

FIRST AMENDMENT TO AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT

THIS FIRST AMENDMENT TO AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT, dated as of the 31st day of December, 2022, is by and between the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York with offices at 95 Perry Street, Suite 403, Buffalo, New York 14203 (the "Agency") and CALSPAN CORPORATION, a corporation duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 4455 Genesee Street, Cheektowaga, New York 14225 ("Calspan"), GENESEE HOLDINGS III, LLC, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 4455 Genesee Street, Cheektowaga, New York 14225 ("Genesee Holdings"), and 4455 GENESEE STREET, LLC D/B/A CALSPAN BUSINESS PARK, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, with offices at 4455 Genesee Street, Cheektowaga, New York 14225 ("4455 Genesee" and, individually and collectively with Calspan and Genesee Holdings, the "Company").

WITNESSETH:

WHEREAS, by Resolution dated January 27, 2021 (the "Resolution"), the Agency authorized the Company to undertake the Project, as defined therein, and act as its Agent for the purposes of acquiring, constructing and equipping the Project and subject to the Company entering into an Agent and Financial Assistance Project Agreement; and

WHEREAS, the Agency and the Company entered into that certain Agent and Financial Assistance Project Agreement, dated as of February 9, 2021, as amended from time to time, (collectively, the "Agent Agreement"), whereby the Agency authorized the Company to act as its Agent for the purposes of acquiring, constructing and/or equipping the Facility (as described within the Resolution); and

WHEREAS, the Company has notified the Agency that the Project has not been completed and has requested an extension of the New York State and local sales and use tax exemption benefit time period provided by the Agency, which the Agency has agreed to provide to the Company; and

WHEREAS, the Agency requires a First Amendment to Agent Agreement be executed, and the Company and the Agency have agreed to execute the First Amendment to Agent Agreement to extend the New York State and local sales and use tax exemption benefit time period provided by the Agency and any additional amendments thereto.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

The Agent Agreement is amended as follows:

- 1. Any references to the sales tax exemption expiration in the Agent Agreement shall be changed from December 31, 2022 to December 31, 2023.
- 2. <u>Exhibit A, Exhibit B-1</u>, and <u>Exhibit B-2</u> attached hereto shall be made part of, and incorporated into, the Original Agent Agreement in place of Exhibit A, Exhibit B-1, and Exhibit B-2, respectively, in the Original Agreement.

Unless otherwise amended pursuant to the terms contained herein, the terms of the Agent Agreement shall remain unchanged.

[The Balance of this Page Intentionally Left Blank]

[Signature Page to First Amendment to Agent and Financial Assistance Project Agreement]

IN WITNESS WHEREOF, the Agency and the Company have caused this First Amendment to Agent and Financial Assistance Project Agreement to be executed in their respective names, all as of the date first above written.

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: Name: John C. Cappellino

Title: Chief Executive Officer & President

CALSPAN CORPORATION

By:

Name: Peter Sauer Title: President

GENESEE HOLDINGS III, LLC

By:

Name: Peter Sauer Title: President

4455 GENESEE STREET, LLC D/B/A **CALSPAN BUSINESS PARK**

By:

Name: Peter Sauer

Title: President

REVISED EXHIBITS

FOR

CALSPAN CORPORATION

EXHIBIT A REVISED

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



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Χ

Х

Department of Taxation and Finance

IDA Appointment of Project Operator or Agent For Sales Tax Purposes

Х

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

For IDA use only

IDA information								
Name of IDA	· · · · · · · · · · · · · · · · · · ·		IDA project numb	er (use OS	C numbering sys	stem for projec	ts after 1998)	
Erie County Industrial Development Ag	jency		1404-21-03A		· · · · · · · · · · · · · · · · · · ·	nominal project	no anci 1000)	
Street address	X-1,		Telephone number	er				
95 Perry Street, Suite 403			(716) 856-6					
City	State ZIF	code	Email address (optional)					
Buffalo	NY 14	4203		·····,				
			···				······································	
Project operator or agent info	rmation							
Name of IDA project operator or agent		Mark a	an X in the box if directly	Emp	loyer identificatio	n or Social Se	curity number	
		I.	nted by the IDA: No	¬	ioyor identinodile	ii oi cociai ce	Curty number	
Street address		L	Telephone number		Priman	operator or a	aont2	
			()	•	, illian	Yes 🗍	No 🔀	
City	State ZIF	code	Email address (o	ntional)		163 🗀	NO	
			Zinan addiese (e	otionaly				
Drain at information								
Project information Name of project								
· ·								
Calspan Corporation								
Street address of project site 40 Sonwil Drive,	and any lands located in	Erie Count	v and occupied by licen	se or eas	ement during o	onetruction (or	
improvement hv	third nartice for the hanef	it of the nre	niect		- inchicating t	onsu ucuon t		
City	- · · · · · · · · · · · · · · · · · · ·	ode code	Email address (o	otional)				
Cheektowaga	NY 14	4225						
Purpose of project The acquisition and renovation of a								
Description of goods and services intended to be	exempted from New York Sta	ate and local	sales and use taxes					
Goods and services, inclusive of fuel a	and utilities, whether the	e goods a	nd services are purch	nased or	rented, and r	าotwithstan	ding that	
they continue to constitute personal pr	operty or the item is us	ed after t	he completion of the	oroject, d	or the item is	geographic	ally	
located outside the legal boundaries o	f the project facility; pro	vided the	re is a reasonable ba	sis to ac	quire the iten	n to benefit	the	
project.								
Date project operator or	Date project operato	or or		fark an Xi	n the box if this is	an evtension	to	
agent appointed (mmddyy) 020921	agent status ends (n	nmddyy)		n original _l		, an extension	X	
Estimated value of goods and services that will b		l in) Est	timated value of New York	State and in	ncal sales and	(all agen		
exempt from New York State and local sales and	use tax: \$5,000,0	00.00 use	tax exemption provided:	rato and n	odi sales and		437,500.00	
				··		Ψ-	101,000.00	
Certification: I certify that the above	statements are true, co.	mnloto o	nd correct and that -		-1:-6	 		
make mese statements with the know	ledde that willfully provi	idina talse	or fraudulent inform:	ation wit	h thie docume	ant may car	antituta a	
lielong of other cliffle ander Mem York	State Law, bunishable I	bv a subs	tantial fine and nossil	hla iail e	entence I alc	o understa	nd that the	
Tax Department is authorized to inves	tigate the validity of any	y informat	ion entered on this de	ocument		U unucistat	nu mar me	
Print name of officer or employee signing on beh		,	nt title					
John C. Cappellino				0 Desa!	J4			
Signature	\sim	101	nief Executive Officer	a riesio				
	0 (11)		1	2000	Telephone nu			
All SAM	TIM-		12-30-2	2022	1(116)8	56-6525		
/)								

When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

Mailing instructions

Mail completed form to:

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

Private delivery services – See Publication 55, Designated Private Delivery Services.

Privacy notification

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

Need help?



Visit our website at www.tax.ny.gov

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

Telephone assistance

Sales Tax Information Center:

518-485-2889

To order forms and publications:

518-457-5431

Text Telephone (TTY) or TDD equipment users

Dial 7-1-1 for the New York Relay Service

EXHIBIT B-1 – REVISED

NYS FORM ST-123 FOR COMPANY



New York State Department of Taxation and Finance

New York State Sales and Use Tax

Exhibit B-1

ST-123 (7/14)

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless Note: To be completed by the pur	all entries have been completed	j.			
Note: To be completed by the pur from tax. See Form FT-123, IDA A	Agent or Project Operator Exem	ot Purchase Certificate for Fi	ase motor tu .el	iel or diesel	motor fuel exempt
Name of seller		Name of agent or project operator		······································	
		Calspan Corporation			
Street address		Street address			
		4455 Genesee Street			
City, town, or village	State ZIP code	City, town, or village		State	ZIP code
		Cheektowaga			
		Agent or project operator sales to	ax ID number /	See instructions)	14225
				Joo madadana)	
Mark an X in one: Single-p	ourchase certificate BI	anket-purchase certificate (va	alid only for	the project li	isted below)
To the seller:					
You must identify the project on eor project operator of the IDA was	ach bill and invoice for such pur the purchaser.	chases and indicate on the b	ill or invoice	that the IDA	4 or agent
Project information			E449		
I certify that I am a duly appointed age in the following IDA project and that si	ent or project operator of the named uch purchases qualify as exempt fro	IDA and that I am purchasing thom sales and use taxes under my	e tangible pe y agreement v	rsonal propert with the IDA.	ly or services for use
Name of IDA					
Erie County Industrial Developme	ent Agency				
Name of project			IDA project nur	mber (use OSC n	umber)
Calspan Corporation				1404-21-(*
Street address of project site				1-10-1-2,1-0	JUA
40 Sonwil Drive			,		
City, town, or village				State	ZIP code
Cheektowaga				NY	14225
Enter the date that you were appoint	ed agent or	Enter the date that agent or	project opera		1-1220
project operator (mm/dd/yy)	02 / 09 / 21	status ends (mm/dd/yy)			/ 31 / 23
Exempt purchases					
(Mark an X in boxes that apply)					
A. Tangible persona installed in a qua	al property or services (other than alifying motor vehicle) used to con	nutility services and motor vel nplete the project, but not to c	hicles or tan operate the o	gible persona completed pr	al property oject
B. Certain utility ser used to complete	rvices (gas, propane in container e the project, but not to operate t	rs of 100 pounds or more, ele the completed project	∍ctricity, refri	igeration, or	steam)
C. Motor vehicle or	tangible personal property insta	lled in a qualifying motor vehi	icle		
Certification: I certify that the above statements and issue this exemption apply to a transaction or transactions may constitute a felony or other crime document is required to be filed with, deemed a document required to be fill is authorized to investigate the validity	certificate with the knowledge that tr for which I tendered this document a e under New York State Law, punish, and delivered to, the vendor as age led with the Tax Department for the p y of tax exclusions or exemptions cla	and that willfully issuing this doct and that willfully issuing this doct able by a substantial fine and a pe nt for the Tax Department for the	that state and ument with the possible jail se purposes of	d local sales of e intent to eva entence. I und Tax Law section	r use taxes do not ade any such tax derstand that this on 1838 and is
Signature of purchaser or purchaser's rep	resentative (include tille and relationship)			Da	ite
Type or print the name, title, and relations	ship that appear in the signature box				

To the purchaser

You may use Form ST-123 if you:

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

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

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

Need help?



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



Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



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

(518) 485-5082

EXHIBIT B-2 – REVISED

NYS FORM ST-123 FOR SUBAGENTS OF COMPANY



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

Exhibit B-2

ST-123

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless a	Il entries have been complete	ed.	·			
Note: To be completed by the purc from tax. See Form FT-123, IDA Ac	naser and given to the seller. Tent or Project Operator Ever	Do not use this form to purch	hase motor fu	uel or diese	el motor fue	l exempt
Name of seller	ont of Froject Operator Exem	Name of agent or project opera	-uei.	· · · · · · · · · · · · · · · · · · ·		
		X	ator .			
Street address		Street address				
		X				
City, town, or village	State ZIP code	City, town, or village		State	ZIP code	
		x		Otate	ZIF COU	,
		Agent or project operator sales	tax ID number (see instructions)	1	
			· 	,		
Mark an X in one: Single-pu	rchase certificate	Blanket-purchase certificate (valid only for	the project	listed belo	w)
To the seller:				•		,
	ob bill and investor for					
You must identify the project on each	on bill and invoice for such pu	irchases and indicate on the	bill or invoice	that the ID	A or agent	
or project operator of the IDA was t	he purchaser.				J	
Project information	 			·		
l certify that I am a duly appointed agen in the following IDA project and that suc	t or project operator of the name	d IDA and that I am purchasing t	he tangible per	rsonal prope	erty or service	es for use
	in purchases quality as exempt if	om sales and use taxes under m	ny agreement v	vith the IDA.		
Name of IDA						· · · · · · · · · · · · · · · · · · ·
Erie County Industrial Developmer	ıt Agency					
Name of project			IDA project nur	nhar (una OSC		
Calspan Corporation			Dr project nui		•	
Street address of project site				1404-21	-03A	
40 Sonwil Drive						
City, town, or village				State	ZIP code	
Cheektowaga				NY	14225	
Enter the date that you were appointed	agent or	Enter the date that agent or	r project operat		14223	
project operator (mm/dd/yy)	02 / 09 / 2	1 status ends (mm/dd/yy)			/ 31 /	/ 23
Exempt purchases						
(Mark an X in boxes that apply)						
						
L A. Tangible personal μ	oroperty or services (other tha	n utility services and motor ve	ehicles or tand	aible persoi	nal property	,
installed in a qualif	ying motor vehicle) used to co	implete the project, but not to	operate the c	ompleted r	project	
 1						
L_I B. Certain utility servi	ces (gas, propane in containe	ers of 100 pounds or more, el	lectricity, refri	geration, o	r steam)	
used to complete t	he project, but not to operate	the completed project		•	,	
C. Motor vehicle or ta	ngible personal property insta	alled in a qualifying motor vel	nicle			
Cordifications Landis H. L.						
Certification: I certify that the above statements and issue this exemption ce	atements are true, complete, and	correct, and that no material inf	ormation has b	een omitted	. I make thes	se
apply to a transaction or transactions fo	r which I tendered this document	and that willfully in the Williams	that state and	local sales	or use taxes	do not
may constitute a felony or other crime u document is required to be filed with, ar	nder New York State Law, punish	nable by a substantial fine and a	Dossible iail se	ntent to eventence. Lun	ade any suc	h tax
document is required to be filed with, ar deemed a document required to be filed	id delivered to, the vendor as age	ent for the Tax Department for the	e purposes of	Tax Law sec	tion 1838 an	d is
deemed a document required to be filed is authorized to investigate the validity of	of tax exclusions or exemptions c	purpose of prosecution of offens laimed and the accuracy of any i	ses. I also unde	erstand that	the Tax Depa	artment
Signature of purchaser or purchaser's repres	sentative (include title and relational to	and the accuracy of any i	mornation ent	erea on this	aocument.	
	zontativo (molade uue and relationship)		•	D	ate	
Type or print the name, title, and relationship	that appear in the signature have					
	and appear in the signature DOX					

To the purchaser

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REVISED EXHIBITS FOR GENESEE HOLDINGS III, LLC

EXHIBIT A REVISED

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



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Department of Taxation and Finance

IDA Appointment of Project Operator or Agent For Sales Tax Purposes

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

For IDA use only

IDA information								•	
Name of IDA					IDA project num	ber (use OSC	numbering syste	m for project	n offer (1000)
Erie County Industrial Deve	lopment Agency				1404-21-03E		manipering syste	an for projects	s aller 1998)
Street address					Telephone num				
95 Perry Street, Suite 403					(716) 856				
City	**************************************	State	ZIP code		Email address (
Buffalo		NY	14203		,				
				l	······································				
Project operator or ag		ion							
Name of IDA project operator or ag	ent		I.	lark an X in th	e box if directly	Employ	er identification	or Social Sec	urity number
				ppointed by th				51 000iai 000i	and number
Street address					Telephone numb	per	Primary c	perator or age	ent?
					()			Yes 🗍	No 🔀
City		State	ZIP code		Email address (optional)			140 [23]
									
Project information									
Name of project									
Genesee Holdings III, LLC									
Street address of project site	Samuel Datas and I								
40 S	Sonwil Drive, and ar	ly lands located	in Erie C	ounty and o	ccupied by lice	nse or easer	nent during co	nstruction or	
City		State	ZIP code	a nroiant	Email address (optional)			
Cheektowaga		NY	14225						
Purpose of project					······································				
Description of goods and conjugat	ntandad to be ever-t	ad frame Na W. I							
Description of goods and services	intended to be exempt	ed from New York	State and	local sales an	d use taxes				
Goods and services, inclusion	oroonal area and	illes, whether	tne good	as and serv	ices are pure	chased or re	ented, and no	twithstand	ing that
they continue to constitute	personal property	or the item is	used an	er the com	pletion of the	project, or	the item is ge	egraphica:	lly
located outside the legal bo project.	unuanes of the p	roject racility;	provided	there is a	reasonable b	asis to acqu	uire the item	to benefit t	he
Date project operator or agent appointed (mmddyy)	020921	Date project ope agent status end		_{/)} 12	3123	Mark an X in to an original pro	ne box if this is a	n extension to	· 🛛
Estimated value of goods and serv	ices that will be	(all agents,	all in)	Estimated v	nlug of Nave Year			(all agents	
exempt from New York State and k	ocal sales and use tax:	-	0,000.00	use tax exer	alue of New York nption provided:	State and loca	II sales and		•
	· · · · · · · · · · · · · · · · · · ·	7 - 7,00	-,000.00		The state of the s			\$ 4 3	37,500.00
Certification: I certify that	the above statem	onto oro true							
Certification: I certify that make these statements wit felony or other crime under Tax Department is authoriz	n the knowledge t New York State L	nat wilitully pr .aw. punishah	oviding f le hv a s	alse or frau	idulent inforn	nation with t		4	4.4. 4
Print name of officer or employee s			-	Print title					
John C. Cappellino				Chief Exe	cutive Office	r & Preside	nt		
Signature () (Date		Telephone num	ber	·
La Colonia de la	MANUE	7			12-30-	2022	(716)856		
/ /	11			·			, , , , ,		

When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filling this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

Mailing instructions

Mail completed form to:

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

Private delivery services – See Publication 55, Designated Private Delivery Services.

Privacy notification

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

Need help?



Visit our website at www.tax.ny.gov

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

Telephone assistance

Sales Tax Information Center:

518-485-2889

To order forms and publications:

518-457-5431

Text Telephone (TTY) or TDD equipment users

Dial 7-1-1 for the New York Relay Service

EXHIBIT B-1 – REVISED

NYS FORM ST-123 FOR COMPANY



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

Exhibit B-1

ST-123

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or after June 1, 2014

Name of seller	u. Do not use this form to purchase motor f pt Purchase Certificate for Fuel.			ολοιπρ
	Name of agent or project operator			
Street address	Genesee Holdings III, LLC			
onest address	Street address		······································	
City, town, or village State ZIP code	4455 Genesee Street			
City, town, or village State ZIP code	City, town, or village	State	ZIP code	
	Cheektowaga	NY	14225	
	Agent or project operator sales tax ID number	(see instructions)		
Mark an X in one: Single-purchase certificate B To the seller: You must identify the project on each bill and invoice for such purposes operator of the IDA was the purposes.	lanket-purchase certificate (valid only for			v)
Project information I certify that I am a duly appointed agent or project operator of the named in the following IDA project and that such purchases qualify as exempt from	I IDA and that I am purchasing the tangible peom sales and use taxes under my agreement	ersonal proper with the IDA.	ty or service	s for use
Name of IDA				
Erie County Industrial Development Agency Name of project				
Genesee Holdings III, LLC	IDA project nu	mber (use OSC n	number)	
Street address of project site		1404-21-	03B	
40 Sonwil Drive				
City, town, or village				
Cheektowaga		State	ZIP code	
Enter the date that you were appointed agent or	Entor the data that	NY	14225	
project operator (mm/dd/yy) 02 / 09 / 21	Enter the date that agent or project opera status ends (mm/dd/yy)	tor 12	/ 31 /	23
Exempt purchases (Mark an X in boxes that apply) A. Tangible personal property or services (other than installed in a qualifying motor yehicle) used to con-	n utility services and motor vehicles or tan mplete the project, but not to operate the o	gible person completed pr	oject	
B. Certain utility services (gas, propane in contained used to complete the project, but not to operate to C. Motor vehicle or tangible personal property insta	the completed project Iled in a qualifying motor vehicle correct, and that no material information has to	peen omitted.	I make these	e to not
B. Certain utility services (gas, propane in contained used to complete the project, but not to operate to used to complete the project, but not to operate to complete. C. Motor vehicle or tangible personal property instained in the complete, and statements and issue this exemption certificate with the knowledge that the apply to a transaction or transactions for which I tendered this document may constitute a felony or other crime under New York State Law, punished document is required to be filed with, and delivered to, the vendor as age deemed a document required to be filed with the Tax Department for the part is authorized to investigate the validity of tax exclusions or exemptions class.	lled in a qualifying motor vehicle correct, and that no material information has the state and that willfully issuing this document with the able by a substantial fine and a possible jail sent for the Tax Department for the purposes of	peen omitted. I local sales o e intent to eva entence. I und Tax Law secti	I make these r use taxes of ade any such derstand that on 1838 and	do not tax this
B. Certain utility services (gas, propane in contained used to complete the project, but not to operate to complete the project, but not to operate to complete the project, but not to operate to complete, but not to operate to complete, and statements are true, complete, and statements and issue this exemption certificate with the knowledge that the apply to a transaction or transactions for which I tendered this document amay constitute a felony or other crime under New York State Law, punish-document is required to be filed with, and delivered to, the vendor as age deemed a document required to be filed with the Tay Department for the complete to the filed with the Tay Department for the complete to the filed with the Tay Department for the complete to the filed with the Tay Department for the complete the complete to the filed with the Tay Department for the complete the complete the complete the complete that the complete the complete that the comp	lled in a qualifying motor vehicle correct, and that no material information has the state and that willfully issuing this document with the able by a substantial fine and a possible jail sent for the Tax Department for the purposes of	peen omitted. I local sales o e intent to eva entence. I und Tax Law secti	I make these r use taxes of ade any such derstand that on 1838 and ne Tax Depa document.	do not tax this

To the purchaser

You may use Form ST-123 if you:

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

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

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

Need help?



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

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

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Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



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

(518) 485-5082

EXHIBIT B-2 – REVISED

NYS FORM ST-123 FOR <u>SUBAGENTS</u> OF COMPANY



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

Exhibit B-2

ST-123

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all e Note: To be completed by the purchas from tax. See Form FT-123, IDA Agen	ser and given to the call	lor Do not use this for a	chase motor fu	el or diesel	motor fuel exemp
from tax. See Form FT-123, IDA Agen Name of seller	t or Project Operator Ex	xempt Purchase Certificate for Name of agent or project open	ruei.		
		X	14.01		
Street address		Street address			
City, town, or village	State ZIP code	City town as village			
	State AIT COUR	City, town, or village		State	ZIP code
		Agent or project operator sale	es tax ID number (se	ee instructions)	
Mark an X in one: Single-purch	hase certificate	Blanket-purchase certificate	(valid only for t	he project l	isted below)
To the seller:					
You must identify the project on each I or project operator of the IDA was the	bill and invoice for such	ı purchases and indicate on the	bill or invoice	that the IDA	₹ or agent
5. project operator of the 15.1.1.25 the	риклаѕет.				
Project information					,
certify that I am a duly appointed agent or	r project operator of the na	imed IDA and that I am purchasing	the tonaible per	-1	·
in the following IDA project and that such p	urchases qualify as exemp	pt from sales and use taxes under r	the tangible pers my agreement wi	sonal properti ith the IDA.	y or services for use
Name of IDA					
Erie County Industrial Development A	\gency				
Name of project			IDA project num	ber (use OSC no	umber)
Genesee Holdings III, LLC Street address of project site				1404-21-0	
40 Sonwil Drive					
City, town, or village			11	State	r
Cheektowaga				State NY	ZIP code
Enter the date that you were appointed ag	jent or	Enter the date that agent of	or project operato		14225
project operator (mm/dd/yy)	02 / 09 /	21 status ends (mm/dd/yy)		12 <u>/</u>	/ 31 / 23
Exempt purchases					
(Mark an X in boxes that apply)					
A. Tangible personal pro	perty or services (other	than utility services and motor v	rabialae ar tana'	"-l moon	
installed in a qualifyinç	g motor vehicle) used to	complete the project, but not to	operate the co	mpleted pro	al property oject
B. Certain utility services	s (nas inconane in conta	ainers of 100 pounds or more, e	to the second		
used to complete the	project, but not to opera	alners of 100 pounds or more, e ate the completed project	electricity, retrig	eration, or s	steam)
					
		nstalled in a qualifying motor ve			
Certification: I certify that the above stater statements and issue this exemption certific	ments are true, complete,	and correct, and that no material in	formation has be	en omitted I	make these
apply to a transaction or transactions for wh	thich I tendered this docume	ent and that will the least evidence	e that state and I	ocal sales or	r use taxes do not
may constitute a felony or other crime unde	er New York State Law pur	pichobio bus substanti Li	cument with the	intent to evad	de any such tax
deemed a document required to be filed wit	ith the Tay Department for t	the purpose of accounting the	ne purposes of Ta	ax Law sectio	on 1838 and is
s authorized to investigate the validity of ta	ax exclusions or exemption	ns claimed and the accuracy of any	ises. I also under information ente	stand that the red on this de	e Tax Department
Signature of purchaser or purchaser's represent	tative (include title and relationship)	····	Date	
Type or print the name title and a late at the					
Type or print the name, title, and relationship tha	at appear in the signature box				

To the purchaser

You may use Form ST-123 if you:

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

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

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

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- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
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- · accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

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

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Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



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

(518) 485-5082

REVISED EXHIBITS

FOR

4455 GENESEE STREET, LLC D/B/A CALSPAN BUSINESS PARK

EXHIBIT A REVISED

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



IDA information

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Department of Taxation and Finance

IDA Appointment of Project Operator or Agent For Sales Tax Purposes

Х

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

For IDA use only

Name of IDA				IDA project num	ber (use OSC	numbering syst	em for projects a	after 1998)
Erie County Industrial Developmen	t Agency			1404-21-03C	;			
Street address				Telephone numi	oer			~
95 Perry Street, Suite 403				(716) 856	-6525			
City	State	ZIP code		Email address (optional)			
Buffalo	NY	14203						
Project operator or agent in	formation							
Name of IDA project operator or agent		Ta	Mark an X in the	hoy if directly	Employ	or identification	or Social Securi	· · · · · · · · · · · · · · · · · · ·
			ppointed by th			er identification	or Social Secur	ity number
Street address				Telephone numb		Drimon	operator or agen	-10
			1	()	7C1	1 .	Yes	
City	State	ZIP code		Email address (optional)	<u> </u>	162 []	No ⊠
								
Project information								
Name of project	•							
4455 Genesee Street, LLC d/b/a C	alspan Business F	Park						
Street address of project site			\					
improvemen	ive, and any lands lo	bcated in Erie C	county and oc	cupied by lice	nse or easer	nent during co	onstruction or	
City	State	ZIP code	IG AMIZA	Email address (optional)			E
Cheektowaga	NY	14225		`	· • · · · · · · · · · · · · · · · · · ·			
Purpose of project			<u>-</u>					
Description of reads and an invitation in the latest								
Description of goods and services intended to Goods and services, inclusive of furthey continue to constitute personal located outside the legal boundaries	el and utilities, wh Il property or the it	ether the goo em is used af	ds and serviter the com	ices are pure	project, or	the item is o	eographicall	v
project.								
Date project operator or agent appointed (mmddyy) 02093		ect operator or tus ends (mmddy	_{v)} 12	3123	Mark an X in t		an extension to	X
Estimated value of goods and services that v	vill be (all a	gents, all in)		alue of New York			(all agents,	
exempt from New York State and local sales	and use tax:	5,000,000.00		nption provided:				7,500.00
Certification: I certify that the abo make these statements with the kn felony or other crime under New You Tax Department is authorized to in Print name of officer or employee signing on	owledge that willtook State Law, pur vestigate the valid	ully providing nishable by a s	talse or frau substantial f	idulent inforn	nation with t	thie documa	nt may conct	lituto o
John C. Cappellino				cutive Office	r & Procide	nt		
Signature	Λ Λ		Onioi Exe	Date	o rieside	Telephone nu	mber	
Jik 6	44 della	>		12-30	-2022	(716) 85		

When to file

An IDA must file this form within 30 days of the date they appoint any project operator or other person as agent of the IDA, for purposes of extending any sales and use tax exemptions.

Requirements to file

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA should not file this form if they do not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, they must, within 30 days of the change, file a new form with the new information.

If the information on this form changes

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA, within 30 days, must send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. They must attach to the letter a copy of the form it originally filed. The IDA should not send a letter for a form that is not valid merely because the *Completion date of project* has passed.

Mailing instructions

Mail completed form to:

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

Private delivery services – See Publication 55, Designated Private Delivery Services.

Privacy notification

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

Need help?



Visit our website at www.tax.ny.gov

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

Telephone assistance

Sales Tax Information Center:

518-485-2889

To order forms and publications:

518-457-5431

Text Telephone (TTY) or TDD equipment users

Dial 7-1-1 for the New York Relay Service

EXHIBIT B-1 – REVISED

NYS FORM ST-123 FOR COMPANY



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

Exhibit B-1

ST-123(7/14)

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or offer

	n. Do not use this form to purchase pt Purchase Certificate for Fuel.	
Name of seller	Name of agent or project operator	
Street address	4455 Genesee Street, LLC d Street address	l/b/a Calspan Business Park
City, town, or village State ZIP code	4455 Genesee Street	
State ZIP code	City, town, or village	State ZIP code
	Cheektowaga	NY 14225
	Agent or project operator sales tax ID	number (see instructions)
Mark an X in one: Single-purchase certificate BI	anket-purchase certificate (valid	only for the project listed below)
	valid	only for the project listed below)
To the seller:		
You must identify the project on each bill and invoice for such pure or project operator of the IDA was the purchaser.	chases and indicate on the bill o	r invoice that the IDA or agent
or project operator of the IDA was the purchaser.		and in agoni
Project information		
Certify that I am a duly appointed agent as are in the second		
I certify that I am a duly appointed agent or project operator of the named in the following IDA project and that such purchases qualify as exempt from	IDA and that I am purchasing the tar m sales and use taxes under my agr	ngible personal property or services for use eement with the IDA.
Name of IDA		
Erie County Industrial Development Agency		
Name of project	IDA _I	project number (use OSC number)
4455 Genesee Street, LLC d/b/a Calspan Business Park Street address of project site		1404-21-03C
40 Sonwil Drive		1404-21-000
City, town, or village		
Cheektowaga		State ZIP code
Enter the date that you were appointed agent or	F-t- 0	NY 14225
project operator (mm/dd/yy)	Enter the date that agent or proje	ect operator
	status ends (mm/dd/yy)	12 / 31 / 23
Exempt purchases (Mark an X in boxes that apply)		
A. Tangible personal property as assistant (1)	Utility services and motor vehicle	s or tongible
— , " ranging personal property of services (other than		s or rangible personal property
A. Tangible personal property or services (other than installed in a qualifying motor vehicle) used to com-	plete the project, but not to opera	ate the completed preject
in a dagmining more) need to com	plete the project, but not to opera	ate the completed project
B. Certain utility services (gas, propane in containers	spiete the project, but not to operation	ate the completed project
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the	spiete the project, but not to operation	ate the completed project
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the	plete the project, but not to opera s of 100 pounds or more, electric ne completed project	ate the completed project
B. Certain utility services (gas, propane in containers	plete the project, but not to opera s of 100 pounds or more, electric ne completed project	ate the completed project
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the C. Motor vehicle or tangible personal property install	spiete the project, but not to opera s of 100 pounds or more, electric ne completed project ed in a qualifying motor vehicle	ate the completed project city, refrigeration, or steam)
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the C. Motor vehicle or tangible personal property install Certification: I certify that the above statements are true, complete, and containers and issue this exemption certificate with the beautiful certificate.	spiete the project, but not to operate of 100 pounds or more, electrically completed project ed in a qualifying motor vehicle orrect, and that no material informations.	city, refrigeration, or steam)
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the complete the project, but not to operate the complete or tangible personal property install Certification: I certify that the above statements are true, complete, and containers and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document among constitute a felony or other crime under New York Charles.	s of 100 pounds or more, electricate completed project ed in a qualifying motor vehicle orrect, and that no material informations of the coument provides evidence that some that willfully issuing this document	on has been omitted. I make these state and local sales or use taxes do not t with the intent to evade any such tax
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the Complete the project, but not to operate the Complete the project, but not to operate the Complete, and containers are true, complete, and containers and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document are may constitute a felony or other crime under New York State Law, punishal document is required to be filled with and delivered to the state Law, punishal	s of 100 pounds or more, electricate completed project ed in a qualifying motor vehicle orrect, and that no material informaticates document provides evidence that so that willfully issuing this document ble by a substantial fine and a possible by a substantial fine and a possible property of the provides and a possible by a substantial fine and a possible provides and a possible provides a substantial fine and a subs	on has been omitted. I make these state and local sales or use taxes do not t with the intent to evade any such tax ole jail sentence. I understand that this
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the Complete, and containers and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document and complete a felony or other crime under New York State Law, punished document is required to be filed with, and delivered to, the vendor as agen deemed a document required to be filed with the Tevalor of the complete that the Complete the comple	s of 100 pounds or more, electricate completed project ed in a qualifying motor vehicle orrect, and that no material informaticates adocument provides evidence that some that willfully issuing this document ble by a substantial fine and a possibut for the Tax Department for the purp	on has been omitted. I make these state and local sales or use taxes do not t with the intent to evade any such tax ble jail sentence. I understand that this oses of Tax Law section 1838 and is
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the complete the project, but not to operate the complete or tangible personal property install certification: I certify that the above statements are true, complete, and contained statements and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document amay constitute a felony or other crime under New York State Law, punishal document is required to be filed with, and delivered to, the vendor as agen deemed a document required to be filed with the Tax Department for the prise authorized to investigate the validity of tax exclusions or exemptions clai	s of 100 pounds or more, electricate completed project ed in a qualifying motor vehicle orrect, and that no material informaticates adocument provides evidence that some that willfully issuing this document ble by a substantial fine and a possibut for the Tax Department for the purp	on has been omitted. I make these state and local sales or use taxes do not t with the intent to evade any such tax ble jail sentence. I understand that this oses of Tax Law section 1838 and is
B. Certain utility services (gas, propane in containers used to complete the project, but not to operate the Complete, and containers are true, complete, and containers and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document amay constitute a felony or other crime under New York State Law, punished document is required to be filed with, and delivered to, the vendor as agendeemed a document required to be filed with the Text Description.	s of 100 pounds or more, electricate completed project ed in a qualifying motor vehicle orrect, and that no material informaticates adocument provides evidence that some that willfully issuing this document ble by a substantial fine and a possibut for the Tax Department for the purp	on has been omitted. I make these state and local sales or use taxes do not t with the intent to evade any such tax ble jail sentence. I understand that this oses of Tax Law section 1838 and is

To the purchaser

You may use Form ST-123 if you:

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

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

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

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Sales Tax Information Center:

(518) 485-2889

To order forms and publications:

(518) 457-5431



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

(518) 485-5082

EXHIBIT B-2 – REVISED

NYS FORM ST-123 FOR SUBAGENTS OF COMPANY



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

Exhibit B-2

ST-123 (7/14)

IDA Agent or Project Operator Exempt Purchase Certificate Effective for projects beginning on or after June 1, 2014

his certificate is not valid unless all entries have been completed.		
Note: To be completed by the purchaser and given to the seller. Do from tax. See Form FT-123, IDA Agent or Project Operator Exempt	o not use this form to purchase	motor fuel or diesel motor fuel exemp
Name of seller	Name of agent or project operator	
	X	
Street address	Street address	
	X	
City, town, or village State ZIP code	City, town, or village	State ZIP code
	X	
	Agent or project operator sales tax ID	number (see instructions)
Mark an X in one: Single-purchase certificate Blai	nket-purchase certificate (valid	only for the project listed below)
To the seller:		
You must identify the project on each bill and invoice for such purch	hases and indicate on the hill o	ringgion that the IDA as areas
or project operator of the IDA was the purchaser.	naces and indicate on the bill of	r invoice that the IDA or agent
Project information		
I certify that I am a duly appointed agent or project operator of the named II in the following IDA project and that such purchases qualify as exempt from	DA and that I am purchasing the tar	naible personal property or services for use
in the following IDA project and that such purchases qualify as exempt from	n sales and use taxes under my agr	eement with the IDA.
Name of IDA		
Erie County Industrial Development Agency		
Name of project	IADI	project number (use OSC number)
4455 Genesee Street, LLC d/b/a Calspan Business Park	·-··,	
Street address of project site		1404-21-03C
40 Sonwil Drive		
City, town, or village		State ZIP code
Cheektowaga		NY 14225
Enter the date that you were appointed agent or	Enter the date that agent or proje	ect operator
project operator (mm/ad/yy)	status ends (mm/dd/yy)	12 / 31 / 23
Exempt purchases		
(Mark an X in boxes that apply)		
A Tangible personal property or and a 4 Hz Hz		
A. Tangible personal property or services (other than u	utility services and motor vehicle	s or tangible personal property
installed in a qualifying motor vehicle) used to comp	olete the project, but not to opera	ate the completed project
B. Certain utility services (gas, propane in containers	of 100 pounds or many plantity	
used to complete the project, but not to operate the	or 100 pounds or more, electric	city, refrigeration, or steam)
	· · ·	
C. Motor vehicle or tangible personal property installe	ed in a qualifying motor vehicle	
Certification: I certify that the above statements are true, complete, and co statements and issue this exemption certificate with the knowledge that this apply to a transaction or transactions for which I tendered this document an may constitute a felony or other crime under New York State Law, punishab document is required to be filed with, and delivered to, the vendor as agent deemed a document required to be filed with the Tax Department for the pur is authorized to investigate the validity of tax exclusions or exemptions claim	and that willfully issuing this documen ole by a substantial fine and a possit for the Tax Department for the purp	state and local sales or use taxes do not it with the intent to evade any such tax ble jail sentence. I understand that this poses of Tax Law section 1838 and is
Signature of purchaser or purchaser's representative (include title and relationship)		Date
Type or print the name, title, and relationship that appear in the signature box		

To the purchaser

ıL

You may use Form ST-123 if you:

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

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

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

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

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

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

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

Exempt purchases

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

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

Misuse of this certificate

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

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

To the seller

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

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

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

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

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

Privacy notification

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Need help?



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- · get information and manage your taxes online
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Sales Tax Information Center:

(518) 485-2889

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(518) 457-5431



Text Telephone (TTY) Hotline (for persons with hearing and

speech disabilities using a TTY): (518) 485-5082