Linked Deposit Program

Application Package

1. **Lender Application and Linked Loan Designation**
   (to be completed by the Loan Officer)

2. **Borrower Statement and Confidentiality Request**
   (to be completed by the borrower)

Revised: October 2013

The Loan Officer should forward the completed Lender and Borrower documents by mail, email or fax to:

Empire State Development
Linked Deposit Program
Albany, NY 12245
Tel: (518) 292-5261 – Fax: (518) 292-5882
E-Mail: Linkeddeposit@esd.ny.gov
Website: www.esd.ny.gov or www.nyfirst.ny.gov

Empire State Development

Andrew M. Cuomo
Governor, State of New York

Empire State Development
Albany, NY 12245

Linked Deposit Program

LENDER APPLICATION

"Borrower Statement" and "Borrower Certification" and "NYS-45" form attached: YES ☐ NO ☐

(If not, this application cannot be processed by LDP)

Borrower "Confidentiality Request" submitted: YES ☐ NO ☐

FOR ESD USE ONLY

PROJECT ID#: _____

DATE RECEIVED: _____

LENDER DATA:

Lender's Name: _____

Lender's Address: _____ E-Mail: _____

City: _____ State: _____ Zip: _____ County: _____

Loan Officer: _____ Title: _____

Telephone: _____ Fax: _____ Address/telephone number change?____Y ____N

BORROWER DATA:

Name of Borrower: _____ Tax Identification # _____

Mailing Address:_____

City: _____ State: _____ Zip:_____ County: _____

Borrower's Contact: _____ Title: _____

Telephone: _____ Fax: _____

Name of Operating Company (if different than Borrower) _____ Tax Identification # _____

Address/Location of Operating Company (if different than address above)_____

Operating Company's Business Activity Code (NAICS):_____Has the company received LDP assistance in the past? _____

PROJECT DATA:

Description of Project: _____

Project Location/Address_____ Project County: _____

Highly Distressed Area: _____ ***EZ Certified**: _____ **Empowerment/Enterprise/Renewal Area:**_____

Defense Diversification Project: _____ ***MWBE-Certified**: _____ **Minority Owned**: _____ **Woman Owned**: _____

*Please attach a copy of Empire Zone and/or MWBE certification

Has equipment been purchased or ordered? _____ Has construction project been started? _____

TYPE OF BUSINESS: ____Manufacturer ____Agricultural ____Service ____Retail ____ Other (describe):_____

PRODUCT/SERVICE: _____

TOTAL PROJECT COST: $ _____

LENDER APPROVED LOAN: Amount: $_____Rate: _____% Term: _____

(must be at least 4 years)

LINKED DEPOSIT LOAN: Amount: $_____Rate: _____% Term: __48 MONTHS_____

(**Note:** The Loan Rate and the Deposit Interest Rate must be **FIXED** rates during the 4-year term of LDP participation. It is not necessary to provide the loan rate and CD rate at the time of application unless the loan is going to close shortly. Rates can be provided closer to the actual closing date of the loan when deposit documents will be issued by ESD. The linked deposit will not be made until the permanent loan is closed.)

ANY OTHER ASSISTANCE ON THIS PROJECT (ESD, NYSERDA, SBA, NYBDC, County, Other)?_____

EQUITY CONTRIBUTION: _____

PURPOSE OF LOAN:	**AMOUNT:**	**EXPLANATION:**
Working Capital	$_____	
Machinery & Equipment	$_____	
Real Estate	$_____	
Other	$_____	
	$_____	

Is any refinancing involved? _____ How much is the refinanced portion? $_____ Note: LDP cannot be used for refinancing purposes.

WILL THERE BE ANY INTERIM FINANCING ON THIS PROJECT BEFORE LDP PARTICIPATION? _____ YES _____ NO

IF YES, WHEN WILL THE INTERIM FINANCING BEGIN? _____

WHEN WILL THE PERMANENT LOAN CLOSE AND THE LDP DEPOSIT BE REQUIRED? _____

_____

LENDER CERTIFICATION:

The undersigned officer of the Lender hereby certifies, on behalf of the Lender, as follows:

1. The linked deposit loan interest rate indicated in this application for this loan was calculated based upon the current interest rate that would be charged for the loan in the absence of the program, and the linked deposit loan interest rate will be a fixed interest rate charged during the term of the linked deposit applicable to the loan, even if the rate is determined upon variable rate conditions.

2. In connection with the loan that is subject to this application, the Lender will not charge any discount, points, origination fees, handling fees, service charges, refinancing fees or penalties or charges other than those normally charged, and in such amounts normally charged, by the Lender for loans of the type being made without regard to the Linked Deposit Program.

3. The Lender agrees to give prompt notice to the authorized depositor and Empire State Development of any increase in the interest rate of the linked loan as a consequence of default on or renegotiation of the linked loan, or if the linked loan is charged off, prepayment of all or part of a linked loan is made, or if there is a sale or assignment of all or part of a linked loan.

4. The information contained in this Lender's Application is, to the best of the Lender's knowledge after due inquiry, true and correct. The undersigned is aware that any material misrepresentation purposefully made in this application constitutes an act of fraud.

IN WITNESS WHEREOF, the undersigned has executed this Lender's Certification as of _____, 20_____.

Signature: _____

Loan Officer's Name & Title: _____

Lending Institution: _____

Empire State

Development
Albany, NY 12245

Linked Deposit Program

LINKED LOAN DESIGNATION

Lender: _____

_____

Lender Address: _____

Borrower: _____

Borrower Address: _____

Principal Amount of Linked Loan: $_____

Loan Interest Rate (absent Linked Deposit): _____ % _____

Reduced Linked Loan Interest Rate: _____% _____

Current CD Interest Rate (Lender's published 4-year CD rate): _____% _____

Linked Deposit Interest Rate: _____% _____

Amount of Linked Deposit: $_____

Anticipated Date of Linked Deposit: _____

Linked Deposit Maturity Date: **48 months from the original deposit date.**

NOTE: *Linked Loan Interest Rate and Linked Deposit Interest Rate must be a fixed rate for the term of LDP participation. It is not necessary to provide the loan rate and CD rate at the time of application unless the loan is going to close shortly. Rates can be provided closer to the actual closing date of the loan. The linked deposit will not be made until the permanent loan is closed. In a low interest rate environment the actual reduction is limited to the CD rate, thus if the CD rate is less than the subsidy approved, the borrower may not receive a full 2% or 3% reduction.*

Pursuant to the Linked Deposit Agreement ("Agreement") between the undersigned lender ("Lender") and the Depositor, Lender hereby agrees that the linked deposit ("Linked Deposit") relating to the above-specified linked loan shall be governed by the items and conditions of the Agreement. Upon deposit of the Linked Deposit by the Depositor, this Linked Loan Designation shall become effective and shall be incorporated in and become a part of the Agreement.

Date: _____

LENDER: _____

SIGNATURE: _____

TITLE: _____

Completed Lender Application and Borrower Statement can be submitted by mail, fax or email.

Empire State

Development
Albany, NY 12245

Linked Deposit Program

BORROWER STATEMENT

TO BE COMPLETED BY THE BORROWER/OPERATING COMPANY:

The following information should be provided by the Borrower as part of the LDP Application process. It should be submitted to the Lender prior to the Lender's preparation of the LDP application.

All information contained herein will be treated as confidential as long as the appropriate box(es) have been checked on the "Confidentiality Request" form (attached).

Borrower /Operating Company Name: _____

Operating Company's principal place of business: _____

Type of Business Entity (Corporation, Partnership, Sole Proprietorship): _____

If Corporation, State of incorporation: _____ **Tax Identification #** _____

Lending Institution: _____

Has company received Linked Deposit assistance in past? _____**Yes** _____**No** **Lender:** _____

1. **DESCRIBE OPERATING COMPANY'S BUSINESS:** (Include type of business, purpose of business, products produced or services offered, customer base, market area)

2. **PURPOSE OF THIS LOAN:** (Be specific, i.e., to purchase equipment (itemize), purchase new building or construct addition to an existing building, expand business, develop a new product, buyout of an existing NYS-company, etc.)

3. DESCRIBE THIS PROJECT IN DETAIL: (Include an explanation of how the project will improve the business's competitiveness; indicate new services or products to be offered, provide projections for increased production capacity, and describe efficiency improvements to be achieved.)

_____

LAST COMPLETE YEAR-END SALES: $_____ for fiscal year end: 20_____

PROJECTED SALES (over the next 2 years): $_____ for FYE 20_____; and $_____ for FYE 20_____

EXPANSION PROJECT: Existing facility _____ sq. ft. New facility _____ sq. ft.

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4. This project is significant for improving the competitive position and profitability of the borrower because it (check one or more items from the following list):

1. _____ Reduces production and operation costs.
2. _____ Is necessary for the business to keep pace with industry competition (domestic and/or foreign).
3. _____ Allows entry into other markets and/or reduces dependency on department of defense or other military contracts.
4. _____ Allows for introduction of modern equipment and/or permits expansion.
5. _____ Provides financing to enable the business to carry out government procurement contract requirements.
6. _____ Reduces costs and/or improves the quality of information, reporting and control systems.
7. _____ Addresses improvements in the production process or operations to comply with environmental regulations that directly affect the productivity and competitiveness of the business.
8. _____ Allows for reorganization or improvement of work place systems (total quality management, employee participation, etc.).
9. _____ Allows for development and introduction of new products or services. **Identify new product/service** _____
10. _____ Allows for new market identification and development, including export to foreign markets. **Identify new market(s)** _____
11. _____ Other (explain): _____

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5. How would the Borrower's ability to undertake this project be impeded without the subsidized loan interest rate available through LDP (<u>i.e., what problems will be incurred if LDP assistance IS NOT provided)?</u>

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6. EMPLOYMENT INFORMATION:

a. Operating company's current # of permanent NYS-based employees/owners: _____full-time _____part-time

(To substantiate the number of employees, please attach a copy of company's most recent <u>NYS-45, Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return</u> form that has been filed with the New York State Department of Taxation and Finance.)

b. Number of permanent NYS-based employees directly related to this project:

Positions to be created: _____full-time _____part-time

Positions to be retained: _____full-time _____part-time

(ALL current positions cannot be considered retained <u>unless</u> the company has plans to close or move out of State if LDP assistance is not made available.)

When will the new positions be created (approximate time frame): _____

7. PRESS RELEASES. Empire State Development may wish to publish press releases on companies assisted by the Linked Deposit Program. Would you be willing to allow ESD to publish such a press release on your company? _____ Yes _____ No

8. BORROWER CERTIFICATION:

The undersigned officer of the Borrower hereby certifies, on behalf of the Borrower, as follows:

1. The operating company has not exceeded the legislated lifetime maximum of $2 million in Linked Deposit Program assistance.
2. Inability to obtain the reduced rate of loan interest provided by the Linked Deposit Program would impede the ability of the Borrower to undertake the project for which the loan will be used (relates to question No. 5 on previous page describing how the Borrower would be impeded from undertaking this project without LDP assistance).
3. The Borrower agrees to respond to any future requests for information or surveys requested by Empire State Development and that Borrower's failure to respond to such requests could result in ESD withdrawing this linked deposit.
4. The information contained in this application is, to the best of the Borrower's knowledge, true and correct. The Borrower is aware that any material misrepresentation purposefully made in this application or any use of linked loan proceeds for other than those uses specified in this application, constitutes an act of fraud.

IN WITNESS WHEREOF, the undersigned has executed this Borrower's Certification as of _____, 20_____.

Borrower's Name: _____

Signature: _____

Print Name & Title: _____

BORROWER'S CONFIDENTIALITY REQUEST

The Borrower understands that unless the borrower has checked a box below requesting confidentiality, information provided in this application will be available for public inspection and copying.

The Borrower hereby requests that this application and any information gained about its business by the State of New York in connection with monitoring the Linked Deposit Program be maintained in confidence pursuant to Section 87(2)(d) of the Public Officers Law because such application and/or information contains:

_____ Trade Secrets

_____ Proprietary Information

_____ Information that, if disclosed, would cause substantial injury to the competitive position of the Borrower.

The Borrower hereby certifies that the statements contained in this Confidentiality Request are true and correct.

Dated: _____

Borrower's Name: _____

Signature: _____

Title: _____

Upon completion of this "Borrower Statement," submit it to the Lender for further processing of the LDP application.

<u>REQUIRED ATTACHMENT:</u> The operating company must provide a copy of its most recent unemployment insurance/wage reporting tax form (NYS-45) that was filed with the NYS Department of Taxation & Finance or other NYS tax form (e.g., Schedule C or F). If employees are leased please provide a letter from the leasing company confirming the number of employees leased to the operating company. This application CANNOT be processed without this attachment.

ELIGIBLE FIRMS QUALIFIED FOR 2% INTEREST RATE SUBSIDY	ELIGIBLE PROJECTS
Manufacturing Firms o 500 or fewer full-time, NYS-based employees **Service Businesses** o independently owned and operated o 100 or fewer full-time, NYS-based employees o not dominant in its field o project that will result in the retention or creation of permanent private sector jobs within the state **Any Firm with 100 or fewer full-time, NYS-based employees undertaking a project designed to increase its export activities** **Not Eligible:** Businesses that provide a personal service (those that sell a service rendered personally by an individual for another individual (e.g., day cares, funeral homes) or professional services (e.g., health, legal, accounting, engineering, educational), or retail services (e.g., restaurants, entertainment, grocery stores, etc.) are not eligible UNLESS the business employs 100 or fewer in NYS and they fall in one of the qualifying 3% categories outlined below. Pre-Start-up businesses (those that have no sales and/or employment) and companies that are headquartered outside of NYS.	• Preparation of strategic plans for improving productivity and competitiveness; • Introduction of modern equipment and/or purchase or expansion of facilities as part of a modernization plan; • Introduction of advanced technologies to improve productivity and quality; • Improvements in production processes and operations; • Introduction of computerized information, reporting and control systems; • Reorganization or improvement of work place systems and the introduction of total quality and employee participation programs; • Development and introduction of new products; • Identification and development of new markets, including entry into foreign markets; • Buyouts of viable companies by employees or local owners residing in the State; • Provision of working capital for other modernization activities that will improve the competitiveness and productivity of a firm and result in the creation or retention of jobs.

ELIGIBLE FIRMS QUALIFIED FOR 3% INTEREST RATE SUBSIDY	ELIGIBLE PROJECTS
New York State Empire Zones o Any Certified Business with 100 or fewer full-time, NYS-based employees	• Projects that will create or retain full-time permanent jobs within the Empire Zone. (Non-certified Zone businesses or businesses with more than 100 employees may qualify for a 2% reduction as manufacturers.)
Highly Distressed Areas, FEZ/EC/RC o Businesses with 100 or fewer full-time, NYS-based employees	• Projects that will create or retain full-time permanent jobs within a Highly Distressed Area, Federal Empowerment Zone or Enterprise or Renewal Community. (Retail Businesses must show preservation of existing jobs or an increase in the **overall** number of retail jobs in the area.)
Certified Minority or Women Owned Businesses	• Financing to carry out a procurement contract with a State or Federal agency, authority, or other entity. Non-certified MWBE and other LDP-eligible projects not related to a procurement contract would be eligible for the 2% reduction.
Defense Industry Manufacturers o 25% of gross revenues derived from defense contracts/subcontracts	• Reduce dependence on Department of Defense and other military contracts/subcontracts. • Change or diversify production in order to take advantage of other (non-military) markets.
Agricultural Firms o As defined in Subdivision two of section 301 in Agriculture & Markets Law) with 500 or fewer full-time, NYS-based employees	• Projects that will expand or improve agricultural operations and create or retain full-time permanent jobs within New York State.
Technology or Innovation businesses o Businesses with 100 or fewer full-time, NYS-based employees	• Qualifying businesses engaged in biotechnologies, information & communication technologies, advanced materials and processing technologies, electronic and photonic devices and components, energy efficiency, renewable energy and environmental technologies, or small scale systems integration and packaging.