

# TOWN OF LOCKPORT

6560 Dysinger Road  
Lockport, NY 14094  
(716) 439-9535

## INDUSTRIAL DEVELOPMENT AGENCY PROJECT ELIGIBILITY QUESTIONNAIRE

Project Applicant: Mulvey Construction Inc

Company Contact Information: 716-434-1404 Phone

Project Title: Mulvey Construction Office Building

Total Project Cost: \$700,000.00

Date of Application: 8/16/11

Type of Project\*:

- Industrial/ Producer Services
- Multi-tenant Facility
- General Office
- Commercial
- Acquisition of Existing Facility
- Civic Facility (Not for Profit)
- Life Care Community
- Research & Development
- Other \_\_\_\_\_

Location of Project: Davison Road, Lockport, NY 14094

Bank: N/A

\* All projects will be reviewed and approved in accordance with the provisions of Article 18A of the New York State General Municipal Law and the Town or Lockport Zoning Laws, Regulations and Restrictions applying to the Industrial Land Use. In certain instances, project applicants may be required to complete a retail questionnaire supplement based on the information contained within this application.

Date Application Received: 8/1/11 *For Office Use Only*  
Date of approval by IDA Board: 9/6/11  
Date copy was forwarded to IDA Counsel: \_\_\_\_\_  
Check Amount: \$1,000 Received on: 8/7/11 Date remitted to IDA CFO: \_\_\_\_\_

The information listed on this form is necessary to determine the eligibility of the project applicant. Please fill in all blanks, using "NONE" or "NOT APPLICABLE" where necessary. If an estimate is given, put "EST" after the figure. Attach additional sheets if necessary. To the extent permitted by law, and if requested by you, all proprietary information provided and identified as such will be treated confidentially, but may be subject to disclosure under the New York State Freedom of Information Act. Please note that the Company has no obligation to keep the information provided herein current. Therefore, please notify the Agency if there is any change made in the Company's plans. This application is ONLY for the purpose of determining whether the applicant is eligible for consideration by the Agency. In certain instances, additional information may be required. Return original copy of this application to the Town of Lockport Industrial Development Agency.

## I. PROJECT APPLICANT

A. Project Applicant : Mulvey Construction Inc

B. Company Officer ( Partner) completing this application:

1. Name: Tim Mulvey

2. Title: Owner/President

3. Business Address: 5589 Davison Road  
Lockport, NY 14094

4. Telephone: (716 ) 434-1404

5. Email: tmulvey@choiceonemail.com

6. Website: \_\_\_\_\_

C. IRS Identification Number : 16-1358505

D. Business Organization (Circle appropriate category):

Corporation

Partnership

Limited Liability

Company

Sole Proprietorship

S Corporation

Joint Venture

Other (specify) \_\_\_\_\_

E. State of Incorporation, if applicable: New York

F. Business Description: General Contractor

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

G. If corporation, publicly or privately held?

Public

Private

**H.** List officers, stockholders, members or partners in the Company. \*\*

Name	Percentage	Home Address
Tim Mulvey		7414 Canal Road, Lockport NY
Mary Ellen Mulvey		7414 Canal Road, Lockport NY
Robert Marotta		7231 Meadow View Dr, Lockport NY

**I.** Is the Company related, directly or indirectly, to any other entity by more than 50% common ownership? If so, indicate name of such entity and the relationship:  
No

**J.** If any of the persons or group of persons listed in the response to question **I** above owns more than 50% of the Company, list all other entities which are related to the company by virtue of such person (or group of persons) having more than a 50% interest in such other entities:  
 \_\_\_\_\_

**K.** Is the Company affiliated with any other entity, directly or indirectly, other than as indicated in response to questions **I** & **J** above? If yes, indicate name and relationships of such other entity and the address thereof:  
No

**L.** Has the Company (or any entity listed above) made a public offering or private placement of its stock within the last year? If so, please provide Offering Statement used.  
 \_\_\_\_\_ Yes     No

**M.** Complete the following information:

<u>Officers and Directors</u>	<u>Address &amp; Phone</u>
<u>Tim Mulvey, President</u>	<u>7414 Canal Road, Lockport NY 716-434-1693</u>
<u>Mary Ellen Mulvey, Secretary</u>	<u>7414 Canal Road, Lockport NY 716-434-1693</u>
_____	_____
_____	_____

<u>Other Business Affiliations</u>	<u>Address &amp; Phone</u>
_____	_____
_____	_____

\*\* If the Company is publicly owned, it can answer this and other succeeding questions by reference to an attached copy of the company's most recent Form 10-K (Company means ultimate project occupant where known, otherwise the developer).

N. Counsel to Company: John Ottaviano, Esquire

1. Name of Attorney: John Ottaviano
2. Name of Firm: Harris Beach PLLC
3. Address: 172 East Ave, Lockport, NY 14094
4. Telephone Number 438-0488 Fax: 438-0489
5. Email: \_\_\_\_\_

O. Company's Accountant: Mr. Sidney Weiss

1. Name of Accountant: Sidney Weiss
2. Name of Firm: Brody, Weiss, Zucarelli & Urbanek CPA
3. Address: 2495 Kensington Ave, Amherst, NY 14226
4. Telephone Number: 839-2024 Fax: 839-3962
5. Email: \_\_\_\_\_
6. Principal Bank: \_\_\_\_\_

P. Is the Company or Management of the Company now a plaintiff or a defendant in any civil or criminal litigation? \_\_\_\_\_ Yes  No

Has any person listed above ever been convicted of a criminal offense (other than a minor traffic violation)? \_\_\_\_\_ Yes  No

Has any person listed above or any concern with whom such person has been connected ever been in receivership or been adjudicated a bankrupt?  
 Yes \_\_\_\_\_ No

*If the answer to any of the above questions is YES, please furnish details in a separate attachment.*

## II. DESCRIPTION OF PROJECT OCCUPANT

### A. Company History

1. Location of current facility:  
Address: 5589 Davison Road  
City: Lockport State: NY Zip: 14094  
Telephone: 716-434-1404 Fax: 716-434-9029
2. SIC Code: \_\_\_\_\_
3. Description of current facility: Office Building with shop  
  
Lot Size: 250'x714' Number of buildings: 1  
Square footage of facilities: 13,865



5589 Davison Road  
Lockport, New York 14094  
(716) 434-1404  
FAX: (716) 434-9029

**Explanation in reference to Page 4, Item P**

Tim & Mary Ellen Mulvey filed bankruptcy in 1980 as a result of a down turn in the housing industry and the interest rate for home mortgages that soared to 22%. Tim Mulvey Construction was left with a sizable inventory of lots and houses that were unmarketable. Tim & Mary Ellen owned Tim Mulvey Construction as a sole proprietorship and was forced into bankruptcy by the lenders. We emerged from bankruptcy in 1982.

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Own OR  Rent present facilities

4. Is the facility currently receiving property tax abatement?  
 Yes  No

If YES, at what date does this abatement expire: \_\_\_\_\_

5. Does the project involve the relocation of a company(s) from another municipality within Niagara County?  Yes  No
6. If YES, has the Supervisor / Mayor been notified?  
 Yes  No (Please provide additional information if necessary)

B. Principal product / service: Construction Management Service

\_\_\_\_\_

\_\_\_\_\_

C. Percentage of Gross Revenue (from products & services) derived from sales outside of Niagara County: 40%

D. Market served: \_\_\_\_\_

### III. ELIGIBILITY

- A. What effect will this project have on your business (why is it necessary)? :

We will be more efficient by creating more office space and hire more management personel.

\_\_\_\_\_

- B. Is Agency participation necessary for this project to proceed?

Yes

\_\_\_\_\_

- C. Is the project occupant moving its entire operation to this proposed facility or a Division thereof? Does the project involve the consolidation of existing facilities?

Yes

\_\_\_\_\_

- D. Is this project necessary to prevent the company from moving out of Niagara County and / or New York State and / or to remain competitive with its industry?

Yes

\_\_\_\_\_

E. What are the current market conditions which necessitate the construction of this project?

Increase in business created strong need to expand.

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F. Describe any unique features / effects that this project will have on the area:

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**G. New York State Brownfield Cleanup Program Tax Incentives**

*New York State provides for significant refundable New York State tax credits with respect to cleanup and construction (buildings and equipment) costs, real property tax expenses, and insurance costs related to remediation and developing a Brownfield/ contaminated property. In addition, New York State provides for a release of liability with respect to such contamination located in, on or emanating from the Brownfield Site. New York State Brownfield Cleanup Program tax credits can be utilized concurrently with Town of Lockport Industrial Development Agency benefits and incentives.*

*Under the New York Brownfield Cleanup Program, a Brownfield or a Brownfield Site is any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous waste, petroleum, pollutant, or contaminant (collectively, "contaminants").*

H. Is the proposed Project Site located on a site where the known or potential presence of a contaminant(s) is complicating the development/use of the property? \_\_\_ Yes  No

I. Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed Project Site? \_\_\_ Yes  No

J. 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 \_\_\_ No

K. Is this a single phase or multi-phase project?  Single \_\_\_ Multi

Phase I Activities: Construction of office building

Phase II Activities: \_\_\_\_\_

Phase III Activities: \_\_\_\_\_

**IV. PROJECT INFORMATION**

**A. SUMMARY OF PROJECT:** (Identify each element of the project)

Does the project consist of (check appropriate categories)

	YES	NO
1. Acquisition of vacant land	X	
2. Land Lease		X
3. Construction of new building	X	
- If YES, indicate the number and size		
<u>1 building 14,800 sf</u>		
4. Renovations to an existing building		X
- If YES, indicate nature of renovations		
5. Construction of an addition to an existing building		X
- If YES, indicate nature of expansion		
6. Acquisition of an existing building		X
- If YES, indicate number & size of buildings		
7. Acquisition, installation of machinery and / or equipment		X
8. Equipment lease		X
9. For purposes other than the acquisition, renovation or construction of real property		X
- If YES, explain under separate cover		
10. Have site plans been submitted to the Town Planning Department for approval? ***	X	

\*\*\* If YES, state date of submittal and current status, also include one set of plans/ renderings with this application.

11. Have plans been submitted to the US Army Corps of Engineers and the NYS Department of Environmental Conservation for approval? \_\_\_ Yes X No

If YES, date of submittal and current status: \_\_\_\_\_

12. Identify school district pertaining to Proposal Project location: Lockport



13. Utilities and services presently serving site. Provide name of utility provider.

GAS NYSEG	SIZE 2"
ELECTRIC NYSEG	POWER 400 AMP
WATER Town of Lockport	SIZE 2"
SEWER	SIZE 2"
OTHER (Specify)	

**B. PROJECT SITE**

1. Are there buildings now on the project site?  YES  NO
2. Indicate the present use of the project site: Vacant Land
3. Indicate present owner(s) of project site: Mulvey Construction Inc
4. If the Company now owns the project site, indicate:
  - a. Date of purchase: 8/1/11
  - b. Purchase price: \$125,000
5. Has the Company entered into a contract and/or option to purchase the site?  
 YES  NO. If YES, attach a copy
6. If the Company is not the owner of the project site, does the Company now lease the site or any buildings on the site?  YES  NO
7. Is there a relationship legally or by virtue of common control or ownership between the Company and the seller of the project:  YES  NO  
If YES, describe the relationship: \_\_\_\_\_
8. If any space in the project is to be leased to third parties, indicate total gross square footage of the project, percent and square feet to be leased to each tenant, and proposed use by each tenant (attach signed leases, if any) \_\_\_\_\_
9. List principal items or categories of equipment to be acquired as part of the project: NO
10. Has any of the above equipment been ordered or purchased?  YES  NO
11. If YES, indicate items: \_\_\_\_\_

12. Total Project Costs as estimated prior to Inducement

<u>Description of Costs</u>	<u>Allocations of Costs</u>		
	Bank Financing	Equity Participation	Totals
Land	\$ _____	\$125,000	\$ _____
Building(s)	\$ _____	\$450,000	\$ _____
Renovation	\$ _____	\$ _____	\$ _____
Equipment	\$ _____	\$ _____	\$ _____
Site Work & Preparation	\$ _____	\$100,000	\$ _____
Installation	\$ _____	\$ _____	\$ _____
Engineering Fees	\$ _____	\$ 25,000	\$ _____
Architctural Fees	\$ _____	\$ _____	\$ _____
Interest during Construction	\$ _____	\$ 0	\$ _____
Agency Fees	\$ _____	\$ 0	\$ _____
Legal Fees **	\$ _____	\$ _____	\$ _____
<b>TOTALS</b>	\$ _____	\$700,000	\$ _____

\*\* Agency General Counsel and Bond Counsel Only

13. Have any of these expenditures already been made by the Company?

\_\_\_ YES X NO If YES, indicate particulars: \_\_\_\_\_

14. Project Schedule: Indicate the estimated date for:

- A. Commencement of construction: 9/1/11
- B. Completion of construction: 3/15/12
- C. Anticipated closing date of project: TBD

**Other Government Involvement:**

Have you contacted any other government agency in reference to this project?

\_\_\_ YES X NO If YES, please include the agency and nature of inquiry: \_\_\_\_\_

15. Will the project require any government actions, permits or clearances (other than IDA Requirements)? \_\_\_ YES \_\_\_ NO If YES, please provide the following details:

ACTION	ISSUING AGENCY	DATE OF ISSUANCE

Include any site plans, drawings or blueprints that have been developed.

**Job Creation / Job Retention / Sales Data**

*Please include information for the Town of Lockport Facility only.*

16. Approximate Annual Sales for previous year: \$17,755,400.00

17. What is the present number of employees of the Company before IDA Status?

# Full Time: 27 # Part Time: 6

Estimated Annual Payroll: \$1,704,500.00

18. Will Niagara County contractors and/or sub-contractors be utilized for the construction project?  YES  NO

19. What is the estimated number of construction jobs to be created at the project site from:

Niagara County	Erie County	Other areas
<u>50</u>	<u>25</u>	

20. Estimated Annual Payroll

At Present: \$ 1,704,500.00

At Completion: \$ 1,900,000.00

21. What are the estimated numbers of new jobs to be created at:

	# Full Time	# Part Time	Estimated Annual Payroll
Start of operation	<u>2</u>	<u>0</u>	<u>\$120,000.00</u>
After 1 <sup>st</sup> full year	<u>1</u>		<u>\$60,000.00</u>
After 2 <sup>nd</sup> full year			
After 3 <sup>rd</sup> full year			

**Salary Information:**

Average estimated salary of jobs to be created: \$180,000.00

Average estimated salary of jobs to be retained: \$1,704,500.00

## V. PROJECT FINANCING

### A. Financial and Feasibility Data

1. Describe the need or demand for the product or services to be provided as a result of the project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Provide any marketing, economic, business plan or feasibility studies that have been developed particularly for this facility.

The following information will be required by the Agency and returned once an action of the Agency has been taken:

1. Financial statements for the last three (3) years
2. Projections for the next three (3) years including Balance Sheets, Profit and Loss Statements, Cash Flow Statements by quarters, etc.

### B. Financial Assistance Expected from the Agency

#### 1. Tax Benefits

A. Is the applicant requesting any real property tax exemption in connection with the Project that would not be available to a project that did not involve the Agency?  YES  NO

If YES, is the real property tax exemption being sought consistent with the Agency's Uniform Tax Exemption Policy?  YES  NO

B. Is the applicant expecting that the financing of the project will be secured by one or more mortgages?  YES  NO

If YES, what is the approximate amount of financing to be secured by mortgages? \$ \_\_\_\_\_

C. Is the applicant expecting to be appointed agent of the Agency for purposes of being exempt from payment of N.Y.S. Sales Tax or Use Tax?

YES  NO

If YES, what is the approximate amount of purchases which the applicant expects to be exempt from the N.Y.S. Sales and Use Taxes? \$ \_\_\_\_\_



the tax exemptions and other assistance requested herein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the proposed project described herein, and (C) 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 expense incurred in defending and suits or actions which may arise as a result of any of the foregoing.

**IV.** By executing and submitting this Application, the Applicant covenants and agrees to pay the following fee 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:

- (a) The sum of \$1,000 as a non- refundable processing fee, plus the sum of \$ \_\_\_\_\_ if Agency assistance in retaining professionals is requested, to be paid upon submission of the Application.
- (b) Unless otherwise agreed to by the Agency, an amount equal to \$ \_\_\_\_\_ to be paid at closing.
- (c) 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 (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.

**V.** By executing and submitting this Application, and in the event the closing does not occur, the Applicant further 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:

- (a) 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, the Applicant shall pay to the Agency, its agents, or assigns \$ \_\_\_\_\_.
- (b) 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 transaction, then upon presentation of an invoice, all actual costs involved with respect to the Application, to that date and time, incurred by the Agency, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond /transaction counsel.

VI. 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 IV and V are obligations that are not dependent on final documentation of the transaction contemplated by this Application.

The cost incurred by the Agency and paid by the Applicant, including bond/ transaction counsel fees and the Agency's general counsel fees and the processing fees, may be considered as costs 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.

The Applicant is aware and acknowledges that according to the New York Public Officer's Law, Article 6, Freedom of Information Act, the public has the right to request information about the project and the Applicant, and that in accordance with Public Officer's Law Article 7, all meetings of the Agency are open to the public.

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

Project Company: MULVEY Const Inc  
By: [Signature] Project Officer TIM MULVEY

**NOTARY**

Sworn to before me this 18 day of August 2011

[Signature]  
(Signature) DALE E. LANIGHAN  
Notary Public, State of New York  
No. 01LA6015715  
Qualified in Niagara County  
Commission Expires November 2, 2014