



County of Monroe Industrial Development Agency

## APPLICATION FOR ASSISTANCE

Each applicant seeking assistance must complete this application and provide required supplemental form/documentation. A non-refundable application fee of \$350.00 must be included with this application. Make check payable to COMIDA. Please see page 10 for additional information on costs and fees.

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.growmonroe.org](http://www.growmonroe.org).

### I. APPLICANT

A. Name Fairview at Town Center III LLC  
Address 7 Van Auken Street  
City/State/Zip Rochester, NY 14608  
Tax ID No. 75 2500 163  
Contact Name Michael Spoleta  
Title Manager  
Telephone 585-436-2701  
E-Mail mmspoleta@spoleta.com

#### B. Owners of 20% or more of Applicant Company

Name	%	Corporate Title
<u>Spoleta East Henrietta, LLC (100%)</u>		
<u>Michael Spoleta and David Spoleta own 50%</u>		
<u>each of Spoleta East</u>		

#### C. Applicant's Legal Counsel

Name Peter Lutz, Esq.  
Firm Hodgson Russ LLP  
Address 70 Linden Oaks  
City/State/Zip Rochester, NY 14625  
Telephone 585-733-5226  
Fax 585-613-3939  
Email plutz@hodgsonruss.com

### II. PROJECT

A. Address of proposed project facility  
Lehigh Station Road  
Tax Map Parcel Number 176.09-2-1.12  
City/Town/Village Henrietta  
School District Henrietta  
Current Legal Owner of Property  
Fairview at Town Center III LLC (f/k/a 2695 Apartments II LLC)

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

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

Company Name \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip \_\_\_\_\_  
Tax ID No. \_\_\_\_\_  
Contact Name \_\_\_\_\_  
Title \_\_\_\_\_  
Telephone \_\_\_\_\_  
E-Mail \_\_\_\_\_

% of facility to be occupied by company \_\_\_\_\_

#### C. Owners of 20% or more of User/Tenant Company

Name	%	Corporate Title

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

- ☒ Sales Tax Exemption  
☐ Industrial Revenue Bond Financing  
☒ Mortgage Recording Tax Exemption  
☐ Real Property Tax Abatement

E. Description of project (check all that apply)

☒ New Construction

☐ Existing Facility

☐ Acquisition

☐ Expansion

☐ Renovation/Modernization

☐ Acquisition of machinery/equipment

☐ Other (specify) \_\_\_\_\_

GENERAL DESCRIPTION OF THE PROJECT AND BACKGROUND ON USER(S) OF THE FACILITY  
(Attached additional sheets as necessary)

See attached - covers both Phase II and Phase III.

## II. PROJECT (cont'd)

F. Are other facilities or related companies located within New York State?

☐ Yes ☒ No

Location:

\_\_\_\_\_  
\_\_\_\_\_

Will the Project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?

☐ Yes ☒ No

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

☐ Yes ☒ No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry\*\*:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

☒ Yes ☐ No

If the Project could be undertaken without Financial Assistance provided by the Agency, then provide a statement in the space provided below indicating why the Project should be undertaken with the Financial Assistance to be provided by the Agency\*\*:

The mortgage tax and sales tax exemptions are  
crucial for the financial success of the project.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

~~\*\*To be completed with Agency assistance.~~

## H. PROJECT TIMELINE

Proposed Date of Acquisition

1/24/2017

Proposed Commencement Date of Construction

11/1/2020

Anticipated Completion Date

9/1/2022

## I. Contractor(s)

Spoleta Construction

## J. 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). This is applicable to projects that require the state or local municipality to issue a discretionary permit, license or other type of Approval for that project.

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:

☐ **JOBSPLUS**

**Requirements:**

- 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 \_\_\_\_\_.

☐ **LEASEPLUS**

**Requirements:**

- University and/or medical related facilities in which a for-profit entity leases from a non-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 JOBSPLUS**

**Requirements:**

- A minimum \$15 million investment in new plant, machinery and equipment or renovation of existing building(s) **AND**
- A minimum of 100 new jobs from new companies locating in Monroe County, or existing companies expanding operations here.

☐ **GREEN JOBSPLUS**

**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 RENTS**

for student housing or affordable housing projects.

☐ **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 equipping of the project by the APPLICANT.

##### Building Construction or Renovation

- a. MATERIALS a. \$ 10,380,000  
b. LABOR b. \$ 6,920,000

##### Site Work

- c. MATERIALS c. \$ 1,200,000  
d. LABOR d. \$ 800,000  
e. Non-Manufacturing Equipment e. \$ 0  
f. Furniture and Fixtures f. \$ 0  
g. LAND and/or BUILDING Purchase g. \$ 1,100,000  
h. Manufacturing Equipment h. \$  
i. Soft Costs (Legal, Architect, Engineering) i. \$ 3,475,000  
Other (specify) j. \$  
k. \$  
l. \$  
m. \$

Total Project Costs \$ 23,875,000

##### B. Sources of Funds for Project Costs:

- a. Tax-Exempt Industrial Revenue Bond a. \$ 0  
b. Taxable Industrial Revenue Bond b. \$ 0  
c. Tax-Exempt Civic Facility Bond c. \$ 0  
d. Bank Financing d. \$ 18,800,000  
e. Public Sources e. \$ 0

Identify each state and federal grant/credit

\$  
\$  
\$  
\$

- f. Equity \$ 5,075,000  
TOTAL SOURCES \$ 23,875,000

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

☐ Yes ☐ No

If so, please specify bank, underwriter, etc.

#### IV. COMPLETE FOR EACH USER/TENANT THAT IS SEEKING SALES TAX EXEMPTION 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. Furniture and Fixtures d. \$  
Other (specify) e. \$  
f. \$  
g. \$  
h. \$

Total \$

A non-refundable fee of 1/2% on TOTAL(e) above is due and payable upon issuance of a Sales Tax Letter to User(s)/Tenant(s)

Fairview at Town Center III LLC

User/Tenant Company

  
Signature

Manager

Title

Date

9/2/2020

For Office Use Only	
Total Assessment Value	
Land	Building
Applicant 2602-	20 038 A
User/Tenant 2602-	
RM	

## VI. Value of Incentives

Project name:

### A. IDA PILOT Benefits:

Current Land Assessment	Taxes on Land	0
Dollar Value of New Construction & Renovation Costs		
Estimated New Assessed Value of Project Subject to IDA	0	

County Tax rate/\$1,000

Local Tax Rate\* Tax Rate/\$1,000

School Tax Rate /\$1,000

Total Tax Rate 0.00

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT Amount	Full Tax Payment w/o PILOT	Net Exemption
1	90%	0	0	0	0	0	0
2	80%	0	0	0	0	0	0
3	70%	0	0	0	0	0	0
4	60%	0	0	0	0	0	0
5	50%	0	0	0	0	0	0
6	40%	0	0	0	0	0	0
7	30%	0	0	0	0	0	0
8	20%	0	0	0	0	0	0
9	10%	0	0	0	0	0	0
10	0%	0	0	0	0	0	0
Total		0	0	0	0	0	0

\* Local Tax Rate for Town/City/Village

### B. Sales Tax Exemption Benefit:

Estimated value of Sales Tax exemption:	<u>\$926,400</u>
Estimated duration of Sales Tax exemption:	<u>12/31/2022</u>

### C. Mortgage Recording Tax Exemption Benefit:

Estimated Value of Mortgage Recording Tax exemption:	<u>\$141,000</u>
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### D. Industrial Revenue Bond Benefit

IRB inducement amount, if required:	<u>\$0</u>
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### E. Percentage of Project Costs financed from Public Sector sources:

Total Value of Incentives:	<u>\$1,067,400.00</u>	<u>4.47%</u>
Sources of Funds (Section IV.B.)	<u>\$23,875,000.00</u>	

\*\* All estimates are based on current tax rates.

## VII. PROJECTED EMPLOYMENT

Complete for each Applicant or User/Tenant

Company Name: Fairview at Town Center III LLC

Applicant: ☒ or User/Tenant: ☐

You must include a copy of the most recent NYS-456 Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return OR if you have multiple locations within New York State, the Bureau of Labor – BLS 3020 – Multiple Worksite Report

	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 RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED 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)	3.0		2.0	2.0
Part Time (PTE)	2.0		1.0	1.0
Total	5.0		3.0	3.0

\*\* 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.

\* Jobs reflect Fairview at Town Center II LLC and Fairview at Town Center III LLC total job creation.

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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 Fairview at Town Center III LLC  
Applicant: ☒ or User/Tenant: ☐


All project employees of the general contractor, subcontractor, or sub to a subcontractor (contractors) working on the project must reside within the following counties in the State of New York: Monroe, Genesee, Livingston, Ontario, Orleans, Seneca, Wayne, Wyoming or Yates. The All-Local Labor criterion will be verified based on employment, payroll and related records.

COMIDA understands that at certain times local labor may not be available within the local area. Under this condition, applicants are required to complete a waiver request of the All-Local Labor requirement prior to beginning construction. Contractors do not have to be local companies as defined herein, but must employ local people to qualify under the All-Local Labor criterion. \*

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.

Fairview at Town Center III LLC  
(APPLICANT or USER/TENANT COMPANY)

 Manager 9/2/2020  
Signature, Title Date

\*Applicant intends to use one subcontractor outside the local area. The subcontractor is Henderson Johnson Company based out of Syracuse. The subcontractor is a gyp-crete contractor and provides work that cannot be fulfilled locally.



IX. FEES

1. **Application Fee - Send with Completed Application**

A non-refundable application fee of Three Hundred Fifty Dollars (\$350.00) shall be charged each applicant.

2. **Administrative Fee - Paid at Closing**

- (a) For tax-exempt IRB bond issues, the fee shall be one percent (1%) of the project amount. For projects that utilize a Payment In Lieu of Taxes (PILOT) agreement, an additional one-quarter percent (1/4%) will be added.
  - (b) For lease/leaseback transactions and taxable bond issues, the fee shall be one-half percent (1/2%) of the project amount. For projects that utilize a Payment In Lieu of Taxes (PILOT) agreement, an additional one-quarter percent (1/4%) will be added.
  - (c) For refunding outstanding COMIDA bond issues, the fee shall be one-quarter percent (1/4%) of the new issuance amount.
3. If a sales tax letter is required prior to closing, a non-refundable twenty-five percent (25%) of the Administrative Fee and Agency Counsel fee is payable at that time. This amount will be applied towards the Administrative fee and Agency Counsel Fee. The Sales Tax Letter shall only be for a three (3) month period. If the project does not have a formal closing within three (3) months of the sales tax letter being issued, and an extension is not granted, the balance of the Administrative fee and Agency Counsel fee become immediately due and payable.
4. Agency Counsel fee is one-third (1/3) of the Agency's Administrative fee, with a minimum fee for a lease/leaseback transaction of \$4,000.00.
5. Designated Bond Counsel fee is based on the complexity and amount of the transaction.

Fairview at Town Center III LLC  
(APPLICANT or USER/TENANT COMPANY)

 Manager  
Signature , Title Date 9/2/2020

## 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 own a minimum of 20% 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. 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:

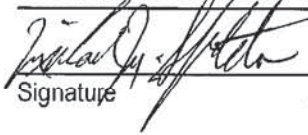
§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment 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.

- D. 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.
- E. 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.
- F. 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.
- G. Applicant hereby releases the County of Monroe Industrial Development Agency ("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**

Fairview at Town Center III LLC

 Signature, Title Manager, Date 9/2/2020

**USER/TENANT COMPANY**

\_\_\_\_\_  
Signature, Title Date



The proposed Town Center South multi-family community is the residential lynchpin of the Town of Henrietta's long desired goal of creating a "Town Center" between Calkins Road on the north, Lehigh Station Road on the south and East Henrietta Road, as envisioned in the town's 2003 Comprehensive Plan. The multi-family development contributes to the Town's vision for a Town Center, complementing and supporting surrounding development, with newer commercial businesses such as Wegmans on Calkins Road, along with mature businesses on the East Henrietta Road corridor, revived large community spaces such as the Dome Arena and new governmental facilities, such as the Town's new Recreation Center and Library, and framed by existing single family residential communities off Lehigh Station Road.

In the middle of the Town Center area is property which has been zoned and approved by the Town to allow the proposed multi-family development. While this property has been zoned in this fashion for many years, no developer has come forward to fulfill the vision of the Town Center with quality multi-family housing to help diversify the housing stock, address a market need and provide walkable access to commercial and recreation facilities in this area. The Town Center South community (in tandem with the adjacent Town Center North community) provides that new residential component, which will give the "Town Center" the needed residential element.

The Town Center South multi-family development is a 249 unit rental community which will offer new conveniently-located housing options for those who wish to live and work in the Town of Henrietta and Monroe County. The project includes a mix of unit types and sizes, with 1, 2 and 3 bedroom units in buildings and both ranch and two-story townhomes. The types and sizes of units, and rents are provided in an attachment to this application. The community offers high-quality, low-maintenance living with a choice of housing types and amenities, including a pavilion and dog park, and a shared community center with Town Center North, which includes a fitness room, pool, community space, and on-site management. The project has received the necessary Town approvals.

The project has helped to facilitate and stimulate the redevelopment and new operation of the Dome Arena, with the first phase of the multi-family development being on former Dome property. The development further advanced the Town's goals by setting aside property for a new Town library built by the Town next to the Recreation Center on Calkins Road.

This unique community, in a unique setting, has received the endorsement for IDA incentives from the Town. There is a great deal of excitement over the prospects of adding this component to the Town Center. The IDA incentives (sales tax and mortgage tax) sought will be a key element in making this project a financeable reality.



**Town Center Apartments Phase II and Phase III**  
**Henrietta, NY**  
**September 2020**

**Project Breakdown**

<b>Building No.</b>	<b>Type</b>		
9	32-Unit	20	10-Unit
10	32-Unit	21	10-Unit
11	32-Unit	22	10-Unit
12	32-Unit	23	2-Unit
13	10-Unit	24	4-Unit
14	10-Unit	25	3-Unit
15	10-Unit	26	5-Unit
16	10-Unit	27	2-Unit
17	3-Unit	28	3-Unit
18	10-Unit	29	5-Unit
19	10-Unit	30	4-Unit
<b>TOTAL – 249 Units</b>			

**Building & Unit Sizes**

**10-Unit-2 Apartment      2 Car Option**

<b>Unit</b>	<b># Units</b>	<b>Bed Room</b>	<b>Bath</b>	<b>Study</b>	<b>Garage</b>	<b>SF</b>
A	2	2	2	0	2	1168
B	2	1	1	0	1	958
C	2	2	2	0	2	1082
D	2	3	2	0	1	1336
E	2	2	2	1	1	1242
<b>Total</b>	<b>10</b>					

**10-Unit Apartment      1 Car Only**

<b>Unit</b>	<b># Units</b>	<b>Bed Room</b>	<b>Bath</b>	<b>Study</b>	<b>Garage</b>	<b>SF</b>
A	2	2	2	0	1	1168
B	2	1	1	0	1	958
C	2	2	2	0	1	1082
D	2	3	2	0	1	1336
E	2	2	2	1	1	1242
<b>Total</b>	<b>10</b>					

### 32-Unit-2 Apartment

Unit	# Units	Bed Room	Bath	Study	SF
A	8	1	1	0	809
AA	2	1	1	0	822
B	6	2	2	0	1224
C	6	2	2	0	1255
D	2	2	2	0	1230
E	2	2	1	0	1086
F	2	2	2	1	1398
G	2	1	1	0	884
TH	2	2	2	0	1304
<b>Total</b>	<b>32</b>				

### 2-Unit Townhome

Unit	# Units	Bed Room	Bath	Study	Garage	SF	
A	2	2	2	0	2	1252	Ranch
<b>Total</b>	<b>2</b>						

### 3-Unit Townhome

Unit	# Units	Bed Room	Bath	Study	Garage	SF	
A	2	2	2	0	2	1252	Ranch
B	1	2	2	0	1	1114	Ranch
<b>Total</b>	<b>3</b>						

### 4-Unit Townhome

Unit	# Units	Bed Room	Bath	Study	Garage	SF	
A	1	2	2	0	2	1252	Ranch
C	3	2	2	0	1	1356	Two-Story
<b>Total</b>	<b>4</b>						

### 5-Unit Townhome

Unit	# Units	Bed Room	Bath	Study	Garage	SF	
D	2	2	2	0	1	1229	Ranch
E	2	2	2	0	2	1431	Two-Story
F	1	2	2	0	1	1431	Two-Story
<b>Total</b>	<b>5</b>						