliance with this labor policy. IDA staff shall advise the IDA Board of non-compliance by email or at the next scheduled meeting. If a violation of policy has occurred, the Project Monitor shall notify the applicant and contractor of such non-compliance and give applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the IDA and/or the Project Monitor shall notify the applicant that the project is in violation of the Monroe County IDA Labor Policy and is subject to IDA Board action which may result in the revocation, termination and/or recapture of any or all benefits conferred by the IDA.

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### Signage

The applicant/contractor/developer of an IDA approved project shall be required to maintain a sign, provided by the Project Monitor, on the project site at all times during construction. This sign shall be located in an area that is accessible to onsite workers and visitors, which should be clear and legible.

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### Exemption Process

In some instances, use of 100% local labor may not be possible for any of the following reasons:

- Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers (a copy of the equipment warranty confirming the use of specific installers must be provided). The granting of an exemption for the use of non-local labor on warranty related grounds is expressly conditioned on either (i) said non-local sub-contractors being enrolled in a New York State certified apprenticeship program (proof of such enrollment shall be provided to the IDA upon request) or (ii) the hiring of an apprentice/apprentices or local construction laborer(s) to assist in the installation.
- Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work (proof of communication with local contractors, or details of the specialized construction must be provided);
- Significant cost differentials in bids whereby use of local labor significantly increases the cost of the project. Three (3) bids are required and a cost differential of 25% is deemed significant. Where there is a significant cost differential, that if the local labor contractor agrees to reduce the bid to the average of the two bids, no waiver will be granted. However, if the average is still 25% or more, a waiver will be granted (copies of all bids/proposals received, including pricing, must be provided to confirm cost differential).
- No local labor available for the project (if local bids were solicited with no response, please provide a copy of the bid, explain how it was advertised, and list who the bids were requested from).

***The request to secure an exemption for the use of non-local labor must be received from the applicant on the exemption form provided by the IDA or the 3rd party exemption monitor (the "Exemption Processor") and received by the Exemption Process forty-five (45) days in advance of work commencing.*** The request will be reviewed by the Exemption Processor and forwarded to the IDA, at which time the IDA's Executive Director shall have the authority to approve or disapprove the exemption. The Exemption Processor shall report each authorized exemption to the Board of Directors at its monthly meeting.

**The applicant has read the Labor Policy and agrees to adhere to it without changes and shall require its construction manager, general contractor and sub-contractors who are not exempt to acknowledge the same.**

**The foregoing terms have been read, reviewed and understood by the Applicant or User/Tenant and all appropriate personnel. Furthermore, the undersigned agrees and understands that the information contained herein must be transmitted and conveyed in a timely fashion to all applicable subcontractors, suppliers and materialman. Furthermore, the undersigned agrees to post and maintain a sign, provided by COMIDA, in a prominent, easily accessible location, identifying the project as a recipient of COMIDA assistance and the local labor requirements associated with this assistance.**

**Furthermore, the undersigned realizes that failure to abide by the terms herein could result in COMIDA revoking all or any portion of benefits it deems reasonable in its sole discretion for any violation hereof.**

Aker Club LLC

(APPLICANT COMPANY)



Owner/Director

Signature

, Title

Date

Aker Club LLC

(TENANT COMPANY)



Owner/Director

Signature

, Title

Date

## IX. FEES

| Transaction Type                                                                                                                                               | Fees                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Real Property Tax Abatement (PILOT Agreement) including Sales Tax Exemption* and/or partial Mortgage Recording Tax Exemption.                                  | <b>Application Fee:</b> Non-refundable \$350.00<br><b>IDA Fee:</b> 0.75% of the total project cost<br><b>Legal Fee:</b> 33% of the IDA fee. Minimum fee of \$4,000.                                                                                                                           |
| Sales Tax Exemption* and/or partial Mortgage Recording Tax Exemption                                                                                           | <b>Application Fee:</b> Non-refundable \$350.00<br><b>IDA Fee:</b> 0.50% of the total project cost<br><b>Legal Fee:</b> 33% of the IDA fee. Minimum fee of \$4,000 if transaction includes mortgage recording tax exemption. Minimum fee of \$750 if transaction is sales tax exemption only. |
| Small Business Sales Tax Exemption (Non-retail projects with total project costs under \$500,000)                                                              | <b>Application Fee:</b> Non-refundable \$350.00<br><b>IDA Fee:</b> Flat fee of \$750 (\$500 for certified M/WBE or certified service disabled Veterans)<br><b>Legal Fee:</b> Flat fee of \$750                                                                                                |
| Bond: Taxable or Tax-Exempt Including any/all of the following:<br>1. PILOT Agreement<br>2. Sales Tax Exemption<br>3. Partial Mortgage Recording Tax Exemption | <b>Application Fee:</b> Non-refundable \$350.00<br><b>IDA Fee:</b> 1.25% of the total project cost<br><b>Legal Fee:</b> 33% of the IDA fee.<br>Designated Bond Counsel fee is based on the complexity and amount of the transaction.                                                          |
| Bond: Taxable or Tax-Exempt                                                                                                                                    | <b>Application Fee:</b> Non-refundable \$350.00<br><b>IDA Fee:</b> 1.00% of the total project cost<br><b>Legal Fee:</b> 33% of the IDA fee.<br>Designated Bond Counsel fee is based on the complexity and amount of the transaction.                                                          |

\*If the sales tax benefits are required prior to closing, a non-refundable twenty-five percent (25%) of the IDA fee and Legal fees are payable at that time. This amount will be applied towards the IDA fee and Legal fee.

Aker Club LLC

(APPLICANT COMPANY)

 Owner/Director

Signature, Title Date

Aker Club LLC

(TENANT COMPANY)

 Owner/Director

Signature, Title Date

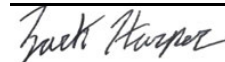
## X. CERTIFICATION

The undersigned company officer and/or user/tenant officer each hereby certifies, on behalf of the company and/or user/tenant, respectively (each singularly and together, the "Applicant"), as follows:

- A. The information contained in this Application, including employment information, is true and correct. The Applicant is aware that any material misrepresentation made in this Application constitutes an act of fraud, resulting in revocation of COMIDA benefits.
- B. The undersigned, on behalf of the Applicant, hereby certifies that the Applicant, and all parties which have ownership of the Applicant are current and will remain current on all real property, federal, state, sales, income and withholding taxes throughout the term of any agreements made in connection with this Application.
- C. Absence of Conflicts of Interest – The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No member, officers or employees of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein described: None
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- D. Compliance with N.Y. GML Sec. 862(1): Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:  
§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
- E. Compliance with Applicable Laws: The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- F. False and Misleading Information: The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- G. Recapture: Should the Applicant not expend as projected or hire as presented, the Agency may view such information/status as failing to meet the established standards of economic performance. In such events, some or all of the benefits taken by the Applicant will be subject to recapture.
- H. Pay Equity: The Applicant and/or user/tenant officer certifies on behalf of the company and/or user/tenant (the Applicant) has not been the subject of an adverse finding under the equal pay laws within the previous five years, has disclosed any pending equal pay claims against the company at time of application, and shall disclose to COMIDA any pending claims or adverse findings under the equal pay laws during the term of COMIDA financial assistance agreement.
- I. Applicant hereby releases the COMIDA ("Agency") from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, this Application, regardless of whether or not this Application or the Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (B) the Agency's acquisition, construction, renovation and/or equipping of the Project described herein; and (C) any further action taken by the Agency with respect to the Project; including, without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law, that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency in connection with the Project may be subject to recapture by the Agency under such terms and conditions as will be set forth in the Agent Agreement to be entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation, information regarding the amount of New York State and local sales and use tax exemption benefits, is true, accurate and complete.

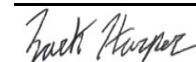
### APPLICANT COMPANY

Aker Club LLC

 Owner/Director  
Signature, Title Date

### TENANT COMPANY

Aker Club LLC

 Owner/Director  
Signature, Title Date