

Redacted

FORM APPLICATION FOR FINANCIAL ASSISTANCE
TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY

PROJECT APPLICATION
UPDATE

3/22

DATE: January 30, 2023

APPLICATION OF: Ocean Avenue Marina Inc.
Name of Owner and/or User of Proposed Project

ADDRESS: 80 Waterfront Blvd.
Island Park, NY 11558

CONTACT: John Vitale

PHONE NUMBER: _____

EMAIL ADDRESS: _____

FAX NUMBER: N/A

Type of Application: ☐ Tax-Exempt Bond ☐ Taxable Bond
☒ Straight Lease ☐ Refunding Bond
☐ Special Straight Lease

*Town of Hempstead Industrial Development Agency
350 Front Street, Rom 234A
Hempstead, New York 11550
516-489-5000 extension 4200*

Part I: Owner & User Data

I. Owner Data:

A. Owner (Applicant for assistance): Ocean Avenue Marina Inc.

Address: 80 Waterfront Blvd., Island Park, NY 11588

Federal Employer ID #: _____ Website: www.vitaleproperties.com

Owner Officer Certifying Application: John Vitale

Title of Officer: President

Phone Number: _____ E-mail: _____

B. Business Type:

Sole Proprietorship ☐ Partnership ☐ Privately Held X

Public Corporation ☐ Listed on _____

State of Incorporation/Formation: New York

C. Nature of Business:

(e.g., "manufacturer of _____ for _____ industry"; "distributor of _____"; or "real estate holding company")

Applicant is a seasoned real estate developer that has developed a number of residential, commercial and mixed-use developments throughout Nassau County. The Applicant may enter into a joint venture with investor members.

D. Owner Counsel:

Firm Name: Farrell Fritz, P.C.

Address: 400 RXR Plaza

Uniondale, NY

Individual Attorney: Peter L. Curry

Phone Number: _____ E-mail: _____

E. Principal Stockholders, Members or Partners, if any, of the Owner (5% or more equity):

Name	Percent Owned
<u>John Vitale</u>	<u>100%</u>

F. Has the Owner, or any subsidiary or affiliate of the Owner, or any stockholder, partner, member, officer, director or other entity with which any of these individuals is or has been associated with:

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

No.

ii. been convicted of a felony, or misdemeanor, or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

No.

G. If any of the above persons (see "E", above) or a group of them, owns more than 50% interest in the Owner, list all other organizations which are related to the Owner by virtue of such persons having more than a 50% interest in such organizations.

The owner holds a greater than 50% interest in numerous other unrelated real estate organizations. Please see attached organizational chart.

H. Is the Owner related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

Please see answer to question G. above.

I. List parent corporation, sister corporations and subsidiaries:

Please see attached organizational chart.

J. Has the Owner (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

John Vitale, the member of the Applicant, is a manager of Waterview Land Development, LLC, which received assistance from the Agency in 2017 in connection with a residential development in Island Park, New York.

K. List major bank references of the Owner:

Dime Community Bank – Tony Errera (Manager, Oceanside Branch)

2. User Data

*** (for co-applicants for assistance or where a landlord/tenant relationship will exist between the owner and the user) ***

A. User (together with the Owner, the “Applicant”): N/A

Address: _____

Federal Employer ID #: _____ Website: _____

NAICS Code: _____

User Officer Certifying Application: _____

Title of Officer: _____

Phone Number: _____ E-mail: _____

B. Business Type: N/A

Sole Proprietorship ☐ Partnership ☐ Privately Held ☐

Public Corporation ☐ Listed on _____

State of Incorporation/Formation: _____

C. Nature of Business: N/A

(e.g., “manufacturer of _____ for _____ industry”; “distributor of _____”; or “real estate holding company”)

D. Are the User and the Owner Related Entities? Yes ☐ No ☐ N/A

i. If yes, the remainder of the questions in this Part I, Section 2 (with the exception of "F" below) need not be answered if answered for the Owner.

ii. If no, please complete all questions below.

E. User's Counsel: N/A

Firm Name: _____

Address: _____

Individual Attorney: _____

Phone Number: _____ E-mail: _____

F. Principal Stockholders or Partners, if any (5% or more equity): N/A

Name	Percent Owned
_____	_____
_____	_____
_____	_____

G. Has the User, or any subsidiary or affiliate of the User, or any stockholder, partner, officer, director or other entity with which any of these individuals is or has been associated with: N/A

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

ii. ever been convicted of a felony or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

- H. If any of the above persons (see "E", above) or a group of them, owns more than 50% interest in the User, list all other organizations which are related to the User by virtue of such persons having more than a 50% interest in such organizations. N/A

- I. Is the User related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship: N/A

- J. List parent corporation, sister corporations and subsidiaries: N/A

- K. Has the User (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full: N/A

- L. List major bank references of the User: N/A

Part II – Operation at Current Location

*** (if the Owner and the User are unrelated entities, answer separately for each) ***

1. Current Location Address: **50 and 80 Waterfront Blvd., Island Park, NY**
2. Owned or Leased: **Owned.**
3. Describe your present location (acreage, square footage, number buildings, number of floors, etc.):
The project location consists of approximately 3.58 acres and is improved with two, 2-story buildings that serve as catering venues. Each building has its own kitchen and various catering rooms. The building located at 50 Waterfront Blvd. is approximately 6,000 square feet. The building located at 80 Waterfront Blvd. is approximately 28,000 square feet.
4. Type of operation (manufacturing, wholesale, distribution, retail, etc.) and products and/or services:

Catering venue.
5. Are other facilities or related companies of the Applicant located within the State?

Yes **X** No

If yes, list the Address: **50 and 80 Waterfront Blvd., Island Park, NY**
6. If yes to above ("5"), will the completion of the project result in the removal of such facility or facilities from one area of the state to another OR in the abandonment of such facility or facilities located within the State?

Yes No **X**
 - A. If no, explain how current facilities will be utilized: **The catering facility will close and be converted to the proposed multi-family rental residential community.**
 - B. If yes, please indicate whether the project is reasonably necessary for the Applicant to maintain its competitive position in its industry or remain in the State and explain in full:

The Project will provide substantial economic benefits and increased net revenue to Island Park, the Island Park school district and more generally the Town of Hempstead, while promoting the use and image of the waterfront. The facility will be located within reasonable proximity to the Island Park LIRR Station, connecting residents to local and national mass transit hubs. The Agency's financial assistance is necessary to keep construction and operating costs at a level which permits viable rents, achievable by rental residents, who will contribute to the economic vibrancy of the Town. Moreover, without assistance and the ability to develop the proposed project, the existing use is likely to fail. The current development is the largest parcel in Island Park located within a flood zone. The site has an extensive flood loss history, and the resulting and consistent rise in flood

Applicant's proposed development would significantly elevate existing grade and raise habitable spaces and equipment to approximately 18 feet above sea level to mitigate flood loss and exponentially reduce flood insurance premiums.

7. Has the Applicant actively considered sites in another state? Yes ☐ No ☒

A. If yes, please list states considered and explain: _____

8. Is the requested financial assistance reasonably necessary to prevent the Applicant from moving out of New York State? Yes ☐ No ☒

A. Please explain: However, the Applicant cannot proceed if the Agency does not approve this application. It is well demonstrated that undertaking this construction project is not financially feasible without Agency benefits. Should the project not be approved, Island Park and the Town of Hempstead would lose the benefits of a significant construction project that would create approximately 170 construction jobs and well over a hundred, desperately needed rental housing units and the consequent economic and net-revenue benefits.

9. Number of full-time equivalent employees at current location and average salary: There are currently 18 full-time equivalent employees with an average salary of \$35,471.

Part III – Project Data

1. Project Type:

A. What type of transaction are you seeking?: (Check one)

Straight Lease ☒ Taxable Bonds ☐ Tax-Exempt Bonds ☐
Equipment Lease Only ☐

B. Type of benefit(s) the Applicant is seeking: (Check all that apply)

Sales Tax Exemption ☒ Mortgage Recording Tax Exemption ☒
PILOT Agreement: ☒

2. Location of project:

A. Street Address: 50 and 80 Waterfront Blvd, Island Park, NY

B. Tax Map: District 031 Section 43 Block 112 Lot(s) (11-14), 15, (16,17) and (18-29)
Block 119 Lot(s) 261, 262, and 263

C. Municipal Jurisdiction:

i. Town: Hempstead
ii. Village: _____
iii. School District: Island Park U.F.S.D.

D. Acreage: Approximately 3.58 including former portions of Beach Ave., and Waterfront Blvd.

****The project will include town road discontinuances for portions of Beach Ave., and Waterfront Blvd; see attachment for legal descriptions.****

3. Project Components (check all appropriate categories):

- A. Construction of a new building ☒ Yes ☐ No
i. Square footage: 135,406 sf
- B. Renovations of an existing building ☐ Yes ☒ No
i. Square footage: _____
- C. Demolition of an existing building ☒ Yes
i. Square footage: 34,000 sf
- D. Land to be cleared or disturbed ☐ Yes ☒ No
i. Square footage/acreage: _____

F. Acquisition of an existing building ☐ Yes ☒ No

i. Square footage of existing building: 34,000 sf

G. Installation of machinery and/or Equipment ☒ Yes ☐ No

i. List principal items or categories of equipment to be acquired: Fixtures of the type normally placed in multi-family dwellings.

H. To what length with the project ensure energy efficiency in the design and operations: Energy efficient design and operations will be an essential consideration of development. In addition to energy efficient lighting and appliance components, sustainability considerations will include raising existing grade and habitable floors to reduce flood-related impacts and flood-generated waste.

4. Current Use at Proposed Location:

A. Does the Applicant currently hold fee title to the proposed location? Yes.

i. If no, please list the present owner of the site: _____

B. Present use of the proposed location: Catering venue.

C. Is the proposed location currently subject to an IDA transaction (whether through this Agency or another?) ☐ Yes ☒ No

i. If yes, explain: _____

D. Is there a purchase contract for the site? (if yes, explain): ☐ Yes ☒ No

E. Is there an existing or proposed lease for the site? (if yes, explain): ☐ Yes ☒ No

5. Proposed Use:

A. Describe the specific operations of the Applicant or other users to be conducted at the project site:

The project involves the construction of a 4-story residential apartment building. The second, third and fourth stories will consist of 117 one- and two-bedroom units of varying configuration and square footage. The project will include 74 one-bedroom units averaging 807 square feet in size, and 43 two-bedroom units averaging 1,147 square feet in size. The residential units will be constructed on top of a first-floor parking structure with a total of 196 parking spaces. The proposed residential development satisfies the lot size, height, coverage, density, parking and set backs established for the CA-S Residence zoning district. The new-construction residential development shall replace the existing catering hall structure.

B. Proposed product lines and market demands: There is well documented demand for rental housing in the Town of Hempstead, Nassau County and more broadly across Long Island.

C. If any space is to be leased to third parties, indicate the tenant(s), total square footage of the project to be leased to each tenant, and the proposed use by each tenant:

The total leasable area is approximately 109,028 square feet, comprising a combination of 117 one- and two-bedroom residential units. The project will include 74 one-bedroom units averaging 807 square feet, and 43 two-bedroom units averaging 1,147 square feet in size.

D. Need/purpose for project (c.g., why is it necessary, effect on Applicant's business):

The Project will provide substantial economic benefits and increased net revenue to Island Park, the Island Park school district and more generally the Town of Hempstead, while promoting the use and image of the waterfront. The facility will be located within reasonable proximity to the Island Park LIRR Station, connecting residents to local and national mass transit hubs. The Agency's financial assistance is necessary to keep construction and operating costs at a level which permits viable rents, achievable by local residents, who will contribute to the economic vibrancy of the Town. Moreover, without assistance and the ability to develop the proposed project, the existing use is likely to fail. The current development is the largest parcel in Island Park located within a flood zone. The site has an extensive flood loss history, causing the catering facility to close operations several times a year, and the resulting and consistent rise in flood insurance premiums is unsustainable. With the financial assistance of the Agency, Applicant's proposed development would significantly elevate existing grade and raise habitable spaces and equipment to approximately 18 feet above sea level to mitigate flood loss and exponentially reduce flood insurance premiums.

E. Will any portion of the project be used for the making of retail sales to customers who personally visit the project location? Yes ☐ No ☒

i. If yes, what percentage of the project location will be utilized in connection with the sale of retail goods and/or services to customers who personally visit the project location? _____

6. Project Work:

A. Has construction work on this project begun? If yes, complete the following:

i.	Site Clearance:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE	_____
ii.	Foundation:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE	_____
iii.	Footings:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE	_____
iv.	Steel:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE	_____
v.	Masonry:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE	_____

vi. Other: _____

B. What is the current zoning? Y-Industrial

C. Will the project meet zoning requirements at the proposed location?

Yes X (pursuant to change of zone)

No ☐

D. If a change of zoning is required, please provide the details/status of the change of zone request: Applicant submitted an application to the Town Board to change current zoning to a CA-S Zone. This CA-S Zone is a floating zone. A parcel may be considered for a change of zone to CA-S if said parcel meets the bulk, area and location requirements and the Town Board makes a finding that said parcel of land is located in a blighted area and is in need of redevelopment and that the incentive to increase density is in the best interest of the community in order to encourage redevelopment and thereby eliminate such blighted use or improve such blighted area. The project meets with the bulk area and location requirements and Applicant is confident that Town Board will find the development is in the best interest of the community in light of the economic benefits, and increased net revenue. A major component of redevelopment is elevating ground level above the flood zone. This improvement, along with the other components of this construction, will improve and address the blighted location.

E. Have site plans been submitted to the appropriate planning department? Yes X No ☐

7. Project Completion Schedule:

A. What is the proposed commencement date for the acquisition and the construction/renovation/equipping of the project?

i. Acquisition: Owned.

ii. Construction/Renovation/Equipping: To be determined. Site work is anticipated to begin in early 2023 after Applicant has fulfilled its obligations to its catering venue customers and secured appropriate permits and approvals.

B. Provide an accurate estimate of the time schedule to complete the project and when the first use of the project is expected to occur: Approximately 18-24 months after commencement of construction activity. Expected early 2025.

Part IV – Project Costs and Financing

1. Project Costs:

- A. Give an accurate estimate of cost necessary for the acquisition, construction, renovation, improvement and/or equipping of the project location:

<u>Description</u>	<u>Amount</u>
Land and/or building acquisition	<u>\$4,000,000.00</u>
Building(s) demolition/construction	<u>\$35,309,642.00</u>
Building renovation	<u>N/A</u>
Site Work [and Bulkheading]	<u>\$ 2,000,000.00</u>
Machinery and Equipment [Pool/Grill Area/Appliances]	<u>\$ 2,000,000.00</u>
Legal Fees	<u>\$ 150,000.00</u>
Architectural/Engineering Fees	<u>\$ 800,000.00</u>
Financial Charges	<u>\$ 2,340,000.00</u>
Other (Specify) <u>[licenses, permits and fees]</u>	<u>\$ 710,000.00</u>
Total	<u>\$ 47,309,642.00</u>

2. Method of Financing:

	<u>Amount</u>	<u>Term</u>
A. Tax-exempt bond financing:	\$ _____	_____ years
B. Taxable bond financing:	\$ _____	_____ years
C. Conventional Mortgage:	\$ <u>37,847,713.60</u>	<u>10</u> years
D. SBA (504) or other governmental financing:	\$ _____	_____ years
E. Public Sources (include sum of all State and federal grants and tax credits):	\$ _____	
F. Other loans:	\$ _____	_____ years
G. Owner/User equity contribution:	\$ _____	_____ years

Total Project Costs \$ _____

- i. What percentage of the project costs will be financed from public sector sources?

N/A

3. Project Financing:

A. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? Yes ☒ No ☐

i. If yes, provide detail on a separate sheet. Yes, land and building acquisition costs as Applicant is current owner.

B. Are costs of working capital, moving expenses, work in progress, or stock in trade included in the proposed uses of bond proceeds? Give details: N/A

C. Will any of the funds borrowed through the Agency be used to repay or refinance an existing mortgage or outstanding loan? Give details: N/A

D. Has the Applicant made any arrangements for the marketing or the purchase of the bond or bonds? If so, indicate with whom: N/A

Part V – Project Benefits

1. Mortgage Recording Tax Benefit:

A. Mortgage Amount for exemption (include sum total of construction/permanent/bridge financing):

\$ 37,847,713.60

B. Estimated Mortgage Recording Tax Exemption (product of Mortgage Amount and 0.75%):

\$283,857.85

2. Sales and Use Tax Benefit:

A. Gross amount of costs for goods and services that are subject to State and local Sales and Use Tax (such amount to benefit from the Agency's exemption):

\$23,585,785.20

- B. Estimated State and local Sales and Use Tax exemption (product of 8.625 % and figure above):

\$2,034,273.97

- C. If your project has a landlord/tenant (owner/user) arrangement, please provide a breakdown of the number in "B" above: N/A

i. Owner: \$ _____

ii. User: \$ _____

3. Real Property Tax Benefit:

- A. Identify and describe if the project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit: N/A

- B. Agency PILOT Benefit:

i. Term of PILOT requested: Twenty Years

ii. Upon acceptance of this application, the Agency staff will create a PILOT schedule and indicate the estimated amount of PILOT Benefit based on anticipated tax rates and assessed valuation and attached such information to Exhibit A hereto. At such time, the Applicant will certify that it accepts the proposed PILOT schedule and requests such benefit to be granted by the Agency.

*** This application will not be deemed complete and final until Exhibit A hereto has been completed and executed.***

Part VI – Employment Data

1. List the Applicant's and each users present employment, and estimates of (i) employment at the proposed project location at the end of year one and year two following project completion and (ii) the number of residents of the Labor Market Area* ("LMA") that would fill the full-time and part-time jobs at the end of the second year following completion:

	<u>Present</u>	<u>First Year</u>	<u>Second Year</u>	<u>Residents of LMA</u>
Full-Time	<u>18</u>	<u>2</u>	<u>2</u>	<u>2</u>
Part-Time**	_____	_____	_____	_____

* The Labor Market Area includes the County/City/Town/Village in which the project is located as well Nassau and Suffolk Counties.

** Agency staff converts Part-Time jobs into FTEs for state reporting purposes by dividing the number of Part-Time jobs by two (2).

***** The project is expected to result in approximately 170 construction jobs. This project is proposed in large part due to the unsustainable nature of the existing use and probable closure of the catering facility resulting from anticipated flood losses and an unsustainable, continued rise in flood insurance premiums. As a result, it is anticipated that the employment losses referenced above between the present date and first year are inevitable.**

2. Salary and Fringe Benefits:

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Salary Wage Earners	\$50,000.00	
Commission Wage Earners		
Hourly Wage Earners		
1099 and Contract Workers		

Total Anticipated Construction Jobs 170

Note: The Agency reserves the right to visit the facility to confirm that job creation numbers are being met.

Part VII – Representations, Certifications and Indemnification

1. Is the Applicant in any litigation which would have a material adverse effect on the Applicant's financial condition? (if yes, furnish details on a separate sheet)

2. Has the Applicant or any of the management of the Applicant, the anticipated users or any of their affiliates, or any other concern with which such management has been connected, been cited for a violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or other operating practices? (If yes, furnish details on a separate sheet)
3. Is there a likelihood that the Applicant would not proceed with this project without the Agency's assistance? (If yes, please explain why; if no, please explain why the Agency should grant the benefits requested)

Yes X

No ☐

The Applicant cannot proceed if the Agency does not approve this application. The NDC report submitted with this Application demonstrates clearly that, without financial assistance, undertaking this construction project is financially unfeasible.

4. If the Applicant is unable to obtain financial assistance from the Agency for the project, what would be the impact on the Applicant and on the municipality?

Should the project not be approved, Island Park and the Town of Hempstead would lose the benefits of a significant construction project that would result in approximately 170 construction jobs and create well over a hundred, desperately needed rental housing units and the consequent economic and net-revenue benefits. Moreover, without assistance and the ability to develop the proposed project, the existing use is likely to fail. The current development is the largest parcel in Island Park located within a flood zone. The site has an extensive flood loss history, and the resulting and consistent rise in flood insurance premiums is unsustainable. With the financial assistance of the Agency, Applicant's proposed development would significantly elevate existing grade and raise habitable spaces and equipment to approximately 18 feet above sea level to mitigate flood loss and exponentially reduce flood insurance premiums.

5. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if financial assistance is provided for the proposed project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

Initial _____

6. The Applicant understands and agrees that in accordance with Section 858-b(2) of the General Municipal Law, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the project will be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300) in which the project is located (collectively, the "Referral Agencies"). The Applicant also agrees, that it will, except as otherwise provided by collective bargaining contracts or agreements to which they are parties, first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies

Initial JV

7. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving financial assistance for the proposed project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

Initial JV

8. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.

Initial JV

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

Initial JV

10. In accordance with Section 862(1) of the New York General Municipal Law the Applicant understands and agrees that projects which result in the removal of an industrial or manufacturing plant of the project occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the project occupant within the State is ineligible for financial assistance from the Agency, unless otherwise approved by the Agency as reasonably necessary to preserve the competitive position of the project in its respective industry or to discourage the project occupant from removing such other plant or facility to a location outside the State.

Initial JV

11. The Applicant represents and warrants that to the Applicant's knowledge neither it nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they

become a person or entity with who United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (OFAC) of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List or under any statute, executive order including the September 24, 2001, Executive Order Block Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, or other governmental action and is not and will not assign or otherwise transfer this Agreement to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities.

Initial

A handwritten signature in black ink, appearing to be 'JN' with a long horizontal stroke extending to the right.

12. The Applicant confirms and hereby acknowledges it has received the Agency's fee schedule attached hereto as Schedule A and agrees to pay such fees, together with any expenses incurred by the Agency, including those of Transaction Counsel, with respect to the Facility. The Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the project.

Initial gv

13. The Applicant confirms and hereby acknowledges it has received the Agency's [Construction Wage] Policy attached hereto as Schedule B and agrees to comply with the same.

Initial gv

14. The Applicant hereby agrees to comply with Section 875 of the General Municipal Law. The Company further agrees that the financial assistance granted to the project by the Agency is subject to recapture pursuant to Section 875 of the Act and the Agency's [Recapture and Termination] Policy, attached hereto as Schedule C.

Initial gv

Part VIII – Submission of Materials

1. Financial statements for the last two fiscal years (unless included in the Applicant's annual report).
2. Applicant's annual reports (or 10-K's if publicly held) for the two most recent fiscal years.
3. Quarterly reports (form 10-Q's) and current reports (form 8-K's) since the most recent annual report, if any.
4. In addition, please attach the financial information described in items A, B, and C of any expected guarantor of the proposed bond issue.
5. Completed Long Environmental Assessment Form.
6. Most recent quarterly filing of NYS Department of Labor Form 45, as well as the most recent fourth quarter filing. Please remove the employee Social Security numbers and note the full-time equivalency for part-time employees.

(Remainder of Page Intentionally Left Blank)

Part IX – Certification

John Vitale deposes and says that he or she is the President of Ocean Avenue Marina Inc., the corporation named in the attached application; that he or she has read the foregoing application and knows the contents thereof; and that the same is true to his or her knowledge.

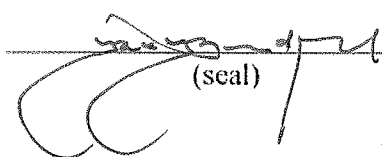
Deponent further says that s/he is duly authorized to make this certification on behalf of the entity named in the attached Application (the "Applicant") and to bind the Applicant. The grounds of deponent's belief relative to all matters in said Application which are not stated upon his/her personal knowledge are investigations which deponent has caused to be made concerning the subject matter this Application, as well as information acquired by deponent in the course of his/her duties in connection with said Applicant and from the books and papers of the Applicant.

As representative of the Applicant, deponent acknowledges and agrees that Applicant shall be and is responsible for all costs incurred by the Town of Hempstead Industrial Development Agency (hereinafter referred to as the "Agency") in connection with this Application, the attendant negotiations and all matters relating to the provision of financial assistance to which this Application relates, whether or not ever carried to successful conclusion. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels or neglects the application or if the Applicant is unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application, up to that date and time, including fees to bond or transaction counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion and sale of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in effect on the date of the foregoing application, and all other appropriate fees, which amounts are payable at closing.



Representative of Applicant

Sworn to me before this 30th
day of JANUARY, 20 23


(seal)

My Commission Expires
January 5, 2025

