

**COUNCIL ACTION FORM**

**SUBJECT: ENDORSEMENT OF IOWA ECONOMIC DEVELOPMENT AUTHORITY APPLICATION FOR FINANCIAL ASSISTANCE FOR AMCOR RIGID PACKAGING WITH NO LOCAL MATCH REQUIREMENT**

**BACKGROUND:**

The Amcor Rigid Packaging Company (Amcor) has applied for economic development assistance from the Iowa Economic Development Authority (IEDA) to expand operations at its Ames plant. **The application does not include a request for a local match, but local sponsorship of the application is required to proceed.**

The project will include expansion of manufacturing equipment, including four new extrusion/injection lines and three new blow molding machines. Total expected investment for the project is \$3,086,270, including a \$172,591 assistance package from IEDA in the form of investment tax and other state tax credits. This project utilizes existing buildings at the Ames facility and is expected to create an additional 42 jobs.

IEDA will review the Amcor application for assistance on April, 17, 2020. **For the IEDA to continue consideration of this project, the City Council must adopt a resolution supporting the submittal of the Amcor application for IEDA assistance.**

**ALTERNATIVES:**

1. Adopt a resolution supporting the submittal of an application from Amcor Rigid Packaging requesting economic development assistance from IEDA with no local match.
2. Do not adopt a resolution of support for Amcor Rigid Packaging application.

**CTY MANAGER'S RECOMMENDED ACTION:**

Amcor Rigid Packaging is a company with a long-term presence in Ames that is making an investment of capital to expand employment without the cost of additional City infrastructure or local match requirements. In keeping with the Council's goal to promote economic development, this project will expand the number of quality jobs within our city.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, adopting a resolution supporting the submittal of an application from Amcor Rigid Packaging requesting economic development assistance from IEDA with no local match.



Debi V. Durham, Director  
Iowa Economic Development Authority

# Business Financial Assistance Application

Business Finance - Business Development Division  
Iowa Economic Development Authority  
200 East Grand Avenue  
Des Moines, Iowa 50309-1819  
[iowaeconomicdevelopment.com](http://iowaeconomicdevelopment.com)  
Telephone: 515.348.6153 Email: [businessfinance@iowaeda.com](mailto:businessfinance@iowaeda.com)

## Application Instructions

**To Complete Electronic Form:** Click on TEXT BOX to add text. Double click on YES/NO boxes and select "Checked".

1. All applicants must complete the Business Financial Assistance Application and attach only those additional sections for the components to which the applicant is applying.

<p><u>STATE of IOWA – Financial Assistance Program</u></p> <p>High Quality Jobs Program (HQJ)</p> <p><input checked="" type="checkbox"/> Tax Credits</p> <p><input type="checkbox"/> Direct Financial Assistance</p>
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2. Before filling out this application form, please read all applicable sections of the Iowa Code and Iowa Administrative Code (rules). <https://www.legis.iowa.gov/law/administrativeRules>
3. Only typed or computer-generated applications will be accepted and reviewed. Any material change to the format, questions, or wording of questions presented in this application will render the application invalid and it will not be accepted.
4. Complete the applicable sections of the application fully. If questions are left unanswered or required attachments are not submitted, an explanation must be included.
5. Use clear and concise language. Attachments should only be used when requested or as supporting documentation.
6. Any inaccurate information of a significant nature may disqualify the application from consideration.
7. The following must be submitted to Business Finance at IEDA to initiate the review process:
  - One **original**, signed application form and all required attachments
  - One **electronic** copy of the application form and all required attachments

**Facsimile copies will not be accepted.**

**Applications must be submitted to IEDA Business Finance before 4:00 p.m. on the fourth Monday of the month.**

**Applications will be reviewed by the IEDA Board on the third Friday of the following month.**

## Public Records Policies

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During the application process, the information submitted by you to IEDA is exempt from disclosure under the “industrial prospects” exemption found in Section 22.7(8). However, once you receive an award, the industrial prospects exemption no longer applies and *all documents submitted and generated during the application and negotiation process become public records* under Iowa’s Open Records Law ([Iowa Code, Chapter 22](#)), unless

- 1) The information belongs to one of the classes of records automatically treated as confidential; or
- 2) You have applied for and received written notice that your information will be treated as confidential.

### Automatically Confidential Records

IEDA automatically treats the following records as confidential and will withhold them from public inspection even without a request for confidential treatment:

- Tax Records and Tax Liability Information
- *Quarterly Iowa Employer’s Contribution and Payroll Report* prepared for the Iowa Workforce Development Department
- Payroll Registers
- Business Financial Statements and Projections (unless those statements are already publicly available elsewhere, e.g., 10-K filings)
- Personal Financial Statements

### Exemptions to the Open Records Law

If you wish to have additional information treated as confidential, you must fill out the confidential treatment request form. This form is available by request. Under the Open Records Law, IEDA may lawfully treat certain information as confidential if that information falls within an exemption to the Open Records Law. The following exemptions represent records which may lawfully be treated as confidential under the Open Records law and which are most often applicable to the information submitted to IEDA:

- Release of information would give an unfair advantage to competitors – Iowa Code Sec. 15.118
- Trade secrets – See Iowa Code section 22.7(3), see also Iowa Code Ch. 550
- Information on an industrial prospect with which the IEDA is currently negotiating – See Iowa Code section 22.7(8)
- Communications not required by law, rule or regulation made to IEDA by persons outside the government to the extent that IEDA could reasonably believe that those persons would be discouraged from making them to IEDA if they were made available for general public examination – Iowa Code section 22.7(18)

### Non-Confidential Information

Information that is submitted to IEDA as part of the application process or that is contained in a contract for program benefits is generally considered material to the eligibility requirements of the program or to the amount of incentives or assistance to be provided. Such information is generally not given confidential treatment. Such information includes but is not limited to, the number and type of jobs incented, the wage levels for the incented jobs, your company’s employee benefit information, and your project budget.

**Additional Information Available.** Copies of [Iowa’s Open Record law](#) and IEDA’s [administrative rules](#) relating to public records are available from the IEDA upon request.

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**SECTION A**

**Applicant Information**

**Date Application Submitted: 3-25-20**

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1. **Name of Business:** Amcor Rigid Packaging
2. **Entity Name(s) for contracting** (please include all that are involved in proposed project):
3. **Address:** 520 Bell Ave.
4. **City, State & Zip Code:** Ames, IA 50010
5. **Contact Person:** Blake Good                      **Title:** Human Resource Manager
6. **Phone:** 515-239-9649    **Fax:** 515-239-9603    **Email:** blake.good@amcor.com
7. **FEIN:** 364126680
8. **Please indicate your tax period end date: 6-30-20**
9. **NAICS Code for primary business operations:** 326199
10. **US DOT Number:** N/A
  
11. **Does the Business file a consolidated tax return under a different tax ID number?**  
 Yes (If yes, please also provide that tax ID number)                       No
- a. Is the contact person listed above authorized to obligate the Business?**  
 Yes                       No If no, please provide the name and title of a company officer authorized to obligate the Business:
  
12. **If the application was prepared by someone other than the contact person listed above, please complete the following:**  
Name of Business:  
Address:  
City, State & Zip Code:  
Contact Person:                      Title:  
Phone:    Fax:    Email:

**Sponsor Information** (A sponsor organization is a city or county)

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13. **Sponsor Organization:** City of Ames
14. **Official Contact (e.g. Mayor, Chairperson, etc.):** John Haila **Title:** Mayor
15. **Address:** 515 Clark
16. **City, State & Zip Code:** Ames, Iowa 50010
17. **Phone:** 515.239.5101    **Email:** jhaila@city.ames.ia.us
18. **If IEDA needs to contact the sponsor organization with questions, should we contact the person listed above?**  Yes                       No, please contact the following person:  
Name: Duane Pitcher    Title: Finance Director  
Address: 515 Clark  
City, State & Zip Code: Ames, Iowa 50010  
Phone: 515.239.5114    Email: dpitcher@city.ames.ia.us

If necessary, please list information on additional sponsors in an attachment.

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**SECTION B**

**Business Information**

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1. **Provide a brief description and history of the Business. Include information about the Business' products or services and its markets and/or customers.**

**Amcor Rigid Plastics** is among the world's largest manufacturers of **rigid plastic packaging** for the food, beverage, spirits, personal/home car and healthcare industries with 59 facilities in 13 countries. We design, produce and supply **rigid plastic packaging** for consumer products.

Our history dates to the 1860s when Samuel Ramsden, a young stone mason from Yorkshire, arrived in Australia with his bride to seek his fortune. He established Victoria's first paper mill, on the banks of the Yarra River, Melbourne. <https://www.amcor.com/about/overview/history>

2. **Business Structure:**

Cooperative                       Corporation                       Limited Liability Company  
 Partnership                       S-Corporation                       Sole Proprietorship

3. State of Incorporation: Michigan

4. Identify the Business' owners and percent ownership: Public AMCR

5. Does a woman, minority, or person with a disability own the Business?                       Yes                       No

6. List the Business' Iowa locations and the most current number of employees at each location. Ames, IA-97 Des Moines, IA-156 Centerville, IA 122

7. What is the Business' worldwide employment? (Please include employees of parent company, subsidiaries, and other affiliated entities in this figure.) 35,000

**Project Information**

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8. **Project Street Address:** 520 Bell Ave.

**Project City & Zip Code:** Ames, IA 50010

**Project County:** United States

9. **Type of Business Project:**

Startup     Expansion of Iowa Company                       New Location in Iowa

10. **Does the project site qualify as a "Brownfield" or "Grayfield" site?**                       Yes                       No

If yes, please explain and document as Attachment A6.

11. **Describe the proposed project for which assistance is being sought. (Include project timeline with dates, facility size, infrastructure improvements, proposed products/services, any new markets, etc.)**

Addition of 6 production lines to our current operation.

- 12.

<b>Project Timeline</b> <i>(add additional rows as needed)</i>	<b>Beginning Activity Date</b>	<b>Activity Completion Date</b>
4 new extrusion/injection lines will be installed	4-27-20	6-29-20
2 new Blow molding machines installed	5-10-20	7-20-20
1 Royal Wheel blow molding machine	5-25-20	8-3-20

13. **Has any part of the project started\*?**                       Yes                       No

If yes, please explain.

*\* For IEDA's purposes, starting the project includes: the start of construction or rehabilitation, the purchase of a building, the execution of a lease, or the installation of equipment to be used in the project.*

14. **Identify the Business' competitors.** If any of these competitors have Iowa locations, please explain the nature of the competition (e.g. competitive business segment, estimated market share, etc.) and explain what impact the proposed project may have on the Iowa competitor. No known business competitors in Iowa.

15. **Will any of the current Iowa employees lose their jobs if this project does not proceed?**

Yes                       No

If yes, please explain why and identify those jobs as "retained jobs" in the Project Jobs Section E.

16. **Is the Business actively considering locations outside of Iowa?**  Yes  No  
 If yes, where and what assistance is being offered?

17. **Please identify the company project management for the project location and experience.** Tim Schmidt, Plant Manager, 25 years. Erik Roys, Maintenance Manager, 20 years. Jeff Thede, Sr. Plant Engineer, 20 years. Blake Good, Human Resource Manager, 20 years.

**SECTION C**

**Applicant's Project Budget**

1. **Does the Business plan to lease the facility?**  Yes  No  
 If yes, please provide the Annual Base Rent Payment (lease payment minus property taxes, insurance, and operating/maintenance expenses) for three years in the budget below, and only major renovation costs your company expects to incur. Administrative rules require that the lease be in place for a minimum of five years.

2. Please complete the budget below. Include only costs the company plans to incur directly:

Use of Funds	Cost	Source A	Source B	Source C	Source D	Source E	Source F
Base Rent (3 years)							
Tenant Improvements	1 638 000			1 638 000			
Land Acquisition							
Site Preparation							
Building Acquisition							
Building Construction							
Building Remodeling							
Mfg. Machinery & Equip.	1 448 270			1 448 270			
Other Machinery & Equip.							
Racking, Shelving, etc. <sup>1</sup>							
Computer Hardware							
Computer Software							
Furniture & Fixtures							
Working Capital							
Research & Development							
Other (Training)							
<b>TOTAL</b>	<b>\$3086270</b>	<b>\$</b>	<b>\$</b>	<b>\$3086270</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

<sup>1</sup> Racking, shelving and conveyor equipment used in distribution center projects only

3. Please complete the chart below with proposed financing for the project (tax benefits should be reflected as indirect financing under #5 below):

PROPOSED FINANCING					
Source of Funds	Amount	Form of Funds	Rate and Term	Commitment Status	Conditions/Additional Information
Add additional lines as needed		(Loan, Grant, In-Kind, Donation, etc.)			Include when funds will be disbursed; If loan, whether payments are a level term, balloon, etc
Source A: IEDA (see #4 below)	\$				
Source B: Local Government	\$				
Source C: Business	\$ 3086270	Internal reserves			
Source D: Other Source	\$				
Source E: Other Source	\$				
Source F: Other Source	\$				
<b>TOTAL</b>	<b>\$3086270</b>				

4. **Direct financial assistance (loans/forgivable loans) must be secured with acceptable collateral. Please select the type of collateral your company will pledge to secure the IEDA financing, and document its value in Attachment A5. \***

No collateral, funding disbursed at the end of the 5-year contract	<input type="checkbox"/>	Explain:
Irrevocable letter of credit	<input type="checkbox"/>	
Dedicated certificate of deposit (CD)	<input type="checkbox"/>	

\* The IEDA Board has the final discretion on what collateral will be accepted.

5. Please complete the chart below with tax credits and other indirect financing expected for the project:

TAX CREDITS AND INDIRECT FINANCING		
Source of Funds	Amount	Description
Investment Tax Credit	123,451	
Sales, Service & Use Tax Refund	49,140	
Research Activities Credit (3%/10%)		
Local Property Tax Exemption		
Tax Increment Financing		
260E Job Training Funds		
In-kind Contribution		
Other		
<b>TOTAL</b>	<b>\$172,591</b>	

6. **There are three justifiable reasons for providing assistance. Check the box next to the reason why assistance is needed to complete this project.**

**Financing Gap** - A gap exists between the financing required and the financing on-hand and the provision of tax incentives or assistance is necessary to fill the gap.

**Rate of Return Gap** –The likely returns of the project are inadequate to motivate a company decision maker to proceed with the project even if sufficient debt or equity can be raised to finance the project, and the project’s risks outweigh its rewards, making the provision of tax incentives or assistance necessary to reduce the project’s risks.

**Location Disadvantage (Incentive)** –The business is deciding between a site in Iowa (“Iowa site”) and a site in another state (“out-of-state site”) for its project and the cost of completing the project at the out-of-state site is demonstrably lower, making tax incentives or assistance necessary to equalize the cost differential between the two sites. Note: The authority will attempt to quantify the cost differential between the sites.

7. **Please provide a brief explanation of the need for assistance.**

While we have the internal funding to support this expansion we seek incentives from the State of Iowa in the form of investment tax credits as well as sales, service and use tax refunds to minimize the project risks associated with moving forward with this project as this time.

## SECTION D

### Employee Benefits

**There are three options to meeting the sufficient benefit requirement. These options are detailed in the chart below. Please complete questions 1-3. If your company meets Option 1 or 2, no additional information is required. If you would like to utilize Option 3, please also complete questions 4-6.**

	Option 1	Option 2	Option 3
	70% single Coverage	60% Family coverage	Monetary Equivalent
Total Number of Employees in US	Pay 70% of premium costs for a standard medical plan, single coverage.	Pay 60% of premium costs for a standard medical plan, family coverage.	Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits.
201+	\$1700 maximum deductible	\$3750 maximum deductible	<i>Benefits Counted Toward Monetary Equivalent: Medical coverage, Dental coverage, Vision insurance, Life insurance, Pension, 401(k) (company's Average</i>
50-200	\$2500 maximum deductible	\$5250 maximum deductible	
0-49	\$3000 maximum deductible	\$6000 Maximum deductible	
* In addition, the IEDA will assess the affordability of plans that are qualified under the deductible and premium percentage paid by the employer criteria. Plans that are not offered at a reasonable cost to employees will be deemed not qualified			

and the business is not eligible for benefits under the High Quality Jobs Program.

contribution, Short-/long-term disability insurance, Child care services, Other nonwage compensation

1. How many full-time, permanent employees does your company currently employ within the U.S.? 97
2. What is the total premium cost for a standard medical plan for **single employee coverage**? \$597.89
  - a. What portion of this cost is paid by the business? \$418.10
  - b. What is the deductible associated with this plan? \$750
3. What is the total premium cost for a standard medical plan for **family coverage**? \$1793.66
  - a. What portion of this cost is paid by the business? \$1306.94
  - b. What is the deductible associated with this plan? \$1500

No additional information required, in this section, if your company meets the requirement for Option 1 or Option 2

4. Does your company provide additional benefits to full time employees?  Yes  No  
If yes, please provide the annual amount **offered by the business, per employee** in the chart below:

Benefit	Annual amount paid by the business (per employee):
Dental Insurance – Single plan	\$396.60
Dental Insurance – Family plan	\$1189.80
Pension (Use 3-year average calculated below)	\$0
Retirement Plan - i.e. 401(k) (Use 3-year average calculated below)	\$2974
Profit Sharing Plan (Use 3-year average calculated below)	\$1740
Childcare Services	\$0
Life Insurance coverage	\$131
Disability Insurance coverage	\$283
Health Savings Account (HSA) contribution	\$1500
<b>TOTAL</b>	<b>\$8,214.40</b>

5. Does the Business offer a pension plan, 401(k) plan, and/or retirement-plan?  Yes  No  
If yes, please indicate the amount contributed on a per employee basis by the Business to the plan for the last three years. For 401(k) plans, please provide information on the company match and indicate the average annual match per employee.

Year Ending	Average Actual Match per Employee (\$)
	\$2,899
	\$2,911
	\$3,122
<b>Three-year Average:</b>	<b>\$2,974</b>

6. Does the Business offer a profit-sharing plan?  Yes  No  
If yes, please indicate total amount paid out each year for the past three years and then, determine the average annual bonus or contribution per employee for that three year period.

Year Ending	Average Actual Share per Employee (\$)
2017	\$1750
2018	\$1688
2019	\$1780
<b>Three-year Average:</b>	<b>\$1740</b>

Notes:

1. A qualified plan must be offered to all full-time permanent employees.
2. If you have multiple health insurance plans, please provide information on each plan.





**SECTION F**

**Business Taxes**

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IEDA is required to calculate the return on state and local government investments in this project. Data from other parts of the application will be combined with the estimates requested below to calculate the required return on investment information. Please read the following directions carefully:

- IEDA is asking for a best estimate on the increase in taxes associated with this project.
- Estimates should only include the expected increase in tax liability resulting from this project.
- At minimum, IEDA needs estimates for the first three years of the project.
- Show data as if no tax abatements or tax credits awarded for this project were taken.
- For partnership forms of ownership (e.g. limited partnerships, s-corporations, LLC, etc.), please estimate the partners' increase in Iowa tax liability due to this project.
- Sales and use taxes refer to the taxes paid on materials, etc. that the Business purchases, not taxes you collect from sales to your customers.
- Applicants will not be held to these numbers with respect to any award from or contract with IEDA.
- This page of the application will automatically be treated as **confidential**.

**Increase in Tax Collections Associated with this Project**

<b>State Business Taxes</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
State Corporate Income Tax*					
State Business Sales and Use Tax					

\* Insurance Companies: Provide State Insurance Premium Tax

<b>Local Business Taxes</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>
Local Real Estate Property Tax	n/a	n/a	n/a	n/a	n/a
Local Option Sales Tax	n/a	n/a	n/a	n/a	n/a

**CONFIDENTIAL**

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## SECTION G

### **Attachments**

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Please attach the following documents:

**A1 Project Plan**

Please provide an executive summary for your project. This information should include, at a minimum, expanded information about the company's products and services and any other project related information that has not already been described in the application for financial assistance.

*Please note, a traditional business plan, including an executive summary, market analysis, organization and management structure, marketing and sales management, service and product line narrative, financial projections, feasibility study and patent status, as well as any other relevant information, may be requested by the Iowa Economic Development Authority to evaluate the feasibility of this project.*

**A2 Payroll Information (Confidential)**

- Copies of the Business' **Quarterly Iowa Employer's Contribution and Payroll Report** for the past year. This report should include the monthly employment totals.
- **A copy of the most recent payroll report for one pay period.** The copy of the most recent payroll report for one pay period must be in Excel format and include the following information:
  - Company name, date of payroll and source of payroll information
  - Employee name and/or employee identification number
  - Current hourly wage - do not include bonuses or other benefit values
  - Indicate if the employee is full time (40 hours per week, 52 weeks per year) or part time.
  - A sample Excel spreadsheet can be provided by IEDA staff

**A3 Affidavit** that states the Business has not, within the last five years, violated state or federal statutes, rules, and regulations, including environmental, worker safety regulations and antitrust laws, or, if such violations have occurred, that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment. A sample affidavit can be provided by IEDA staff.

**A4 Financial Information (Confidential, unless already publicly available) (Existing Businesses Only)**

- Profit and loss statements and balance sheets for past three year-ends;
- Current YTD profit and loss statement and balance sheet;
- Schedule of aged accounts receivable;
- Schedule of aged accounts payable; and
- Schedule of other debts.

**A5 Collateral documentation** (If requesting direct financial assistance only)

**A6 Brownfield or Grayfield site documentation** (if applicable)

**SECTION H**

**Certification & Release of Information**

1. Are there any judgments or court actions completed or pending against the applicant entity, or any current or prospective officer, principal, director, or owner?  Yes  No
2. Has any current or prospective officer, principal, director, or owner been accused or convicted of any wrongdoing or crime, other than a simple misdemeanor?  Yes  No
3. Have there been any current or past bankruptcies on the part of the applicant entity (or predecessor entities), or on the part of any current (or prospective) officer, principal, owner or in any business dealings of current (or prospective) officers, principals, or owners of the applicant entity?  Yes  No
4. In the last five years have there been, or are there currently any investigations of potential violations of public health, safety (including workplace safety) or environmental laws by the applicant entity, or any current or prospective officer, principal, director, or owner?  Yes  No
5. In the last five years have there been, or are there currently any violations of antitrust laws by the applicant entity, or any current or prospective officer, principal, director, or owner?  Yes  No
6. *If yes to any of the above, please provide additional explanation:*

I hereby give permission to the Iowa Economic Development Authority (IEDA) to research the Business' history, make credit checks, contact the Business' financial institutions, insurance carriers, and perform other related activities necessary for reasonable evaluation of this application. I also hereby authorize the Iowa Department of Revenue to provide to IEDA state tax information pertinent to the Business' state income tax, sales and use tax, and state tax credits claimed.

I understand that all information submitted to IEDA related to this application is subject to Iowa's Open Record Law (Iowa Code, Chapter 22), unless specifically marked as confidential section.

I understand that IEDA reserves the right to negotiate the financial assistance.

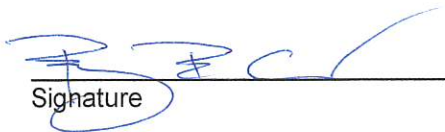
I understand this application is subject to final approval by IEDA and the Project may not be initiated until final approval is secured. Furthermore, I am aware that funds will not be disbursed until a contract has been executed and the appropriate terms have been met.

I understand that upon execution of the contract and prior to the issuance of a tax credit number or the disbursement of Award Funds, a recipient shall pay IEDA a one-time compliance cost fee in the amount of \$500. In addition, if tax benefits are greater than \$100,000, the Recipient shall remit to IEDA a compliance cost fee 0.5% of the value of the Tax Incentives claimed pursuant to the contract. The fee will be due and payable upon filing the Recipient's annual tax return for each tax year in which tax credits are claimed under the contract.

I hereby certify that all representations, warranties, or statements made or furnished to IEDA in connection with this application are true and correct in all material respect. I understand that it is a criminal violation under Iowa law to engage in deception and knowingly make, or cause to be made, directly or indirectly, a false statement in writing for the purpose of procuring economic development assistance from a state agency or subdivision.

**For the Business:**

**For the Sponsor(s):**

 \_\_\_\_\_  
 Signature Date 3-30-20

\_\_\_\_\_  
 Signature Date

Benjamin Blake Good, Human Resource \_\_\_\_\_  
 Name and Title (typed or printed) Manager Name and Title (typed or printed)

**IEDA will not provide assistance in situations where it is determined that any representation, warranty, or statement made in connection with this application is incorrect, false, misleading or erroneous in any material respect. If assistance has already been provided prior to discovery of the incorrect, false, or misleading representation, IEDA may initiate legal action to recover incentives and assistance awarded to the Business.**