

**CERTIFICATION AND AGREEMENT
WITH RESPECT TO FEES AND COSTS**

The undersigned deposes and says: that I am an authorized representative of the Applicant named in the attached application for financial assistance (“Application”) and that I hold the office specified below my signature at the end of this Certification and Agreement, that I am authorized and empowered to deliver this Certification and Agreement and the Application for and on behalf of the Applicant, that I am familiar with the contents of said Application (including all schedules and attachments thereto), and that said contents are true, correct and complete to my knowledge. Capitalized terms used but not otherwise defined in this Certification and Agreement shall have the meanings assigned to such terms in the Application.

The grounds of my belief relative to all matters in the Application that are not based upon my own personal knowledge are based upon investigations I have made or have caused to be made concerning the subject matter of this Application, as well as upon information acquired in the course of my duties and from the books and records of the Applicant.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that the Applicant hereby releases the Nassau County Local Economic Assistance Corporation, its members, officers, directors, servants, attorneys, agents and employees (collectively, the “Corporation”) from, agrees that the Corporation shall not be liable for and agrees to indemnify, defend (with counsel selected by the Corporation) and hold the Corporation harmless from and against any and all liability, damages, causes of actions, losses, costs or expenses incurred by the Corporation in connection with: (A) examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the financial assistance requested therein are favorably acted upon by the Corporation, (B) the acquisition, construction and/or installation of the Project by the Corporation, and (C) any further action taken by the Corporation with respect to the Project; including, without limiting the generality of the foregoing, (i) all fees and expenses of the Corporation’s general counsel, bond counsel, economic development consultant and other experts and consultants (if deemed necessary or advisable by the Corporation), and (ii) all other expenses incurred by the Corporation in defending any suits, actions or proceedings that may arise as a result of any of the foregoing. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels, or neglects the Application or if the Applicant is unable to find buyers willing to purchase the total bond issue required or is unable to secure other third party financing or otherwise fails to conclude the Project, then upon presentation of an invoice by the Corporation, its agents, attorneys or assigns, the Applicant shall pay to the Corporation, its agents, attorneys or assigns, as the case may be, all fees and expenses reflected in any such invoice.

As an authorized representative of the Applicant, I acknowledge and agree on behalf of the Applicant that each of the Corporation’s general counsel, bond counsel, economic development consultant and other experts and consultants is an intended third-party beneficiary of this Certification and Agreement, and that each of them may (but shall not be obligated to) enforce the provisions of the immediately preceding paragraph, whether by lawsuit or otherwise, to collect the fees and expenses of such party or person incurred by the Corporation (whether or not first paid by the Corporation) with respect to the Application.

Upon successful closing of the required bond issue or other form of financing or Corporation assistance, the Applicant shall pay to the Corporation an administrative fee set by the Corporation (which amount is payable at closing) in accordance with the following schedule:

- (A)** Bond Issues (Tax-Exempt or Taxable) -- Five-tenths (5/10) of one percent (1%) for the first twenty-five million dollars (\$25,000,000) of total project costs and, if applicable, two-tenths (2/10) of one percent (1%) for any additional amounts in excess of twenty-five million dollars (\$25,000,000) of total project costs.

- (B) General Counsel Fee – One-tenth (1/10) of one percent (1%) of total project costs, with a minimum fee of \$4,000.
- (C) All initial Transactions - Two Thousand Five Hundred Dollars (\$2,500) closing compliance fee payable at closing and One Thousand Dollars (\$1,000) per year (or part thereof) administrative fee, payable in advance, at the closing for the first year (or part thereof) and on January 1st of each year for the term of the financing. The annual service fee is subject to periodic review and may be adjusted from time to time in the discretion of the Corporation.
- (D) Subsequent Transactions - The Corporation fee for a bond issuance (whether “new money” or a refunding) that closes on or before the twelve (12) month anniversary of the closing of a prior issuance for the same Applicant(s) shall be two-tenths (2/10) of one percent (1%) of total project costs.
- (E) Refundings – The Corporation fee for a refunding that closes more than twelve (12) months after the issuance of the bonds being refunded shall be determined in accordance with subparagraphs (A), (B) and (C) above.
- (F) Other Modifications – The Agency fee shall be determined on a case-by-case basis, but in accordance with the following schedule.
 - 1. A basic Consent - \$750
 - 2. A Transfer of Benefits
 - a. Basic - \$3,000
 - b. Complex - \$6,000
 - 3. Extensions - \$1,000
- (G) Terminations - The Agency fee shall be determined on a case-by-case basis, but in accordance with the following schedule.
 - 1. Basic - \$2,000
 - 2. Complex - \$2,500

The Corporation’s bond counsel fees and expenses are payable at closing and are based on the work performed in connection with the Project.

The Corporation’s bond counsel’s fees, general counsel fee and the administrative fees may be considered as a cost of the Project and included as part of any resultant financing, subject to compliance with applicable law.

Guided by the above stated schedule amounts, upon the termination of the financing of the Project, Applicant agrees to pay all costs in connection with any conveyance by the Corporation to the Applicant of the Corporation’s interest in the Project and the termination of all related Project documents, including the fees and expenses of the Corporation’s general counsel, bond counsel, and all applicable recording, filing or other related fees, taxes and charges.

I further acknowledge and agree on behalf of the Applicant that, in the event the Corporation shall have used all of its available tax-exempt bond financing allocation, if applicable, from the State of New York and shall accordingly be unable to obtain an additional allocation for the benefit of the Applicant, the Corporation shall have no liability or responsibility as a result of the inability of the Corporation to issue and deliver tax-exempt bonds for the benefit of the Applicant.
