
TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY

AND

PIERCE RD PROCEDURE CENTER LLC

UNIFORM AGENCY PROJECT AGREEMENT

DATED AS OF FEBRUARY 15, 2019

RELATING TO FINANCIAL ASSISTANCE GRANTED BY THE
AGENCY WITH RESPECT TO A CERTAIN PROJECT LOCATED
AT 711 PIERCE ROAD IN THE TOWN OF CLIFTON PARK,
SARATOGA COUNTY, NEW YORK.

UNIFORM AGENCY PROJECT AGREEMENT

THIS UNIFORM AGENCY PROJECT AGREEMENT dated as of February 15, 2019 (the “Uniform Agency Project Agreement”) by and between TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at c/o Town Hall, 1 Town Hall Plaza, Clifton Park York 12065 (the “Agency”) and PIERCE RD PROCEDURE CENTER LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 713 Pierce Road, Clifton Park, New York 12065 (the “Company”);

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws of New York (the “Enabling Act”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York, as amended; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “State”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 178 of the Laws of 1975 of the State of New York, as amended, constituting Section 925-p of said General Municipal Law (collectively, with the Enabling Act, the “Act”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company has requested that the Agency undertake a project (the “Project”) consisting of (A) (1) the acquisition of an interest in an approximately 1.01 acre parcel or parcels of land located at 711 Pierce Road in the Town of Clifton Park, New York comprising tax map #259-2-114 (the “Land”), (2) the construction on the Land of an approximately 11,300 square foot pediatric dental surgical center (the “Facility”) and (3) the acquisition and installation therein of certain machinery and equipment (the “Equipment” and together with the Land and the Facility, collectively, the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, mortgage recording taxes and real property taxes, (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on December 12, 2018 (the “Public Hearing Resolution”), the Agency (A) (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on December 13, 2018 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be published on December 18, 2018 in The Daily Gazette, a newspaper of general circulation available to the residents of Town of Clifton Park, Saratoga County, New York, (C) conducted the Public Hearing on January 7, 2019 at 7:00 o’clock p.m., local time at the Town of Clifton Park Town Hall located at 1 Town Hall Plaza in the Town of Clifton Park, Saratoga County, New York; and

WHEREAS, by further resolution adopted by the members of the Agency on January 7, 2019 (the “Approving Resolution”), the Agency determined to grant the Financial Assistance and to enter into a lease agreement of even date herewith (the “Lease Agreement”) between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the “Basic Documents”) subject to, among other items, the obtaining of the confirmation from the Town Supervisor of Clifton Park, New York with respect to the undertaking of the Project by the Agency (the “Chief Executive Approval”); and

WHEREAS, as evidenced by the document attached hereto as Schedule A, the Agency did obtain the Chief Executive Approval; and

WHEREAS, pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company for a lease term ending on the earlier to occur of (1) December 31, 2025 or (2) the date on which the Lease Agreement is terminated pursuant to the optional termination provisions thereof; and

WHEREAS, the Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency of even date herewith (the “Lease to Agency”) by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on said portion of the Land (collectively, the “Leased Premises”); and (2) a bill of sale of even date herewith (the “Bill of Sale to Agency”), which conveys to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency will execute and deliver a payment in lieu of tax agreement of even date herewith (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (C) the Agency-will file with the assessor and mail to the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency has executed, or will execute, and deliver to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (E) the Agency has filed or will file with the New York State Department of Taxation and Finance the form entitled “IDA Appointment of Project Operator

or Agent for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) (the “Thirty-Day Sales Tax Report”); and

WHEREAS, the Company desires to receive certain Financial Assistance from the Agency with respect to the Project, and accordingly is willing to enter into this Uniform Agency Project Agreement in order to secure such Financial Assistance from the Agency: and

WHEREAS, all things necessary to constitute this Uniform Agency Project Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Uniform Agency Project Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS TO WIT:

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. All capitalized terms used herein and not otherwise defined herein shall have the same meanings as set forth in the Lease Agreement. The following words and terms used in this Uniform Agency Project Agreement shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent.

“Affected Taxing Jurisdiction” shall have the meaning ascribed to such term in Section 854(16) of the Act.

“AER” is the Company’s Annual Status Report described in Section 3.02 (A) hereof.

“Application” means the application submitted by the Company to the Agency with respect to the Project, a copy of which is attached as Schedule B, in which the Company (A) described the Project, (B) requested that the Agency grant certain Financial Assistance with respect to the Project, and (C) indicated the Public Benefits that would result from approval of the Project by the Agency.

“Benefit” shall mean the amount the Company saved by making payments in lieu of real property taxes pursuant to the Payment in Lieu of Tax Agreement in a particular year. For example, if the Company’s payment is equal to 75% of normal real property taxes, then the Company’s benefit for that year would be an amount equal to 25% of normal real property taxes.

“Completion Date” means the earlier to occur of (A) October 31, 2019 or (B) such date as shall be certified by the Company to the Agency as the date of completion of the Project pursuant to Section 4.2 of the Lease Agreement, or (C) such earlier date as shall be designated by written communication from the Company to the Agency as the date of completion of the Project.

“Cure Period” shall mean the period ending June 30th of the year following the Shortfall.

“Employment Obligation” shall mean the number of FTEs specified in Section 3.02 (D) hereof for the applicable year.

“Employment Obligation Term” shall mean the period during which the Company is receiving a Benefit.

“Equipment” shall have the meaning set forth in the Lease Agreement.

“Facility” shall have the meaning set forth in the Lease Agreement.

“Financial Assistance” means exemptions from certain sales and use taxes, real property taxes, and mortgage recording taxes as more particularly described in the Basic Documents.

“FTE” shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or such other number of hours per week (but not less than twenty-five (25) hours) as established by existing written policies of the Company, and whose workplace location is the Project Facility.

“Land” means approximately 1.80 acre parcel of land constituting tax map #265.-1-12.11 and located at 711 Pierce Road in the Town of Clifton Park, Saratoga County, New York.

“Lease Agreement” means the lease agreement of even date herewith by and between the Agency, as landlord, and the Company, as tenant, pursuant to which, among other things, the Agency has leased the Project Facility to the Company, as said lease agreement may be amended or supplemented from time to time.

“Leasing Documents” shall have the meaning set forth in the Lease Agreement, and includes this Uniform Agency Project Agreement.

“Payment in Lieu of Tax Agreement” means the payment in lieu of tax agreement of even date herewith by and between the Agency and the Company, pursuant to which the Company has agreed to make payments in lieu of taxes with respect to the Project Facility, as such agreement may be amended or supplemented from time to time.

“Per Employee Amount” shall mean an amount equal to the Benefit for the year of the Shortfall divided by the “Employment Obligation”.

“Project” shall have the meaning set forth in the Lease Agreement.

“Project Facility” means, collectively, the Land, the Facility and the Equipment.

“Reduction Event” either (i) a closure of the Facility, (ii) a significant change in the use of the Facility and/or the business operations of the Applicant or (iii) significant employment reductions at the Facility which are (a) not representative of (i) such Applicant’s normal business cycles and/or (ii) local and natural economic conditions and (b) inconsistent with employment projections set forth in the Application.

“Recapture Payment” means for the applicable year, an amount equal to the Per Employee Amount multiplied by the difference between the Employment Obligation and the number of FTEs shown on the AER.

“Shortfall” shall mean the difference between the Employment Obligation and the actual number of FTEs per the AER for the applicable year.

SECTION 1.2. INTERPRETATION. In this Uniform Agency Project Agreement, unless the context otherwise requires:

(A) the terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms as used in this Uniform Agency Project Agreement, refer to this Uniform Agency Project Agreement, and the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the date of this Uniform Agency Project Agreement;

(B) words of masculine gender shall mean and include correlative words of feminine and neuter genders;

(C) words importing the singular number shall mean and include the plural number, and vice versa;

(D) any headings preceding the texts of the several Articles and Sections of this Uniform Agency Project Agreement, and any table of contents or marginal notes appended to copies hereof, shall

be solely for convenience of reference and shall neither constitute a part of this Uniform Agency Project Agreement nor affect its meaning, construction or effect; and

(E) any certificates, letters or opinions required to be given pursuant to this Uniform Agency Project Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Uniform Agency Project Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into this Uniform Agency Project Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Uniform Agency Project Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Uniform Agency Project Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Uniform Agency Project Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 2.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. Each entity comprising the Company does hereby represent, warrant and covenant as follows:

(A) Power. The Company is a limited liability company duly organized and validly existing under the laws of the State of New York and has the power under the laws of the State of New York to enter into this Uniform Agency Project Agreement and to perform and carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement.

(B) Authorization. The Company is authorized and has the power under its articles of incorporation, by laws and the laws of the State of New York to enter into this Uniform Agency Project Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement. By proper action of its members, the Company has duly authorized the execution, delivery and performance of this Uniform Agency Project Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Uniform Agency Project Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement by (and the execution, delivery and performance of this Uniform Agency Project Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Uniform Agency Project Agreement will not conflict with or violate or constitute a breach of or a default under) the terms,

conditions or provisions of its articles of organization, operating agreement or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Uniform Agency Project Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Uniform Agency Project Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) 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 of the foregoing, and this Uniform Agency Project Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Uniform Agency Project Agreement by the Company or as a condition to the validity of this Uniform Agency Project Agreement.

ARTICLE III

COVENANTS AND AGREEMENTS

SECTION 3.01. FINANCIAL ASSISTANCE. (A) Financial Assistance. In the Application, the Company certified to the Agency employment information with respect to the Project Facility, and the operations of the Company. In reliance on the certifications provided by the Company in the Application, the Agency agrees to provide the Company with the following Financial Assistance related to the Project:

- | | |
|---|--------------|
| (1) sales and use tax exemptions: | \$177,180.00 |
| (2) a mortgage recording tax exemption: | \$37,073.00 |
| (3) a real property tax exemption: | \$198,840.00 |

(B) Description of Project and Public Purpose of Granting Financial Assistance to the Project. In the Application and in the discussions had between the Company and the Agency with respect to the Company's request for Financial Assistance from the Agency with respect to the Project, the Company has represented to the Agency as follows:

(1) That the Project is described as follows: (A) (1) the acquisition of an interest in an approximately 1.01 acre parcel or parcels of land located at 711 Pierce Road in the Town of Clifton Park, New York comprising tax map #265.-1-12.11 (the "Land"), (2) (i) the construction on the Land of an approximately 11,300 square foot pediatric dental surgical center (the "Facility") and (3) the acquisition and installation therein of certain machinery and equipment (the "Equipment") and together with the Land and the Facility, collectively, (the "Project Facility"), (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, mortgage recording taxes and real property taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

(2) That the Project will furnish the following benefits to the residents of the Town of Clifton Park, New York (the "Public Benefits"): job creation.

(C) Payment in Lieu of Tax Agreement. A copy of the Payment in Lieu of Tax Agreement is attached as Schedule C. The attached Payment in Lieu of Tax Agreement describes the dates the payments in lieu of taxes are to be made and includes a table describing the amount of payments in lieu of taxes to be made.

(D) Contingent Nature of the Financial Assistance. Notwithstanding the provisions of Section 3.01(A) of this Uniform Agency Project Agreement, the Agency and the Company agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of the Project in delivering the promised Public Benefits.

SECTION 3.02. COMPANY AGREEMENTS. The Company hereby agrees as follows:

(A) Filing – Annual. To file with the Agency, by January 10th of each year this Agreement is in effect, the AER in the form provided by the Agency detailing the number of full and part time positions and confirming that the Company has attained the Employment Level, as defined in Section 3.02 (D) hereof for the most recently concluded calendar year. Failure to report within thirty (30) days of such date shall constitute an Event of Default hereunder without the necessity of a notice from the Agency.

(B) Employment Listing. To list new employment opportunities created as a result of the Project with the following entities (hereinafter, the “JTPA Entities”): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective August 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)).

(C) Employment Consideration. Except as otherwise provided by collective bargaining agreement, the Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who may be referred by the JTPA Entities.

(D) Employment Level. In the Application, the Company projected the following employment level at the Facility (the “Employment Level”) during the term of the Uniform Agency Project Agreement, beginning following completion of the Project:

Year	FTE's (combined for Existing Facility and Addition)
As of End of Year 1	17
As of End of Year 2	31
As of End of Year 3	44

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

SECTION 4.01. EVENTS OF DEFAULT DEFINED. (A) The following shall be “Events of Default” under this Uniform Agency Project Agreement, and the terms “Event of Default” or “default” shall mean, whenever they are used in this Uniform Agency Project Agreement, any one or more of the following events:

(1) A default in the performance or observance of any of the covenants, conditions or agreements on the part of the Company in this Uniform Agency Project Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(2) The occurrence of an “Event of Default” under any other Basic Document after giving effect to any applicable grace or cure periods.

(3) Any material representation or warranty made by the Company herein or in any other Basic Document proves to have been false at the time it was made.

SECTION 4.02. REMEDIES ON DEFAULT. (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.4 of the Lease Agreement, and (b) all other payments due under this Uniform Agency Project Agreement or any of the other Basic Documents; or

(2) terminate the Lease Agreement and the Payment in Lieu of Tax Agreement and convey to the Company all the Agency’s right, title and interest in and to the Project Facility (The conveyance of the Agency’s right, title and interest in and to the Project Facility shall be effected by the delivery by the Agency of the Termination of Lease to Agency and the Bill of Sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title); or

(3) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Company under this Uniform Agency Project Agreement.

(B) No action taken pursuant to this Section 4.02 (including repossession of the Project Facility) shall relieve the Company from its obligations to make any payments required by this Uniform Agency Project Agreement and the other Basic Documents.

SECTION 4.03. REDUCTION OF REAL PROPERTY TAX ABATEMENT. Upon the occurrence of a Reduction Event at any time during the term of the Lease Agreement, the real property tax abatements

described in the PILOT Agreement are subject to reduction as set forth below at the discretion of the Agency:

<u>PILOT YEAR</u>	<u>PERCENTAGE REDUCTION</u>
Year(s) 1 – 5	50% to 100%

SECTION 4.04. RECAPTURE OF FINANCIAL ASSISTANCE. (A) General. The failure of the Company to satisfy the Employment Obligation in a particular year shall subject the Company to the obligation to make a Recapture Payment to the Agency, provided that the Company has not satisfied the Employment Obligation during the Cure Period. The Company shall be deemed to have failed to satisfy its Employment Obligation as of the beginning of the year subsequent to the year for which the Company files an AER if the total number of FTEs shown on such report for the applicable year is less than 80% of the applicable Employment Obligation for said year (Recapture Payments are only required if the Shortfall is more than 20% of the Employment Obligation).

(B) Shortfall Recapture Payments.

(i) If the Company shall be subject to a Recapture Payment, as contemplated in subsection (1) (A) above, then the Company shall pay to the Agency an amount equal to the Per Employee Amount multiplied by the difference between the Employment Obligation and the number of FTEs shown on the AER, in each instance for the applicable year. Any Recapture Payment shall be due and owing within thirty (30) days of the receipt by the Company of an invoice therefore from the Agency.

(ii) Notwithstanding any of the foregoing, a Shortfall shall not apply where the Shortfall is a result of a major casualty to or condemnation of the Project Facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Shortfall Payment.

(iii) The Agency shall have the right to reduce any payments required, under this policy, in extraordinary circumstances, in its sole discretion. After the expiration of the Employment Obligation Term, the Company shall have no further Obligation with respect to the Employment Obligation and shall not be liable for any of the Recapture Payments described above.

(C) Redistribution of Project Financial Assistance to be Recaptured. Upon the receipt by the Agency of any amount of any Recapture Payments pursuant to this Section 4.04, the Agency shall redistribute such amount within thirty (30) days of such receipt to the Affected Taxing Jurisdictions in proportion to the amounts which said Affected Taxing Jurisdictions would have received had not the Project Facility been acquired and owned by the Agency.

(D) Survival of Obligations. The Company acknowledges that the obligations of the Company in this Section 4.04 shall survive the conveyance of the Project Facility to the Company and the termination of the Lease Agreement.

(E) Agency Review of Recapture Determination. If the Agency preliminarily determines that a Recapture Payment is due and owing, it shall give written notice of such determination to the Company. The Company shall have thirty (30) days from the date the written notice is deemed given to submit a written response to the Agency's determination and to request a written and/or oral presentation to the Agency as to why the Company should not be obligated to remit the proposed Recapture Payment to the Agency. The Company may make its presentation at a meeting of the Agency. The Agency shall then vote on a resolution confirming whether a Recapture Payment is due and owing.

SECTION 4.05. LATE PAYMENTS. (A) One Month. If the Company shall fail to make any payment required by this Uniform Agency Project Agreement within thirty days of the date that written notice of such payment is sent from the Agency to the Company at the address provided in Section 5.05 of this Uniform Agency Project Agreement, the Company shall pay the amount specified in such notice together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Uniform Agency Project Agreement when due and such delinquency shall continue beyond the thirty days after such notice, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the Agency until such payment in default shall have been made in full, and the Company shall pay the same to the Agency together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

SECTION 4.06. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. If the Company should default in performing any of its obligations, covenants or agreements under this Uniform Agency Project Agreement and the Agency should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency within thirty (30) days not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.06. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Uniform Agency Project Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of a Recapture Event or an Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency to exercise any remedy reserved to it in this Uniform Agency Project Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Uniform Agency Project Agreement.

(D) No Waiver. In the event any provision contained in this Uniform Agency Project Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Uniform Agency Project Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. This Uniform Agency Project Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the execution and delivery of this Uniform Agency Project Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Uniform Agency Project Agreement shall continue to remain in effect until the termination of the Lease Agreement.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Uniform Agency Project Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Uniform Agency Project Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, property addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

Pierce Rd Procedure Center LLC
713 Pierce Road
Clifton Park, New York 12065
Attention: James McDonnell DMD

With a Copy to:

King, Adang, Arpey, Strickland & Thompson, LLP
340 Broadway
Saratoga Springs, New York 12866
Attention: Anthony Adang, Esq.

IF TO THE AGENCY:

Town of Clifton Park Industrial Development Agency
1 Town Hall Plaza
Clifton Park, New York 12065
Attention: Chairman

WITH A COPY TO:

Jean M. Mahserjian, P. C.
Clifton Executive Park
1741 Route 9
Clifton Park, New York 12065
Attention: Jean M. Mahserjian, Esq.

(C) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.06. BINDING EFFECT. This Uniform Agency Project Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Uniform Agency Project Agreement are intended to be for the benefit of the Agency.

SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Uniform Agency Project Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Uniform Agency Project Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. COUNTERPARTS. This Uniform Agency Project Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

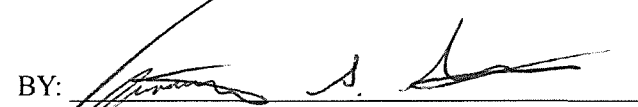
SECTION 5.09. APPLICABLE LAW. This Uniform Agency Project Agreement shall be governed by and construed in accordance with the laws of the State of New York.

SECTION 5.10. SURVIVAL OF OBLIGATIONS. The obligations of the Company to make the filings and listings required by Section 3.02 hereof shall survive the termination of this Uniform Agency Project Agreement, and all such filings and reports after such termination shall be made upon demand of the party to whom such filings and reports are due.


SECTION 5.11. JOINT AND SEVERAL LIABILITY. In the event that this Uniform Agency Project Agreement is executed by more than one entity comprising the Company, the liability of such parties is joint and several. A separate action or actions may be brought and prosecuted against each such entity, whether or not action is brought against any other person or whether or not any other person is joined in such action or actions.

IN WITNESS WHEREOF, the Agency and the Company have caused this Uniform Agency Project Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY

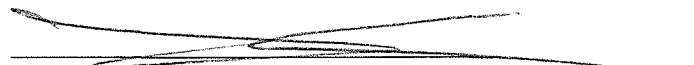
BY: 
Jonathan Schopf, Chairman

PIERCE RD PROCEDURE CENTER LLC

BY: 
James P. McDonnell III, Authorized Member

STATE OF NEW YORK)
) ss:
COUNTY OF SARATOGA)

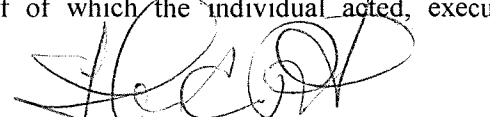
On the 8th day of February in the year 2019 before me, the undersigned, a notary public in and for said state, personally appeared Jonathan Schopf personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

JAMES A. CARMINUCCI
NOTARY PUBLIC STATE OF NEW YORK
REG. NO. 02CA4864025
QUALIFIED IN SARATOGA COUNTY
COMMISSION EXPIRES JUN 9, 2022

STATE OF NEW YORK)
) ss:
COUNTY OF SARATOGA)

On the 15th day of February in the year 2019 before me, the undersigned, a notary public in and for said state, personally appeared James P. McDonnell III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

THERESA C. PRIEST
Notary Public, State of New York
Washington County #01PR4921971
Commission Expires Feb. 28, 2022

SCHEDULE A
CHIEF EXECUTIVE APPROVAL

CERTIFICATE CONFIRMING GRANTING OF FINANCIAL ASSISTANCE BY THE TOWN OF
CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY WITH RESPECT TO THE PIERCE
ROAD PROCEDURE CENTER, LLC PROJECT

WHEREAS, the Town of Clifton Park Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of the State of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended (the "Enabling Act"), and Chapter 630 of the 1980 Laws of the State of New York, as amended, constituting Section 925-p of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, Pierce Road Procedure Center, LLC, a New York limited liability company having an address of 711 Pierce Road, Clifton Park, New York 12065 (the "Applicant"), has submitted an application (the "Application") requesting that the Agency undertake a project (the "Project") consisting of (a) the acquisition of an interest in an approximately 1.01 acre parcel or parcels of land located at 711 Pierce Road in the Town of Clifton Park, New York comprising tax map # 265.-1-12.11 (the "Land"), (b) (i) the construction on the Land of an approximately 11,300 square foot pediatric dental surgical center (the "Facility") and (c) the acquisition and installation in the Facility of certain machinery and equipment (collectively, the "Equipment" and together with the Land and the Facility, collectively the "Project Facility"), (C) the lease (with the obligation to purchase) or the sale of the Project Facility to the Applicant or such other person as may be designated by the Applicant and agreed upon by the Agency and (D) the providing by the Agency of certain "financial assistance" (as defined in the Act) in the form of exemptions from mortgage recording tax, state and local sales tax and real property taxes; and

WHEREAS, the Project may be considered a facility which is primarily used in making "retail sales" to customers who personally visit such facilities (as described in Section 862 of the General Municipal Law of the State of New York) and as such the Agency is unable to provide Financial Assistance to such Project absent certain findings to be made by the Agency and subject to the approval of the chief executive officer of the Town of Clifton Park; and

WHEREAS, the Application indicates that the Project once completed will result in the creation of 44 additional full time jobs over a three year period;

WHEREAS, on January 7th, 2019, following the conducting of a public hearing, by resolution duly adopted by the Agency and attached hereto and based upon information provided to the Agency, the Agency (i) determined (x) that the predominant purpose of the Project is to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of Clifton Park and (y) that the undertaking of the Project will serve the public purposes of the Act by preserving and

increasing the overall number of permanent, private sector jobs in the State of New York and (ii) granted approval for the project subject to obtaining of the confirmation from the chief executive officer of the Town of Clifton Park with respect to the proposed undertaking of the Project by the Agency as required by Section 862 of the General Municipal Law of the State of New York;

NOW THEREFORE, the undersigned, being the chief executive officer of the Town of Clifton Park, New York, hereby confirms the undertaking of the Project by the Agency and the providing of Financial Assistance with respect thereto.

EXECUTED THIS 15th DAY OF JANUARY, 2019

TOWN OF CLIFTON PARK, NEW YORK

By: 
Philip Barrett, Town Supervisor

SCHEDULE B

APPLICATION



December 19, 2018

To: Town of Clifton Park IDA Members and Staff
From: Dennis Brobston, SEDC
Re: **Pierce Road Procedure Center, LLC application - amended**

IDA Members and Staff:

Attached please find an application and project narrative for the January 7, 2019 meeting from **Pierce Road Procedure Center, LLC** for IDA benefits related to construction of a Dental Surgical Center at 711 Pierce Road, Clifton Park, NY 12065 and the acquisition and installation of equipment, furniture and fixtures at the site. Total project cost is \$5,280,000.

At the December 12th CPIDA meeting, it was determined to amend the application to also provide for a 5 year Commercial Services PILOT as well as to provide exemptions of sales tax and mortgage tax as detailed in the spreadsheets. As a reminder, the proposed project is the construction of an 11,300 square foot building on approximately 1.01 acres. The company will create 44 jobs over 3 years to add to their existing total of 111. The average salary will be over \$54,110 plus benefits. The PILOT savings will total up to \$194,840 over the 5 years. Sales Tax savings is estimated at \$177,180 and Mortgage Tax savings is estimated at \$37,073.

Please see the attached amended application pages for complete details.

Please contact me at 518 587-0945 prior to the meeting if there are any questions.

Section I: Applicant Information

Please answer all questions. Use "None" or "Not Applicable" where necessary.

A) Applicant Information-company receiving benefit:

Applicant Name: Pierce Road Procedure Center, LLC
Applicant Address: 711 Pierce Road Clifton Park, NY 12065
Phone: 518-373-1181 Fax: 518-373-0130
Website: www.smitelodge.com E-mail: jmedonnell@smitelodge.com
Federal ID#: 83-2121549 NAICS: 531120
State and Year of Incorporation/Organization: New York, 2018
List of stockholders, members, or partners of Applicant: James McDonnell DDS,
Eric McMahon DDS.
Will a Real Estate Holding Company be utilized to own the Project? Yes or No
What is the name of the Real Estate Holding Company: N/A
Federal ID# of Real Estate Holding Company: N/A
State and Year of Incorporation/Organization: N/A
List of stockholders, members, or partners of Real Estate Holding Company: N/A
Agency assisting in application (SCPP or SEDCO): N/A

B) Individual Completing Application:

Name: Lena Lancto
Title: Chief Operating Officer
Address: 713 Pierce Road Clifton Park, NY 12065
Phone: 518-373-1181 ext 1200 Fax: 518-373-0130
E-Mail: llancto@smitelodge.com

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

Name: Lena Lancto
Title: Chief Operating Officer
Address: 713 Pierce Road Clifton Park, NY 12065
Phone: 518-373-1181 ext 1200 Fax: 518-373-0130
E-Mail: llancto@smitelodge.com

D) Company Counsel:

Name of Attorney: Chip Strickland

Firm Name: King, Adang, Arpey, Strickland & Thompson, LLP

Address: 340 Broadway, Saratoga Springs, NY 12866

Phone: 518 584-2200

Fax: 518 584-4075

E-mail: N/A

E) Identify the assistance being requested of the Agency (select all that apply):

1. Exemption from Sales Tax Yes or No
 2. Exemption from Mortgage Recording Tax Yes or No
 3. Exemption from Real Property Tax Yes or No
 4. Tax Exempt Financing * Yes or No
- * (typically small qualified manufacturers)

F) Business Organization (check appropriate category):

- | | | | |
|------------------------|--------------------------|---------------------------|-------------------------------------|
| S Corporation | <input type="checkbox"/> | Partnership | <input type="checkbox"/> |
| Corporation | <input type="checkbox"/> | Joint Venture | <input type="checkbox"/> |
| Public Corporation | <input type="checkbox"/> | Limited Liability Company | <input checked="" type="checkbox"/> |
| Sole Proprietorship | <input type="checkbox"/> | | |
| Other (please specify) | <input type="checkbox"/> | | |

Year Established: 2018

State in which Organization is established: New York

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

<u>Name</u>	<u>% of ownership</u>
<u>James McDonnell DMD</u>	<u>50%</u>
<u>Eric McMahon DDS</u>	<u>50%</u>

H) Applicant Business Description:

Describe in detail company background, products, customers, goods and services. Description is critical in determining eligibility: Dental care specializing in pediatrics. Serving most insurances.
Enabling a better access to care for all income ranges.

Estimated % of sales within Clifton Park: 11%

Estimated % of sales outside Clifton Park but within New York State: 88%

Estimated % of sales outside New York State but within the U.S. < 1%

Estimated % of sales outside the U.S. 0%

(*Percentage to equal 100%)

f) What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in Clifton Park. Include list of vendors, raw material suppliers and percentages for each. Provide supporting documentation including estimated percentage of local purchases.

See Appendix A

Section II: Project Description & Details

A) Project Location:

Municipality or Municipalities of current operations: Clifton Park

Will the Proposed Project be located within the Municipality, or within a Municipality, identified

Yes or No

If Yes, in which Municipality will the proposed project be located? Clifton Park

If No, in which Municipality will the proposed project be located? _____

Provide the Property Address of the proposed Project:

711 Pierce Road
Clifton Park, NY 12065

SUB (Section, Block, Lot) # for Property upon which proposed Project will be located: 215-1-12-11

What are the current real estate taxes on the proposed Project Site? \$ 146.98

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

Land: \$ 50,500 Buildings(s): N/A

** If available please include a copy of current tax bill.

Are Real Property Taxes current? Yes or No. If no, please explain _____

Town/City/Village: Clifton Park School District: Schenectady

Does the Applicant or any related entity currently hold fee title to the Project site? Yes or No

If No, indicate name of present owner of the Project Site: _____

Does Applicant or related entity have an option/contract to purchase the Project site? Yes or No N/A

Describe the present use of the proposed Project site: Vacant lot

B) Please provide narrative of project, the purpose of the project (new build, renovations, and/or equipment purchases), and the type of project (educational, recreational, historic preservation, etc.). Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility. Attach additional pages if necessary).

This facility will provide surgical/operating rooms for operations currently not provided for anywhere in Clifton Park. This will enable us to expand the number of treatment rooms to care for more patients. It also shortens wait times for appointments including emergency appointments for pts in pain.

Describe the reasons why the Agency's financial assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary):

Right now 25% of our patients drive over an hour to get treatment at The Smile Lodge. With assistance we can grow faster and provide more access to care in the greater NY area.

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 or 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 by the Agency: Without financial assistance provided by the agency, we would not be able to fully outfit the building to serve patients.

If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and County/City/Town/Village? We would provide 50% less services and jobs.

C) Will Project include the leasing of any equipment? Yes or No

If Yes, please describe: _____

D) Site Characteristics:

Will the Project meet zoning/land use requirements at the proposed Yes or No

Describe the present zoning/land use: Commercial

Describe required zoning/land use, if different: _____

If a change in zoning/land use is required, please provide details/status/timeline of any request for change of zoning/land use requirements: _____

1. Utilities serving project site:

a. Water - Municipal: Clifton Park Water Authority
Other (Describe): _____

b. Sewer - Municipal: Clifton Park/Saratoga County Sewer Dist.
Other (Describe): _____

c. Electric - Utility: National Grid
Other (Describe): _____

d. Heat - Utility: _____
Other (Describe): _____

e. Gas - Utility: National Grid
Other (describe): _____

2. Are there public infrastructure improvements required or proposed? If yes, please describe: Yes No

Is the proposed project located on a site where the known or potential presence of contaminants is complicating the development/use of the property? If yes, please explain: No

E) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site? Yes or No If yes, please provide a copy.

F) Have any other studies or assessments been undertaken with respect to the proposed project site that indicate the known or suspected presence of contamination that would complicate the site's development?
 Yes or No. If yes, please provide copies of the study

G) Provide any additional information or details: _____

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

** Please check any and all end users as identified below.

** Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, complete the Retail Questionnaire contained in Section IV of the Application.

Retail Sales: Yes or No

Services: Yes or No

For purposes of this question, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Industrial
Acquisition of Existing Facility
Housing
Equipment Purchase
Multi-Tenant
Commercial

Back Office
Mixed Use
Facility for Aging
Other _____

I) Project Information:

Estimated costs in connection with Project:

1. Land and/or Building Acquisition: \$ 160,000
1.01 acres _____ square feet
2. New Building Construction: 11,300 square feet \$ 3,400,000
3. New Building Addition(s): _____ square feet \$ _____
4. Infrastructure Work \$ _____
5. Reconstruction/Renovation: _____ square feet \$ _____
6. Manufacturing Equipment: \$ _____
7. Non-Manufacturing Equipment (furniture, fixtures, etc.): \$ 1,500,000
8. Soft Costs: (professional services, etc.): \$ 220,000
9. Other, Specify: _____ \$ _____

TOTAL Capital Costs: \$ 5,280,000

Project refinancing: estimated amount
(for refinancing of existing debt only)

\$ 0

Sources of Funds for Project Costs:

Bank Financing:	\$ <u>4,943,000</u>
Equity (excluding equity that is attributed to grants/tax credits):	\$ <u>337,000</u>
Tax-Exempt Bond Issuance (if applicable):	\$ <u>—</u>
Taxable Bond Issuance (if applicable):	\$ <u>—</u>
Public Sources (Include sum total of all state and federal grants and tax credits):	\$ <u>—</u>
Identify each state and federal grant/credit:	
_____	\$ <u>—</u>
_____	\$ <u>—</u>
_____	\$ <u>—</u>
_____	\$ <u>—</u>
Other: _____	\$ <u>—</u>
Total Sources of Funds for Project Costs:	\$ <u>5,280,000</u>
Total Investment by applicant:	\$ <u>337,000</u>
Total Amount being financed:	\$ <u>4,943,000</u>
Percent of total costs be financed through the public sector	<u>—</u> %
Percent of total costs be financed through the private sector	<u>100</u> %

Have any of the above costs been paid or incurred as of the date of this Application? Yes or No

If Yes, describe particulars: ARCHITECTURE/ENGINEERING.

Mortgage Recording Tax Exemption Benefit Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ 4,943,000

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage amount as indicated above multiplied by current mortgage recording tax in Saratoga County):

\$ 37,073

Construction Cost Breakdown:

Total Cost of Construction (sum of 2,3,4,5, and/or 7 in Question 1, above) \$ 4,900,000
Cost for materials \$ 2,531,142
% sourced in Clifton Park: 42 %
% sourced in New York State: 100 %
Cost for labor: \$ 2,368,858

Sales and Use Tax: Gross amount of costs for goods and services that are subject to State and local Sales and Use tax - said amount to benefit from the Agency's Sales and Use Tax exemption benefit:

\$ 2,531,142

Estimated State and local Sales and Use Tax Benefit (product of 7__% multiplied by the figure, above):

\$ 177,180

*** Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate above represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate above as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.*

Real Property Tax Benefit:

Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency's PILOT benefit: N/A

IDA PILOT Benefit: Indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in Section V of the Application.

Percentage of Project Costs financed from Public Sector sources: Calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above in Section II(I) of the Application.

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

*If company is paying for FFE for tenants, please include in cost breakdown

	Square Footage	Cost	% of Total Cost of Project
Manufacturing/Processing			
Warehouse			
Research & Development			
Commercial			
Retail (see section K)	10,553	4,930,960	93.9%
Office	750	349,090	6.6%
Specify Other			

K) What is your project timetable (Provide dates):

1. Start date: acquisition of equipment or construction of facilities: immediately after IDA approval
2. Estimated completion date of project: OCT 2019.
3. Project occupancy -- estimated starting date of operations: OCT 2019
4. Have construction contracts been signed? Yes or No
5. Has financing been finalized? Yes or No
6. Indicate number of full-time construction jobs to be created by the project 30

** If construction contracts have been signed, please provide copies of executed construction contracts and a complete project budget. The complete project budget should include all related construction costs totaling the amount of the new building construction, and/or new building addition(s), and/or renovation.

L) Have site plans been submitted to the appropriate Planning Department?

Yes or No

** If yes, provide the Agency with a copy of the related State Environmental Quality Review Act ("SEQR") Environmental Assessment Form.

Has the Project received site plan approval from the Local Planning

Yes or No.

If No, What is the anticipated approval date? _____

If Yes, provide the Agency with a copy of the Planning Board's approval resolution along with the related SEQR determination. [NOTE: SEQR Determination is required for final approval and sales tax agency appointment].

M) Is the project necessary to expand project employment:

Yes or No

Is project necessary to retain existing employment:

Yes or No

N) Employment Plan (Specific to the proposed project location):

addition of 44 employees

Indicate number of construction jobs expected to be generated by the project and the expected duration of such jobs:

Number of Jobs 80

Length of Employment 11 months

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

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management		
Professional		
Administrative	\$ 172,640.00	12% - 21,035
Production	\$ 33,280.00	18% - 6,000
Independent Contractor		
Other		

Annual Payroll Current:

\$ 6,006,198.03

Annual Payroll, Yr. 1 (after project completion)

\$ 6,890,198.03

Annual Payroll, Yr. 2

\$ 7,774,198.03

Employment at other locations in Saratoga County: (provide address and number of employees at each location):

	Address	Address	Address
Full time	N/A	N/A	N/A
Part Time	↓	↓	↓
Total	↓	↓	↓

O) Will any of the facilities described above be closed or subject to reduced activity? Yes or No

*** If any of the facilities described above are located within the State of New York, and you answered Yes to the question, above, you must complete Section IV of this Application.*

*** Please note that the Agency may utilize the foregoing employment projections, among other items, to determine the Financial Assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.*

P) Is the project reasonably necessary to prevent the project occupant from moving out of New York State?

Yes or No.

If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation if available: _____

Q) What competitive factors led you to inquire about sites outside of New York State? _____

R) Have you contacted or been contacted by other Local, State and/or Federal Economic

Agencies? Yes or No.

If yes, please identify which agencies and what other Local, State and/or Federal assistance and the assistance sought and dollar amount that is anticipated to be received: _____

Section III Retail Questionnaire

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

Please answer the following:

A. Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

Yes or No. If the answer is yes, please continue. If no, proceed to section V

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

B. What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? 100%. If the answer is less than 33% do not complete the remainder of the retail determination and proceed to section V.

If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:

1. Is the Project location or facility likely to attract a significant number of visitors from outside the (8) county economic development region (Albany, Columbia, Greene, Rensselaer, Saratoga, Schenectady, Washington, Warren Counties) in which the project will be located?

Yes or No

If yes, please provide a third party market analysis or other documentation supporting your response.

2. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

Yes or No

If yes, please provide a third party market analysis or other documentation supporting your response. see document 2

3. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

Yes or No.

If yes, explain _____

4. Is the project located in a Highly Distressed Area? Yes or No.

"Highly distressed area" – As defined in NY General Municipal Law § 854 (18)

(a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which:

(i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and

(ii) the ratio of the income per resident, as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of this chapter

Section IV Inter-Municipal Move Determination

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency Financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

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

Yes or No

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

Yes or 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

Does the Project involve relocation or consolidation of a project occupant from another municipality?

Within New York State

Yes or No

Within Town of Clifton Park

Yes or No

If Yes to either question, please, explain:

Section V: Estimate of Real Property Tax Abatement Benefits* and Percentage of Project Costs financed from Public Sector sources**

**** Section V of this Application will be: (i) reviewed & verified by IDA staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.**

PILOT Estimate Table Worksheet

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate(s) (Town/City/Village)/1000	School Tax Rate/1000
\$3,560,000	\$1,954,500	\$4.126972	\$0.278000	\$21.7156890

***Apply equalization rate to value**

1	2	3	4	5	6	7	8
PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT (3+4+5)	Full Tax Payment w/o PILOT	Net Exemption (7-6)
1st	0%	\$660	\$44	\$2,770	\$3,745	\$42,443	\$38,968
2nd	0%	\$660	\$44	\$2,770	\$3,745	\$42,443	\$38,968
3rd	0%	\$660	\$44	\$2,770	\$3,745	\$42,443	\$38,968
4th	0%	\$660	\$44	\$2,770	\$3,745	\$42,443	\$38,968
5th	0%	\$660	\$44	\$2,770	\$3,745	\$42,443	\$38,968
6th							
7th							
8th							
9th							
10th							
TOTAL							

***** Estimates provided are based on current property tax rates and assessment value (current as of date of application submission) and will be reviewed and verified by IDA staff**

Percentage of Project Costs financed from Public Sector Table Worksheet:

Total Project Cost	Estimated Value of Property Tax Exemptions	Estimated Value of Sales Tax Exemptions	Estimated Value of Mortgage Tax Exemptions	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)
\$5,280,000	\$409,092	\$177,180	\$37,073	\$0

Percentage of Project Costs financed from Public Sector (Est. Property Tax + Est. Sales Tax+ Est. Mortgage Tax+ Other) / Total Project Cost): 11.8 %

Section VI Representations, Certifications and Indemnification

**** This Section of the Application can only be completed upon the Applicant receiving, and must be completed after the Applicant receives, IDA staff confirmation that Section I through Section V of the Application are complete.**

Leah Lancto (name of CEO or other authorized representative of Applicant) confirms and says that he/she is the Chief Operating Officer (title) of The Smile Lodge (name of corporation or other entity) named in the attached Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. **Job Listings:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B. **First Consideration for Employment:** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

- C. **Annual Sales Tax Filings:** In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant. Copies of all filings shall be provided to the Agency.
- D. **Employment Reports:** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.
- G. **Hold Harmless Provision:** The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issues of bonds or other

transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents 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 the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.

- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and the Agency's general counsel and/or the Agency's bond/transaction counsel, the same to be paid at the times indicated:

- (i) a non-refundable \$ 500 application and publication fee (the "Application Fee");
- (ii) a \$ _____ expense deposit for the Agency's Counsel Fee Deposit.
- (iii) Unless otherwise agreed to by the Agency, an amount equal to percent (%) of the total project costs.

(iv) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.

- J. If the Applicant fails to conclude or consummate the necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable proper or requested action, or withdraws, abandons, cancels, or neglects the Application, or if the Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by

the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.

- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- M. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL, subject to limited statutory exclusions.
- N. The Applicant acknowledges that it has been provided with a copy of the Uniform Tax Exemption Policy, Attachment A, being the Uniform Modification of Real Property Tax Abatement AND Claw Back Penalty for Failure to Meet Employment Levels. The Applicant covenants and agrees that it fully understands that the Termination and Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Termination and Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
- Q. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. 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.

- P. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- Q. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.

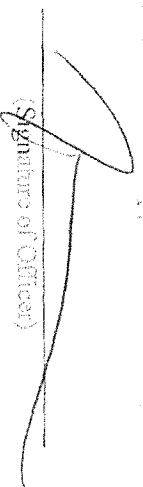
R. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

5. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

STATE OF NEW YORK)
COUNTY OF SARATOGA) ss:

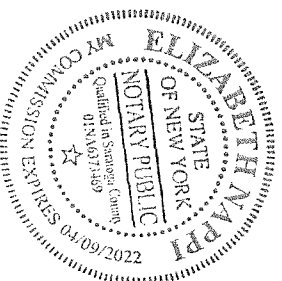
James McDowell being first duly sworn, deposes and says:

1. That I am the Partner (Corporate Office) of René Po Poczajka Corp. (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.


(Signature of Office)

Subscribed and affirmed to me under penalties of perjury
this 10th day of December 2018


(Notary Public)



ATTACHMENT "A"

PROJECTED EMPLOYMENT PLAN

COMPANY: McDonnell's Memorial Pediatric Dentistry, PLLC
 ADDRESS: 7B Pierce Road Clifton Park, NY 12065
 TYPE OF BUSINESS: Pediatric Dental Office
 CONTACT PERSON: Lena Lancato
 TELEPHONE NUMBER: 518 373 1181

Please complete the following chart describing your projected employment plan following receipt of financing.

Current and Planned Full Time Occupations in Company	Current Number Full Time Jobs Per Occupation	Estimated Number of Full Time Jobs After Completion of the Project		
		1 Year	2 Year	3 Year
Associate Doctor	7	9	10	11
Admin	8	9	10	11
Hygienist	15	17	18	19
RN/LPN	2	3	4	5
Dental Assistant	49	56	63	69
Operations Assistant	30	34	37	40
<u>TOTALS</u>	<u>111</u>	<u>128</u>	<u>142</u>	<u>155</u>

Please indicate the estimated hiring dates for new jobs shown above and any special recruitment or training that will be required.

We would hire and train the first team in September and train in current facility until they are up and running. We would continue to hire 4-5 new hires every 6-8 weeks as that is what our current training process can support.

Are the employees of your firm currently covered by a collective bargaining agreement? Yes No

If Yes, provide Trade's Name and Local Number: _____

Prepared by: Lena Lancato

Title: Chief Operating Officer

Signature: Lena Lancato

***By statute, project the number of FTE jobs that would be retained and created if the Financial Assistance is granted. Project such jobs over the TWO-YEAR time period following Project completion. Convert PTE jobs into FTE jobs by dividing the number of PTE by two (2).

Note: Agency Staff will review and verify all projections.

"FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week or other such number of hours per week (but not less than twenty-five (25) hours as established by existing written policies of the Company or Applicant, as applicable, and whose workplace location is the Project Facility.

ENVIRONMENTAL ASSESSMENT QUESTIONNAIRE

NAME OF APPLICANT: Pierce Road Procedure Center, LLC

Are approvals, consents, permits,
funding or other actions required
from any other governmental agency
(including municipal Planning Boards,
State agencies, etc.)

YES NO

If "NO," skip the rest of this
form and request a "long form
environmental assessment form"
from the Agency.

If "YES," list below the names of
the other agency and the type of
action required.

Name of Agency

Type of Action

Attach copies of all Environmental Assessment Forms or Environmental Impact Statements submitted to any of the agencies you listed.

ATTACHMENT "C"

EMPLOYMENT REPORTING AGREEMENT AND PLAN

In consideration of the extension of financial assistance by TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY, Pierce Road Procedure Center, LLC (Project Beneficiary), agrees to cause any new employment opportunities created in connection with projects financed by the proceeds of such obligations to be listed with the New York State Department of Labor Community Services Division and with the Saratoga County Dept. of Employment & Training. Pierce Road Procedure Center, LLC (Project Beneficiary) also agrees to report to the Town of Clifton Park Industrial Development Agency on or before January 10 of each year on the status of employment plans filed with Department of Economic Development, including the number of new employment opportunities created, the number listed and the number filled. Pierce Road Procedure Center, LLC (Project Beneficiary) further agrees, subject to the requirements of any existing collective bargaining agreement, to first consider for new employment opportunities those persons eligible for service under the Job Training Partnership Act. SEE ATTACHMENT "C-1" FOR FORM OF EMPLOYMENT PLAN STATUS REPORT

DATED: 12/10/18

[Signature]
Name of Applicant
By: McJennell / McMahon
Its: Partner / Partner

ATTACHMENT "D"

Report to Agency added 09/14/09
Abatement requires Cert.05/14/12
Recapture language in bold 08/12/13


SALES TAX REPORTING AGREEMENT

Upon being designated as an agent of Town of Clifton Park Industrial Development Agency in conjunction with the issuance of Industrial Revenue Bonds or the provision of other forms of financial assistance by the Agency, Pierce Road Procedure Center, LLC (Project Beneficiary) agrees to annually file a statement with the New York State Department of Taxation and Finance on a form and in such manner as is prescribed by the Commissioner, describing the value of all sales tax exemptions claimed by Pierce Road Procedure Center, LLC (Project Beneficiary) as agent for the Town of Clifton Park Industrial Development Agency, including but not limited to, consultants and subcontractors. Pierce Road Procedure Center, LLC (Project Beneficiary) recognizes that failure to file such statement will result in its removal of authority to act as an agent of the Agency Pierce Road Procedure Center, LLC (Project Beneficiary) further agrees that it will provide the Agency a report of all sales tax abated during any applicable calendar year. Such report shall include the name, city and state of any company providing materials or a service which was subject to New York State and local sales tax; a description of the materials purchased or service provided the cost of those materials or services and the amount of sales tax abated in each case. The report shall be submitted by the last day in February following the close of the calendar year in which sales tax abatement occurred. The Company acknowledges and agrees to the extent it (i) utilizes the exemption from New York State and local sales and use tax in a manner inconsistent with the intent of this application and/or (ii) attempts to obtain an exemption from New York State and/or local sales and/or use tax which exceeds the scope of the exemption provided in this application it will be subject to a recapture of such inconsistent or excessive exemption benefits by the Agency in accordance with the provisions of Section 875 of the General Municipal Law of the State, the provisions of which are hereby incorporated herein by reference. The Company agrees to cooperate with the efforts of the Agency to recapture such inconsistent or excessive exemption benefits and shall pay said amounts to the Agency or the State of New York as required and any failure to do so shall constitute an Event of Default.

[Signature] _____
Signature Date

Partner / Partner _____
Title

NOTE: Abatement of NYS Sales Tax on eligible purchases of goods and services by approved companies is subject to the issuance of a valid sales tax exemption certificate by the Agency.

Client: Pierce Road Procedure Center, LLC						
Property: 265.-1-1-12.11						
SBL #:						
Land Purchase Price			New Construction Cost		Other Costs	
Total Acres	1.00		Big. Size	11,300	Machinery & Equipment	\$1,100,000
Price/Acre	\$160,000		Cost/Sq.ft.	\$301	Fixtures & Furniture	\$400,000
Land Cost (Acres x Price)	\$160,000		Big. Cost (Size x Cost)	\$3,400,000	Soft Costs	\$220,000
					Total Other Costs	\$1,720,000
Current Tax Rates			Land & Building Costs \$3,560,000		TOTAL PROJECT COST \$5,280,000	
		Total	Benefits Assumptions			
Town / City Tax Rate	0.278000	\$543	Cost of Construction Materials	\$1,031,142	Estimated Benefits Costs	
County Tax Rate	4.128972	\$8,068	Actual quote from GC		Application Fee	\$500
School Tax Rate	17.310717	\$33,834	Mortgage Amt. -	\$4,943,000	Est. Bond Counsel Fee	\$7,500
Other	0.000000		Proposed Tax Benefits			
Total Tax Rate	21.715689		Mortgage Tax Benefit - 3/4% of mortgage amount	\$37,073	Est. IDA Counsel Fee	\$5,000
			7% Sales Tax Benefit - cost of Construction Materials, Equipment, Fixtures & Furniture	\$177,180	IDA Fee ***	\$39,600
Equalization Rate	58.0000				Est. Total Cost of Benefits \$52,600	
Assessment Estimates			Sales & Mortgage Tax Benefits \$214,252			
Estimated New Construction Assessment	\$1,904,000					
Current Land & Bldg. Assessment	\$50,500					
Estimated Total Assessment	\$1,954,500					
Annual Taxes without Incentive (Land & Building)	\$42,443					
			Present Assessed Value of property (Land Only)	\$50,500		
			Present Annual Taxes (Land Only)	\$1,097		
ESTIMATE						

COMMERCIAL/SERVICE - 5 YEAR PILOT

YEAR	ESTIMATED TOTAL ASSESSMENT	FULL VALUE TAXES PAID	PILOT ASSESSMENT	PILOT PAYMENT	ESTIMATED TAX SAVINGS
1	\$1,954,500	\$42,443	\$160,000	\$3,475	\$38,968
2	\$1,954,500	\$42,443	\$160,000	3,475	38,968
3	\$1,954,500	\$42,443	\$160,000	3,475	38,968
4	\$1,954,500	\$42,443	\$160,000	3,475	38,968
5	\$1,954,500	\$42,443	\$160,000	3,475	38,968
Totals	N/A	\$212,215	N/A	\$17,375	\$194,840

Total Pilot Paid	\$17,375	Mort. Rec. Tax	\$37,073	Total Savings
Total Abatement	\$194,840	Sales Tax	\$177,180	
		Property Tax	\$194,840	\$409,092
		Application Fee	\$500	Total Costs
		Bond Counsel Fee	\$7,500	
		IDA Counsel Fee	\$5,000	
		IDA Fee	\$39,600	\$52,600.00

Present Assessed Value of property (Land Only)	\$50,500
Present Annual Taxes (Land Only)	\$1,097

Bottom Line Savings	\$356,492.44
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ESTIMATE



CommercialService 5 year

Rates	\$4.126972	\$0.278000	\$17.310717	\$0.000000	
% Pmt	Cty PILOT	Local PILOT	School PILOT	Other	Total PILOT
0%	\$660	\$44	\$2,770	\$0	\$3,475
0%	\$660	\$44	\$2,770	\$0	\$3,475
0%	\$660	\$44	\$2,770	\$0	\$3,475
0%	\$660	\$44	\$2,770	\$0	\$3,475
0%	\$660	\$44	\$2,770	\$0	\$3,475



SCHEDULE C
COPY OF PAYMENT IN LIEU OF TAX AGREEMENT

TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY

AND

PIERCE RD PROCEDURE CENTER LLC

PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF FEBRUARY 15, 2019

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of February 15, 2019 (“Agreement”) by and between the TOWN OF CLIFTON PARK INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having its office at the Clifton Park Town Hall, One Town Hall Plaza, Clifton Park, New York 12065 (the “Agency”), and PIERCE RD PROCEDURE CENTER LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 713 Pierce Road, Clifton Park, New York 12065 (the “Company”);

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, being Title I of Article 18-A of the General Municipal Law, Chapter 24, of the Consolidated Laws of the State of New York, as amended (the “Enabling Act”), authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for, among other things, manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its facilities and to issue its bonds for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof to secure the payment of such bonds and interest thereon; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 630 of the Laws of 1980 of the State of New York, as amended (said chapter and the Enabling Act being hereinafter collectively referred to as the “Act”), and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and improve their standard of living; and

WHEREAS, the Agency, by resolution adopted January 7, 2019 (the “Resolution”), resolved to undertake a project (the “Project”) consisting of (A) (1) the acquisition of an interest in an approximately 1.01 acre parcel or parcels of land located at 711 Pierce Road in the Town of Clifton Park, New York comprising tax map # 265.-1-12.11 (the “Land”), (b) (i) the construction on the Land of an approximately 11,300 square foot pediatric dental surgical center (the “Facility”) and (c) the acquisition and installation in the Facility of certain machinery and equipment (collectively, the “Equipment” and together with the Land and the Facility, collectively the “Project Facility”), (B) the lease (with the obligation to purchase) or the sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency and (C) the providing by the Agency of certain “financial assistance” (as defined in the Act) in the form of exemptions from mortgage recording tax, state and local sales tax and real property taxes; and

WHEREAS, the Agency will lease the Project Facility to the Company pursuant to the terms of a lease agreement dated as of the date hereof (as amended from time to time, the "Lease Agreement") by and between the Agency and the Company; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), the Agency is not required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, supervision or control or upon its activities; and

WHEREAS, pursuant to the provision of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of real estate taxes with respect to the Project Facility in the amounts and in the manner hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

DEFINITION OF TERMS. All words and terms used herein and not otherwise defined herein shall have the meanings assigned to such words and terms in the Lease Agreement.

ARTICLE I

REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS AND WARRANTIES OF COMPANY. The Company represents and warrants that:

(A) Power: The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York and has the power and authority to perform the obligations hereunder and by due action of its members has authorized the execution, delivery and performance of this Agreement.

(B) Authorization: Neither the execution and delivery of this Agreement, the consummation by the Company of the transactions contemplated hereby nor the fulfillment by the Company of or compliance by the Company with the provisions of this Agreement will conflict with or result in a breach of the articles of organization or operating agreement of the Company or of any of the terms, conditions or provisions of any order, judgment, 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.

(C) Governmental Consent: To the knowledge of the Company no consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition precedent to the execution, delivery or performance of this Agreement by the Company or as a condition precedent to the consummation by the Company of the transactions contemplated hereby.

SECTION 1.02. REPRESENTATIONS AND WARRANTIES OF THE AGENCY. The Agency represents and warrants that:

(A) Power: The Agency is duly established under the provisions of the Act and has the power to enter into this Agreement and to carry out its obligations hereunder. By proper official action, the Agency has been duly authorized to execute, deliver and perform this Agreement.

(B) Authorization: Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby by the Agency nor the fulfillment by the Agency or compliance by the Agency with the provisions of this Agreement will conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the by-laws of the Agency, or any order, judgment, restriction, agreement or instrument to which the Agency is a party or by which it is bound, or will constitute a default by the Agency under any of the foregoing.

(C) Governmental Consent: To the knowledge of Agency no consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Agency is required as a condition precedent to the execution, delivery or performance of this Agreement by the Agency or as a condition precedent to the consummation by the Agency of the transactions contemplated hereby.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. TAX-EXEMPT STATUS OF PROJECT FACILITY.

(A) Assessment of Facility: Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, the parties hereto acknowledge that, upon acquisition of an interest in the Project Facility by the Agency, and for so long thereafter as the Agency shall own an interest in the Project Facility, the Project Facility shall be assessed by the various taxing entities having jurisdiction over the Project Facility, including, without limitation, any county, city, school district, town, village or other political unit or units wherein the Project Facility is located (such taxing entities being sometimes collectively hereinafter referred to as the "Taxing Entities", and each of such Taxing Entities being sometimes individually hereinafter referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of an interest in the Project Facility. The Company shall promptly, following acquisition by the Agency of an interest in the Project Facility, cooperate to ensure that the Project Facility is assessed as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to such acquisition by the Agency, and for so long thereafter as the Agency shall own an interest in the Project Facility, the Company shall take such further action as may be necessary to maintain such exempt assessment with respect to each Taxing Entity. The Agency will cooperate with the Company and will take all action as may be necessary (subject to the provisions of Section 3.01 hereof) to preserve the tax exempt status of the Project Facility. The parties hereto acknowledge that the Land shall not be entitled to such exempt status on the tax rolls of any Taxing Entity until the first March 1 to occur following the Agency's acquisition of an interest in the Project Facility with respect to town, county and school taxes. Pursuant to the provisions of the Lease Agreement, the Company will be required to pay to the appropriate Taxing Entity all taxes and assessments lawfully levied and/or assessed by the appropriate Taxing Entity against the Project Facility, including taxes and assessments levied for the current tax year and all subsequent tax years until the Project Facility shall be entitled to exempt status on the tax rolls of the appropriate Taxing Entity.

(B) Special Assessments: The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay to the appropriate Taxing Entity all special assessments and special ad valorem levies lawfully levied and/or assessed by the appropriate Taxing Entity against the Project Facility.

SECTION 2.02. PAYMENTS IN LIEU OF TAXES.

(A) Agreement to Make Payments: The Company agrees that it will make annual payments in lieu of real estate taxes with respect to the Project to the Agency in the amounts hereinafter provided for redistribution to the respective Taxing Entities in proportion to the amounts which said Taxing Entities would have received had not an interest in Project Facility been acquired and owned by the Agency.

(B) Amount of Payments in Lieu of Taxes:

(1) Town and County Taxes: (a) Commencing on January 31, 2020 (for the 2020 town/county tax year) and continuing on January 31 of each year thereafter up to and including January 31, 2025, payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Agency on account of town and county taxes with respect to each appropriate Taxing Entity equal to the product of (i) the Assessed Value (as hereinafter defined) of the Land without regard to the Facility and (ii)

the tax rate or rates of each such Taxing Entity applicable to the Project Facility for the current tax year of such Taxing Entity.

(b) Unless the Land is located on roll section 1, commencing January 31, 2026 and continuing on each January 31 thereafter for such time as this Agreement is in effect, payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Agency on account of town and county taxes with respect to each appropriate Taxing Entity in an amount to be determined by multiplying (i) the Assessed Value of the Project Facility determined pursuant to Section 3 of this Section 2.02 by (ii) the tax rate or rates of such Taxing Entity applicable to the Project Facility for the current tax year of such Taxing Entity

(2) School Taxes: (a) Commencing January 31, 2020 (for the 2019-2020 school tax year) and continuing on January 31 of each year up to and including January 31, 2025, payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Agency on account of school taxes equal to the product of (i) the Assessed Value of the Land without regard to the Facility and (ii) the tax rate or rates of the Shenendehowa Central School District applicable to the Project Facility for the current tax year.

(b) Unless the Land is located on roll section 1, commencing January 31, 2026 and continuing for such time as this Agreement is in effect, payments in lieu of real estate taxes shall be due, owing and payable by the Company to the Agency on account of school taxes in an amount to be determined by multiplying (i) the Assessed Value of the Project Facility determined pursuant to Section 3 of this Section 2.02 by (ii) the tax rate or rates of the Shenendehowa Central School District applicable to the Project Facility for the current tax year of the Shenendehowa Central School District.

(3) (a) For purposes of this Section 2.02 the “Assessed Value” of the Land, the Facility or the Project Facility, as applicable, shall be determined by the appropriate officer or officers of the Taxing Entity responsible for assessing properties in each Taxing Entity (said officer or officers being hereinafter collectively referred to as the “Assessor”). The Assessor shall (a) appraise the Land, the Facility or the Project Facility, as applicable, (excluding, where permitted by law, personal property) in the same manner as other similar properties in said Taxing Entity and (b) place a value for assessment purposes upon the Land, the Facility or the Project Facility, as applicable, equalized if necessary by using the appropriate equalization rates as apply in the assessment and levy of real property taxes. The parties acknowledge and agree that the Assessed Value may be modified at the time of any general reassessment of real property values in the Town of Clifton Park.

(b) If the Company is dissatisfied with the amount of Assessed Value as initially established or as changed, the Company may pursue review of the Assessed Value under Article 7 of the New York State Real Property Tax Law or any other law or ordinance then in effect relating to disputes over assessed valuation of real property in the State of New York, and may take any and all other action available to it at law or in equity, for a period of three (3) years from the date such Assessed Value is initially established or increased. IF THE COMPANY FAILS TO PURSUE REVIEW OF (i) THE INITIALLY ESTABLISHED ASSESSED VALUE, DURING THE THREE (3) YEAR PERIOD FOLLOWING SUCH ESTABLISHMENT; (ii) ANY INCREASE IN ASSESSED VALUE, DURING THE THREE (3) YEAR PERIOD FOLLOWING ANY SUCH INCREASE OR (iii) ANY INCREASE IN ASSESSED VALUE AS A RESULT OF A TOWN-WIDE REVLUATION WITHIN ONE (1) YEAR FOLLOWING ANY SUCH INCREASE, THE COMPANY SHALL BE DEEMED TO HAVE WAIVED ANY RIGHT TO CONTEST OR DISPUTE SUCH ASSESSED VALUE AT ANY TIME FOR A THREE (3) YEAR PERIOD COMMENCING JANUARY 1, 2026. NOTWITHSTANDING ANYTHING IN THE NEW YORK STATE REAL PROPERTY TAX LAW TO THE CONTRARY. THIS THREE (3) YEAR LIMITATION SHALL

APPLY TO EACH AND EVERY ASSESSMENT MADE DURING THE PERIOD THAT THE AGENCY HOLDS TITLE TO THE PROJECT FACILITY, AND SHALL BE FOR THE BENEFIT OF THE AGENCY AND THE OTHER TAXING ENTITIES. The Agency hereby irrevocably appoints the Company its attorney-in-fact and agent (coupled with an interest) for the purpose of commencing any proceeding, preparing and filing all documents and taking any and all other actions required to be taken by Agency, necessary or desirable, in the opinion of the Company, to contest or dispute any Assessed Value within such periods; provided, however, that the Agency shall incur no expense or liability in connection with any action taken or omitted to be taken by its attorney-in-fact and agent.

(c) The Company will file with the appropriate officer the filing required under Section 412-a (2) of the Real Property Tax Law of New York State on or before March 1, 2019. THE COMPANY ACKNOWLEDGES THAT THE FAILURE TO FILE SUCH FORM BY THE DATE INDICATED WILL RESULT IN A NULLIFICATION OF THE TERMS OF THIS AGREEMENT.

(4) Additional Amounts in Lieu of Taxes: Commencing on the first tax year following the date on which any structural addition shall be made to the Project Facility or any portion thereof or any additional building or other structure shall be constructed on the Land (such structural additions and additional buildings and other structures being hereinafter referred to as "Additional Facilities"), the Company agrees to make additional annual payments in lieu of property taxes (such additional payments being hereinafter collectively referred to as "Additional Payments") to the Receivers of Taxes with respect to such Additional Facilities, such Additional Payments to be computed separately for each Taxing Entity as follows:

(1) Determine the amount of general taxes and general assessments (hereinafter referred to as the "Normal Tax") which would be payable to each Taxing Entity if such Additional Facilities were owned by the Company and not the Agency by multiplying (a) the additional Assessed Value of such Additional Facilities determined pursuant to subsection (B)(3) of this Section 2.02, by (b) the tax rate or rates of such Taxing Entity that would be applicable to such Additional Facilities if such Additional Facilities were owned by the Company and not the Agency, and (c) reduce the amount so determined by the amounts of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were owned by the Company and not the Agency.

(2) In each calendar year during the term of this Agreement (commencing in the calendar year when such Additional Facilities first appear on the assessment roll of any Taxing Entity), the amount payable by the Company to the Receivers of Taxes on behalf of each Taxing Entity as a payment in lieu of property tax with respect to such Additional Facilities pursuant to this Agreement shall be an amount equal to one hundred percent (100%) of the Normal Tax due each Taxing Entity with respect to such Additional Facilities for such calendar year (unless the Agency and the Company shall enter into a separate written agreement regarding payments in lieu of property taxes with respect to such Additional Facilities, in which case the provisions of such separate written agreement shall control).

SECTION 2.03. INTEREST. If the Company shall fail to make any payment required by this Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with late fees and interest thereon equal to the greater of (A) any late fees and interest which would be applicable with respect to each Taxing Entity were the Project Facility owned by the Company and not the Agency and (B) the late fees and interest prescribed by subsection (5) of Section 874 of the General Municipal Law of the State of New York (or any successor statute thereto).

ARTICLE III

LIMITED OBLIGATION OF THE AGENCY

SECTION 3.01. NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY.

(A) No Recourse: All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenants or agreement contained in this Agreement, or otherwise based upon or in respect of this Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Agreement, it being expressly understood that this Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Agreement under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

(B) Limited Obligation: The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the Town of Clifton Park, New York, and neither the State of New York nor the Town of Clifton Park, New York shall be liable thereon, and further such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

(C) Further Limitation: Notwithstanding any provision of this Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company satisfactory to the Agency to defend and hold harmless the Agency against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events (hereinafter an “Event of Default”) shall constitute a default under this Agreement:

(A) Failure of the Company to pay any amount due and payable by it pursuant to this Agreement and continuance of said failure for a period of thirty (30) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed by it hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period, and the Company shall have commenced action to cure the breach of such covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for a period not to exceed ninety (90) days from the date of receipt by the Company of such notice; or

(C) Any warranty or representation by the Company contained in this Agreement shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Agreement and such falsity or incorrectness has a material adverse affect on the Company’s ability to perform its obligations under this Agreement.

SECTION 4.02. REMEDIES ON DEFAULT. Whenever any Event of Default shall have occurred and be continuing with respect to this Agreement, the Agency may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Agreement including, without limitation, the exercise by the Agency of the remedy set forth in Section 10.2 of the Lease Agreement. Pursuant to Section 5.6 of the Lease Agreement, the Lease Agreement constitutes a first priority lien on the Project Facility as security for the payments due to the Agency hereunder. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of the State of New York, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY’S FEES AND EXPENSES. If an Event of Default should occur and be continuing under this Agreement and the Agency should employ attorneys or incur other reasonable expenses for the collection of any amounts due and payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor by the Agency, reimburse the Agency for the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE.

(A) No Remedy Exclusive: Notwithstanding anything to the contrary contained herein, no remedy herein conferred upon or reserved to the Agency or the Company is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in

addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay: No delay or omission in exercising any right or power accruing upon the occurrence of an Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required: In order to entitle the Agency to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

(D) No Waiver: In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM OF AGREEMENT.

(A) General: This Agreement shall become effective and the obligations of the Company and the Agency shall arise absolutely and unconditionally upon the execution and delivery of this Agreement by the Company and the Agency. This Agreement shall continue to remain in effect until the termination of the Lease Agreement in accordance with its terms.

(B) Extended Term: In the event that (1) the Agency's interest in the Project Facility shall be terminated, (2) on the date on which said termination becomes effective of record, the Project Facility shall be assessed as exempt upon the assessment roll of any one or more of the Taxing Entities solely as a result of the Agency's prior ownership of the Project Facility, and (3) the fact of such termination shall not immediately obligate the Company to make pro rata tax payments pursuant to legislation similar to Chapter 635 of the 1978 Laws of New York (codified as subsection 3 of Section 302 of the Real Property Tax Law and Section 520 of the Real Property Tax Law), this Agreement shall remain in full force and effect but only to the extent set forth in this sentence and the Company shall be obligated to make payments to the Agency in amounts equal to the Normal Tax which would be due from the Company if the Project Facility were owned by the Company and not the Agency until the first tax year in which the Company shall appear on the tax rolls of the various Taxing Entities having jurisdiction over the Project Facility as the legal owner of record of the Project Facility. Notwithstanding the foregoing, the Company shall not be required to make any payments hereunder which would result in double billing with respect to any payments made pursuant to said Section 520 and the Agency agrees to cooperate with the Company such that the Company will receive a credit for any payments tendered hereunder as against payments required under Section 520 of the Real Property Tax Law.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENT OF AGREEMENT. This Agreement may not be amended, changed, modified, altered, supplemented or terminated unless such amendment, change, modification, alteration or termination is in writing and unless signed by the party against which enforcement of the amendment, change, modification, alteration, supplement or termination shall be sought.

SECTION 5.05. NOTICES. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (A) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery (including, but not limited to, overnight delivery) or (B) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery. The address to which notices, certificates and other communications hereunder shall be delivered are as follows:

(A) TO THE AGENCY:

Town of Clifton Park Industrial Development Agency
One Town Hall Plaza
Clifton Park, New York 12065
Attention: Chairman

WITH A COPY TO:

Jean M. Mahserjian, Esq.
Clifton Executive Park
1741 Route 9
Clifton Park, New York 12065

(B) TO THE COMPANY:

Pierce Rd Procedure Center LLC
713 Pierce Road
Clifton Park, New York 12065
Attention: James McDonnell DMD

With a Copy to:

King, Adang, Arpey, Strickland & Thompson, LLP
340 Broadway
Saratoga Springs, New York 12866
Attention: Anthony Adang, Esq.

provided, that the Agency and the Company may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

SECTION 5.06. BINDING EFFECT. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns.

SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. APPLICABLE LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of New York including all matters of construction, validity and performance.

SECTION 5.09. ASSIGNMENT. This Agreement may not be assigned by the Company absent the prior written consent of the Agency.

IN WITNESS WHEREOF, the Agency and the Company have caused this Agreement to be executed in their respective names, all being done as of the date first above written.

TOWN OF CLIFTON PARK INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Jonathan Schopf, Chairman

PIERCE RD PROCEDURE CENTER LLC

By: _____
James P. McDonnell III, Authorized Member

SCHEDULE "A"

All that certain tract, piece or parcel of land situate in the Town of Clifton Park, County of Saratoga, State of New York, lying along the easterly line of Pierce Road, being designated as Lot 711, as shown on a map entitled, Subdivision - Lands of Dwaas Kill Fens, LLC, dated June 11, 2014, last revised on October 22, 2014, prepared by Gilbert VanGuilder Land Surveyor, PLLC and filed in the Saratoga County Clerk's Office on November 18, 2014 as Map M2014238, being further bounded and described as follows:

Beginning at the point of intersection of the common division line of lands of Saddlemire as described in Book 781 of Deeds at Page 321 to the South and Lot 711 to the North, with the easterly line of Pierce Road, all as shown on said filed map, thence from said point of beginning, along said easterly line, along a curve to the left, having a radius of 1,025.00 feet, an arc length of 163.08 feet and a chord of North 08° 38' 00" West, 162.91 feet to the point of intersection of said easterly line, with the southerly line of Lot 713, thence along the southerly and westerly lines of said Lot 713 the following three (3) courses: 1.) South 86° 13' 00" East, 294.68 feet to a point, thence 2.) South 14° 45' 10" West, 193.53 feet to a point, thence 3.) South 22° 07' 20" East, 38.69 feet to a point in the northerly line of the aforesaid lands of Saddlemire, thence along said northerly line the following three (3) courses: 1.) North 65° 28' 50" West, 23.56 feet to a point, thence 2.) North 70° 19' 20" West, 80.81 feet to a point, thence 3.) North 82° 45' 30" West, 145.37 feet to the point of beginning and containing 1.01± acres of land.

Subject to and together with a 60' wide ingress-egress & utility easement, a 20' wide sanitary sewer easement, a 20' wide water line easement and a 15' wide multi-use pathway and utility relocation easement along the easterly line of Pierce Road that was granted to the Town of Clifton Park.

BEING the same premises conveyed to Pierce Rd. Procedure Center, LLC by warranty deed from Dwaas Kill Fens, LLC dated December 17, 2018 and recorded in the Saratoga County Clerk's Office on December 21, 2018 as Instrument No. 2018037719.