

**CITY OF PEEKSKILL  
INDUSTRIAL DEVELOPMENT AGENCY**

**Application for Financial Assistance**

The City of Peekskill Industrial Development Agency (the "Agency") is a public benefit corporation of the State of New York (the "State") operating pursuant to the provisions of Article 18-A of the State General Municipal Law. The Agency is authorized to provide qualified projects several forms of financial assistance under State law and pursuant to the Agency's "uniform tax exemption policy", including tax-exempt bond financing (project must also satisfy certain requirements under the Internal Revenue Code), taxable bond financing, mortgage recording tax exemption, sales tax exemption and a partial abatement from real property taxes (collectively, the "Financial Assistance"). In order to be considered for all or any portion of the Financial Assistance, each applicant must complete this Application in duplicate, sign and date the Application, and return the completed Application to the Agency together with a processing fee of \$500 or \$1,000 as appropriate.

Please answer all the questions in Parts A through D either by filling in the blanks, completing the answer in the space provided in the Application, or by attachment. Please refer to section IV of Part D of the Application for a statement of costs and fees applicable to providing Financial Assistance. *All information submitted in the Application will be kept confidential. No Application will be considered until a fully completed and executed Application, in duplicate, is received by the Agency, together with applicable processing fees.*

Questions about the Application should be directed to the Agency at (914) 734-4214, or faxed to (914) 737-2688.

**PART A**  
**Applicant and Project Information**

1. Applicant name, address, telephone, fax, email and contact person:

Diamond Properties, LLC

333 North Bedford Road, Mount Kisco, NY 10595

Tel: 914.438.4438

Fax: 914.773.6259

Bill Diamond

[bdiamond@dpmgt.com](mailto:bdiamond@dpmgt.com)

2. Applicant business form:

☐ Sole Proprietorship ☐ Corporation

☐ Partnership ☐ Not-for profit corporation

☒ Limited Partnership ☐ Other

a. If a corporation, what is the state of incorporation? New York. If not a New York Corporation, is applicant authorized to conduct business under the laws of the State of New York?

b. If a not-for-profit corporation, is the corporation qualified under Internal Revenue Code Section 501(c)(3) with the Internal Revenue Service?

N/A

c. If the applicant is a corporation, indicate the names and addresses of the principal shareholders, or members in the case of a not-for-profit corporation:

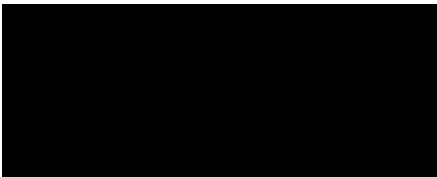
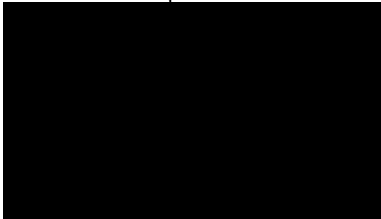
Bill Diamond 50% 40E 20<sup>th</sup> Street, NY, NY 10003

Jim Diamond 50% Pea Pond Road, Bedford, NY

3. Applicant Officers Name & Address Other Business Affiliations

4. Please list applicant financial references (at least three (3) institutions), indicating name of institution, address, telephone, fax, email and contact person:

5. Please list professional references of the applicant:



6. Please provide the name, address, telephone, fax, email and contact person of and at the law firm or attorney representing the applicant:

Dorf & Nelson  
International Corporate Center  
555 Theodore Fremd Avenue  
Rye, New York 10580  
Phone: 914-381-7600

7. Please provide the name, address, telephone, fax, email and contact person of the CPA firm or financial advisor of the applicant if any:

Laura Michaels  
BDO Seidman  
401 Broadhollow Road, Suite 201  
Melville, NY 11747  
UNITED STATES  
631-501-9600

8. Indicate what type of financial assistance the applicant is seeking from the Agency:

☐ tax-exempt revenue bond financing  
☐ "straight lease" transaction  
☒ PILOT agreement  
☒ sales tax exemption  
☒ mortgage recording tax exemption  
☐ other (please specify)

Please note that for any proposed project for which tax-exempt financing is requested, the applicant will be required to complete a detailed "tax questionnaire" to be provided by the Agency's Bond Counsel to determine eligibility under the Internal Revenue Code for tax-exempt financing.

### **Project Data**

1. Provide a detailed description of the proposed project, indicating (i) location, (ii) dimensions of the proposed building or facility, (iii) type of construction of the building or facility, and (iv) intended use of the building or facility:

Diamond Properties' intention is to rehabilitate and renovate the restaurant, bar and catering spaces. In addition, we plan to undertake major landscaping renovations which will include the installation of a large outdoor boardwalk/patio area. We also plan to improve the marina facilities and in the future undertake a dredging operation to deepen the marina.

a. Please attach a photograph of the site or existing facility to be improved.



b. Please attach a copy of the preliminary plans of the proposed project.

Attached

c. Is the proposed project a **manufacturing** facility? If so, briefly describe the proposed manufacturing process. Preliminary designs call for a beer brewery to be added to the restaurant facility, and early discussions involve a potential bourbon distillery in the old bus depot.

d. Is the proposed project a **commercial** facility? If so, briefly describe the proposed retail sales operation contemplated. Yes, we plan to renovate the restaurant, bar and catering facilities.

e. Is the proposed project a **dormitory, healthcare, senior housing, other housing, or continuing care retirement community** facility or other purpose which a non-for-profit corporation may engage in, such as an **educational** facility? If so, is (or will be) the project owner a qualified 501(c)(3) not-for-profit corporation? No

f. Is the proposed project a **pollution control** facility? If so, indicate the type of pollution to be abated, and existing orders of environmental agencies to abate pollution. No

2. Utilities on site: Water Municipal: ☐ Yes ☐

Describe other: \_\_\_\_\_

Sewer: Municipal: ☐ Yes ☐

Describe other: \_\_\_\_\_

Electric: Utility: ☐ Yes ☐

Gas: Utility: ☐ Yes ☐

3. Indicate the current legal owners of the building or site or the proposed project:

Excel Service And Maintenance Corporation

4. Indicate any existing or proposed leases and sub-leases for the proposed project and provide a copy of any such lease or sub-lease:

It appears that Excel does not have any formal leases in place. But we do know that the tenants currently occupying the property include:

- 1) Wood Design Concept
- 2) Adrenalin Gym
- 3) Classic Cars
- 4) Fiberglass Repair Shop
- 5) Visitrak International
- 6) National Maritime Historical Society
- 7) Restaurant Space – (Captain's Cove)
- 8) Boat Repair Hanger – Vacant
- 9) Bus Depot - Vacant

5. Indicate any purchase option agreement relating to the proposed project and provide a copy of the purchase option agreement: Attached

6. Indicate any litigation or controversy regarding (i) title to the site or building to be acquired, constructed or improved, (ii) conditions on or under the site including environmental or hazardous waste conditions, (iii) the financial condition of the applicant or any entity controlling the applicant or any entity which the applicant controls, and (iv) the general operations of the applicant.

Currently, to the best of our knowledge, there are no litigation of controversies regarding the property. None known at this time.

If the applicant is or is controlled by a corporation or by a person or entity which is a majority shareholder in a corporation listed on a national stock exchange, please provide a copy of the annual report (including certified financial statements) of such corporation for its two (2) most recent fiscal years. N/A

### **Employment Information**

1. Please provide the following information regarding the projected employment roll of the applicant at the proposed project before and after the Agency has provided financial assistance:

The below covers only the marina and restaurant/catering functions of the property.

	Current	First Year	Second Year
Full Time	2	8	10
Part Time	5	11	13
Seasonal			
Construction			

Indicate any changes in the quality of the workforce at the proposed project which is expected as a result of the Agency providing financial assistance: The restaurant will operate at a much higher level than the existing operation and will provide employees with a path to grow within the organization. The operation will provide professional training and opportunity to the staff.

2. Please indicate the annual payroll at the proposed project before and after the application of the Agency's financial assistance.

Annual Payroll (before Agency assistance): \$ 80,000

First year after project completion \$ 580,000

Second year after project completion \$ 670,000

### Project Costs

1. Please provide an estimate of cost of the following items of the proposed project:

Land \$ 1,050,000

Improvements to Land (other than site work) \$225,000

Site Work \$60,000

Building Construction \$925,000 (includes Marina work)

Machinery and Building Fixtures \$325,000

Equipment \$85,000

Legal Fees (excluding financing costs) \$22,000

Architect and Engineering Fees \$45,000

Financing Costs (including transaction legal counsel) \$5,000

Working Capital \$125,000

Other (please specify) \$

Total \$2,867,000

3. With respect to the total costs of the proposed project:

a. Indicate the amount to be financed: \$ 1,550,000

b. Indicate the term of the financing: 10 years

c. Indicate the name, address, telephone, fax, email and contact person of the financial institution where the applicant is seeking financing: TBD

d. Has the applicant received a written commitment from the financial institution to finance the proposed project? No

e. Indicate whether the applicant would like the Agency's assistance in obtaining a financial institution to assist in the financing of the proposed project? (*If so, an additional \$500 processing fees is payable to the Agency.*) No

f. Indicate what amount of the cost of the proposed project is expected to be paid from funds generated by the applicant without borrowing: \$1,317,000

g. Indicate any contribution of funds from an equity offering or venture capital funding for the proposed project: \$0

4. For a **manufacturing** facility only, please indicate the dollar value of "capital expenditures" (as determined in accordance with the provisions of the Internal Revenue Code) that the applicant or entity related to or controlled by the applicant, has expended and will expend within the City of Peekskill during the past three (3) calendar years and the following three (3) calendar years following project completion.

N/A

### **Project Construction Schedule**

1. Indicate the proposed date for commencement of construction or acquisition of the proposed project, assuming financing of the proposed project is available to meet the applicant's schedule (please include the date upon which equipment/materials subject to sales tax will be first purchased):  
Within 45 days of closing on facility

2. Indicate a schedule for the application of proceeds of financing and other moneys to acquire, construct, and equip the proposed project to completion:  
Diamond Properties would not need to wait for financing to commence the project.

3. Indicate the date on which the completed project is expected to be first placed in service:  
Spring 2015

### **PART B Environmental Compliance Review**

Please provide the following information regarding environmental review of the proposed project.

1. Has the applicant retained an environmental engineer to assist with the environmental review compliance procedures relating to the proposed project?

We have reviewed the existing environmental report and are satisfied with its findings.

If so, please provide the name, address, telephone, fax, email and contact person of the firm:

If not, would the applicant like the Agency's assistance in obtaining the services of an environmental engineer? (*If so, an additional \$500 processing fee is payable to the Agency.*)

2. If an environmental assessment form or a draft environmental impact statement has been prepared by the applicant, please attach a copy of the completed form to the Application.

3. To the knowledge of the applicant, has there ever been any toxic or hazardous waste materials located or stored on the site of the proposed project site, or has any activity ever been conducted on the site of the proposed project which could be expected to generate toxic or hazardous waste material? No

## PART C

### REPRESENTATIONS BY THE APPLICANT

The applicant understands and agrees with the Agency as follows:

- I. Job Listings In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the proposed project must be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entitle") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- II. First Consideration for Employment. In accordance with Section 858-b(2) of the General Municipal Law, the applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant must first consider persons eligible to participate in JTPA programs who shall be referred by the JPTA Entities for new employment opportunities created as a result of the proposed project.
- III. Annual Sales Tax Fillings. In accordance with Section 874(8) of the General Municipal Law, the Applicant understands and agrees that, if the proposed project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant.
- IV. Annual Employment Reports. The applicant understands and agrees that, if the proposed project receives any Financial Assistance from the Agency, the applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- V. Absence of Conflicts of Interest. The applicant has received from the Agency a list of the members, officers, and employees of the Agency. No member, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:



## PART D

### Certification

(to be executed by the principal of the applicant and acknowledged by a notary public)

- I. William Diamond (name of chief executive officer or other authorized representative of applicant) deposes and says that he/she is the Managing Nurse (title) of Diamond Properties (name of corporation or other entity) named in the attached Application; that he/she has read the foregoing Application and knows the contents thereof, that the same is true to his/her knowledge.
- II. The grounds for deponent's belief relative to all matters in the Application which are not stated upon his/her own personal knowledge, are investigations which deponent has caused to be made concerning to subject matter of the Application, as well as information acquired by deponent in the course of his/her duties as an officer of and from the books and papers of said corporation or other entity.
- III. As an officer of the applicant deponent acknowledges and agrees that the applicant shall be and is responsible for all costs incurred by the Agency and legal counsel for the Agency, whether or not the Application, the proposed project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency, (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 expenses incurred in defending any 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 fees to the Agency, 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 \$500 if Agency assistance in retaining professionals is requested, to be paid upon submission of the Application;
  - (b) An amount equal to 1% of the total project costs for projects with bond financing, and an amount equal to ½ of 1% of the total project costs for all other projects for which the Agency provides financial assistance, to be paid at transaction closing;

- (c) An amount equal to \$2,500 payable to the Agency's bond/transaction counsel for the preparation and review of the inducement resolution, the environmental compliance resolution, TEFRA hearing proceedings and the "tax questionnaire" assuming no further activity occurs after completion of inducement proceedings, to be paid within then (10) business days of the receipt of bond/transaction counsel's invoice;
  - (d) 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 or 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 or, if the closing does not occur, within ten (10) business days of receipt of the Agency's invoices therefore please note that the applicant is entitled to receive a written estimate of fees and costs of the Agency's bond/transaction counsel;
  - (e) The cost incurred by the Agency and paid by the applicant, including bond/transaction counsel and the Agency's general counsel's fees and the processing fees, may be considered as a cost of the project and included in the financing of costs of the proposed project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- V. The applicant further covenants and agrees that the applicant is liable for payment to the Agency of all charges referred to in sections III and IV above, as well as all other actual costs and expenses incurred by the Agency in handling the application and pursuing the proposed project notwithstanding the occurrence of any of the following:
- (a) The applicant's withdrawal, abandonment, cancellation or failure to pursue the Application;
  - (b) The inability of the Agency or the applicant to procure the services of one or more financial institutions to provide financing for the proposed project;
  - (c) The applicant's failure, for whatever reason, to undertake and/or successfully complete the proposed project; or
  - (d) The Agency's failure, for whatever reason, to issue tax-exempt revenue bonds in lieu of conventional financing.

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 when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

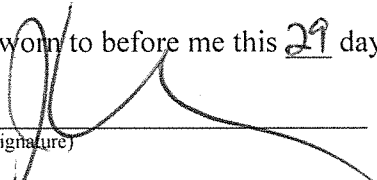
Diamond Properties  
(name of corporation or entity)

William Diamond  
(name of officer)

Managing member  
(title)

NOTARY

Sworn to before me this 29 day of July, 2016

  
(Signature)

**JOSH MILLER**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**No. 01M16188657**  
**Qualified in Nassau County**  
**Commission Expires June 9, 2016**

## PART E

As a condition to issuing industrial revenue bonds for the proposed project, the City of Peekskill Industrial Development Agency (the "Agency") is required by the Office of the New York State Comptroller ("OSC") to obtain the following supplementary information on an annual basis from the applicant during the term any such bonds are outstanding:

1. Outstanding balance at beginning and end of the year and principal payments made during the year.
2. Current interest rate (for adjustable rate bonds, the interest rate at year end).
3. Current year real estate tax exemptions for county, local (city, town, village, fire district) and school district taxes.
4. PILOT (payment in lieu of taxes) payments made each year to county, local and school district taxing authorities.

In addition to the above, in reporting to OSC during the first year such bonds are outstanding the Agency will need the following from the applicant:

1. An amortization schedule showing the planned principal reduction each year for the life of the bond issue (if applicable).
2. The amount exempted for:  
(a) sales tax, and  
(b) mortgage recording tax

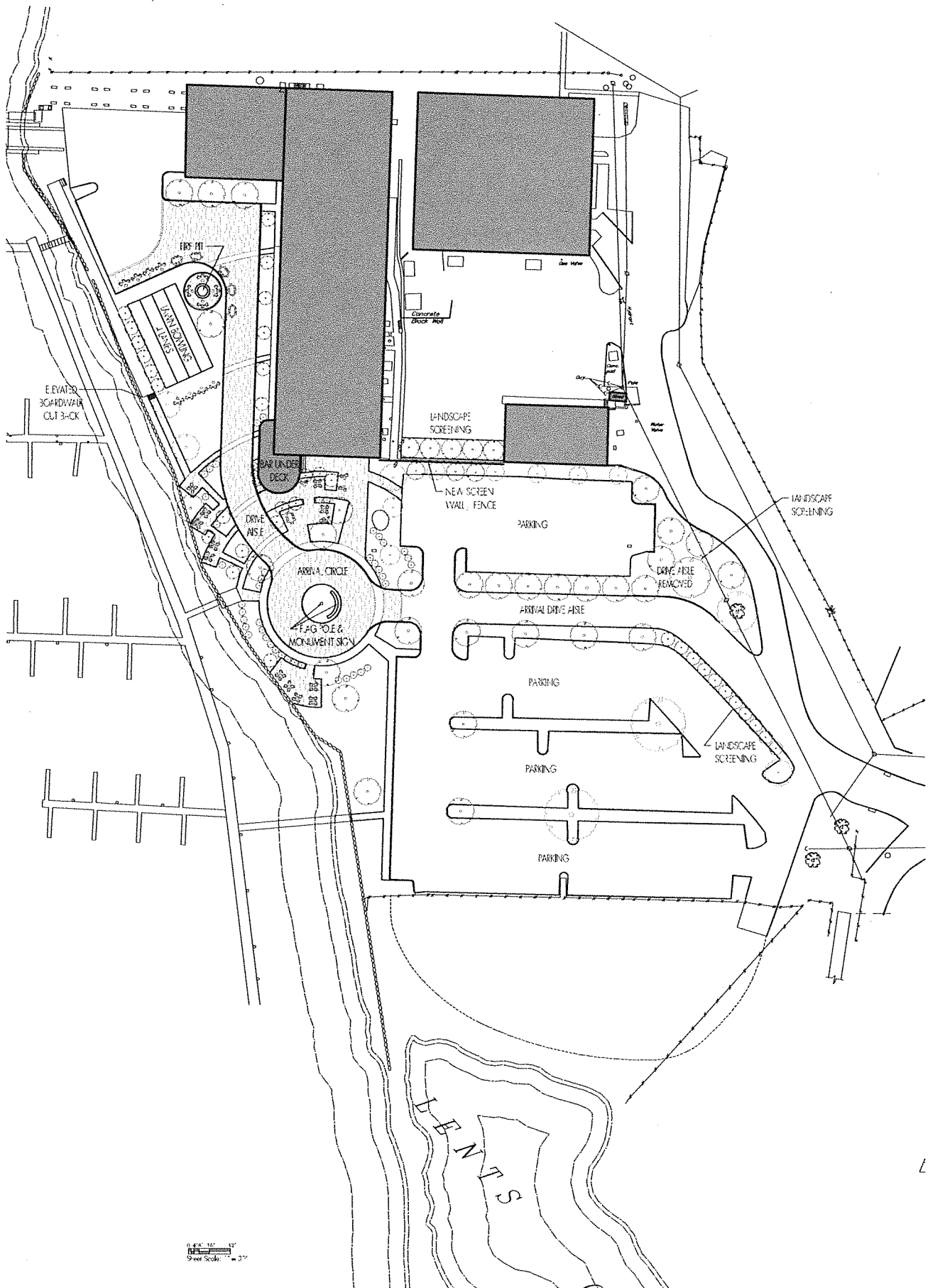
This information is required by January 31 of each succeeding year and should be submitted in writing to the Agency at its office at 840 Main Street, Peekskill, New York 10566.

The applicant, through its signing officer, certifies that it has reviewed, understands and will comply with the above, as required by OCS.

Diamond Properties  
(Company)

By: [Signature]  
(Name and Title)

Date: 7/29/14



Lands under lease to the County of Westchester  
(Resco Site)

Area Upland = 6.4  
Area in River = 5.4  
Total Area = 11.8;

