



**Campus Plan for Designation of Tax-Free NY Areas**  
**Submitted by D'Youville College**



**D'Youville**  
COLLEGE



320 Porter Avenue  
Buffalo, New York 14201  
[www.dyc.edu](http://www.dyc.edu)



## START-UP NY Campus Plan for Designation of Tax-Free Area(s) Memorandum

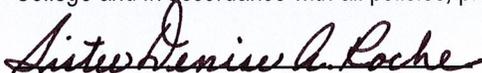
Re: **D'Youville College** Campus Plan for Designation of Tax-Free Area(s) ("Campus Plan")

Date: **September 15, 2014**

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**For campus Office of the President:**

The arrangement documented in the attached Campus Plan is aligned to the academic mission of D'Youville College and in accordance with all policies, procedures, and guidelines.

  
Signature of D'Youville College President

Sister Denise A. Roche, GNSH, PhD  
Print Name

To: Mr. Kenneth Adams, NYS Commissioner of Economic Development  
From: President Sister Denise A. Roche, GHSH, PhD of D'Youville College  
Re: D'Youville College's Campus Plan for Designation of Tax-Free Area(s)  
Date: September 15, 2014

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I, President Roche of D'Youville College hereby certify the following:

- a.) we comply with Conflict of Interest guidelines, and attached copies of the polices and/or guidelines herewith; and
- b.) we are aware of the non-governmental use limitations associated with state issued tax exempt bonds and if our proposed Tax-Free NY Area was financed with tax exempt bonds, we will: 1.) make potential businesses aware of these limitations when marketing property; and 2.) take appropriate steps to ensure that non-governmental use of property funded with tax-exempt bonds will not jeopardize the tax exempt status of state issued bonds; and
- c.) the information contained in the enclosed application is accurate and complete.

  
PRESIDENT'S SIGNATURE

September 15, 2014  
DATE

Attachments/Enclosures:

- 1.) Tax-Free Area Plan with Polygon shapefile of campus area (if available) and/or point data of vacant space (if available), **OR** AutoCAD rendering of proposed tax-free area on a scaled campus map and/or campus map shaded to indicate building containing proposed tax-free space
- 2.) Excel spreadsheet of property to be designated
- 3.) Applicable conflict of interest policies
- 4.) Where applicable, comments received from interested parties



**START-UP NY CAMPUS PLAN FOR DESIGNATION OF TAX-FREE AREA(S)**

Campus Name: D'Youville College  
 Campus Contact Name: William J. Mariani, Ed.D.  
 Campus Contact Title: Vice President of Administrative Services and External Relations  
 Campus Contact E-mail: [marianiw@dyc.edu](mailto:marianiw@dyc.edu)  
 Campus Contact Phone: 716-829-8194

**THE TAX-FREE NY AREA PLAN SHALL BE DEVELOPED BY THE CAMPUS TEAM AND PROVIDE THE FOLLOWING REQUIRED INFORMATION:**

- 1) Specification or identification of space or land proposed for designation as a Tax-Free NY Area identifying the following:
  - i. Provide the name and address of the college/university seeking approval as a Sponsor, the address of the space or land proposed for designation as a Tax-Free NY Area, and a written description of the physical characteristics of the area for designation.

Name: <b>D'Youville College</b>
Campus Address:  320 Porter Avenue Buffalo, New York 14201
Address(es) of Proposed Tax-Free NY Area(s):  D'Youville Academic Center (DAC) 555 Prospect Avenue* Buffalo, New York 14201  *Per the City of Buffalo geographic information system (GIS) the D'Youville Campus property address is listed as 555 Prospect Avenue, which includes the DAC Building.
Description of Physical Characteristics of Proposed Tax-Free NY Area(s):  The D'Youville Academic Center (DAC) is the college's newest building, built in 2010. The \$20 million, six-story, 93,000-square-foot structure, located at the corner of Connecticut Street and Fargo Avenue, is designed to meet the academic needs of students, faculty and emerging programs for the 21st century. The DAC features state-of-the-art lecture halls, classrooms and technology centers. Located in the DAC Building are the following: <ul style="list-style-type: none"> <li>• Admissions           <ul style="list-style-type: none"> <li>-Undergraduate</li> <li>-Graduate</li> <li>-International</li> </ul> </li> <li>• Offices</li> </ul>

- International Student Office
- Study Abroad
- School of Pharmacy
  - Classrooms & Lecture Halls
  - Bauer Cellular & Molecular Pharmacology & Pharmacogenomics Research Lab
    - Compounding Laboratories
    - Drug Research and Development Laboratory
    - Pharmacy Student Computer Lab
    - Practice Laboratory
- Technology Center (Computer Lab)
- Cafe (Second Floor Kiosk)
- Campus Security Office
- Shipping/Receiving Office
- Campus Mailroom

The D'Youville College Campus Plan proposes the sixth (6<sup>th</sup>) floor of the DAC Building for tax-free designation through the START-UP NY Program. The sixth floor is currently vacant with 11,150 square feet available, and provides a breath-taking panoramic view of the City of Buffalo, the waterfront, and Canada.

- ii. START-UP NY Excel spreadsheet listing properties sought to be designated as tax-free NY areas under the D'Youville College Campus Plan at this time. Excel file attached.
  - iii. Provide also a representation of each proposed site drawn on a scaled campus map with boundaries drawn clearly. Two versions should be created; one including an imbedded layer from Google Earth or other aerial photograph of the property. The second version should exclude the photographic imagery. Each parcel under consideration must have a unique alpha numeric identifier, clearly labeled on each plan which ties to identifiers in the Excel spreadsheet. If digital files containing Polygon shapefile that delineates area for designation are available, provide these as well. Attach these materials to this plan.
  - iv. Provide a campus map with each proposed building shaded. Label each building with the official building number with the building name. For each building shaded and labeled, include floor plans of all areas under consideration. If digital files containing Point shapefiles that provide locations of area for designation are available, provide these as well. Attach these materials to this plan.
- 2) The total square footage of the space and/or acreage of land proposed for designation as a Tax-Free NY Area is:

**11,150 square feet**

- 3) Provide a description of the type of business or businesses that may locate in the area identified in #1.

#### **Targeted Businesses**

When you're here, you're almost there. Preparing students for their future career is the main focus at D'Youville College. The college's supportive learning environment is designed for students who want an education that translates into a successful career.

Founded in 1908, D'Youville College is an independent, coeducational institution located in Buffalo, New York, offering undergraduate, graduate and professional degree programs. D'Youville's more than 3,000 students represent 26 states and 25 countries. They pursue their academic interests through more than 45 academic majors, including allied health professions (chiropractic, dietetics, health services administration, nursing, occupational therapy, pharmacy, physician assistant, and physical therapy), education, business, liberal arts, and math & natural sciences. The college's beautiful campus offers plenty of green space and a dynamic urban setting, located steps from downtown Buffalo, the Peace Bridge to Canada, and the trendy Elmwood Village and Allentown neighborhoods.

D'Youville College will seek to establish partnerships through the START-UP NY Program with entrepreneurial, innovative, high-tech, high-demand and high-growth potential, job generating businesses that align with and further the academic mission and vision of D'Youville College. The College will seek to target and attract businesses which include: health, life, and pharmaceutical sciences and services (administration, analytics, manufacturing, research and development, and technology); information services and technology (IS/IT); international business and economic development; manufacturing (pharmaceutical, medical devices and therapeutics); education and professional development services (assessment, curriculum and instruction, research, testing and training); and research and development (R&D).

- 4) Provide a description of the campus academic mission, and explain how the businesses identified in #3 will align or further the academic mission of the university or college.

#### **Academic Mission & Vision**

D'Youville College is an independent institution of higher education that offers baccalaureate and graduate programs to students of all faiths, cultures and backgrounds.

D'Youville College honors its Catholic heritage and the spirit of St. Marguerite d'Youville by providing academic, social, spiritual, and professional development in programs that emphasize leadership and service. D'Youville teaches students to contribute to the world community by leading compassionate, productive and responsible lives.

D'Youville College educates students for life through a combination of first-rate academic programs, experiential learning and community service opportunities. All of D'Youville's bachelor's degree programs emphasize a broad-based liberal arts education as well as a professional orientation. Our graduate and doctoral programs include a strong research component and field or clinical placements. D'Youville graduates are well-prepared to become educated citizens of the world and contribute in meaningful ways to their workplace and their communities.

Building on its mission and heritage, D'Youville in its second century will become a university that is an important intellectual, social and economic resource. D'Youville will be a model community of learning, actively engaged with the wider world and influencing it through education, research and service. With exceptional programs and results, an attractive Buffalo campus, and satellite locations, D'Youville's inspiring faculty and service orientation will make it a first choice for students both regionally and internationally.

### **Business Alignment with Academic Mission & Vision**

Businesses selected for participation in the D'Youville College START-UP NY Program will have strong linkages with the academic mission and vision of D'Youville College, and will further knowledge creation and diffusion, and formation of values and principles. The college will consider the following factors or a combination thereof in its consideration to partner with businesses through the START-UP NY Program:

- Comprehensive Education- "Educating Students for Life": Contribute to the advancement of academic excellence and student learning outcomes in educating undergraduate, graduate and professional degree seeking students for life, especially in the areas of the allied health professions, business and education.
- Enhance Programs and Research Profile: Provide institutional faculty, researchers and students with business collaboration and exchange opportunities to enhance and develop academic programs and grow and expand the research enterprise. Use of shared facilities and resource to further the research endeavors of the institution's Centers, including but not necessarily limited to: the Center for Health Behavior Research, the Center for Research on Physical Activity, Sport & Health, the Chiropractic Health Center, the Drug Information Center, and the Interprofessional Clinical Advancement Center.
- Experiential Learning and Training Opportunities: Develop linkages between the institution and partnering business to provide undergraduate and graduate students with field placement, internship, mentoring and training opportunities.
- Leadership and Service: Provide students with avenues to develop as emerging leaders through service learning opportunities in cooperation with the institution, partnering business and the local community.
- Regional Economic Development: Enhance and ensure a diverse, vibrant and thriving local and regional economy by providing employment opportunities for D'Youville College students, staff, faculty and alumni.

- 5) Provide a description of how participation by these types of businesses in the START-UP NY Program will generate positive community and economic benefits, including but not limited to:

### **Business Generation of Positive Community and Economic Benefits**

D'Youville College's designated properties, upon approval, will be occupied by business partnerships which will generate positive community and economic benefits. The criteria by which the college may use to establish how the participating business would generate positive community and economic benefits may include, but not be limited to, the following:

- Experiential learning opportunities (field placements, internships, mentoring, vocational training and professional development) for undergraduate and graduate students;
- Employment opportunities for graduates, alumni and the local community;

- Develop a culture of and opportunities for entrepreneurialism and innovation;
- Enhance environmental stewardship and sustainability;
- Develop positive partnerships with existing businesses, especially small locally owned businesses that are not in competition with START-UP NY businesses;
- Boost, expand and diversify the local economy; and
- Build a community driven to create economic and social growth in WNY.

- 6) Provide a description of the process the Sponsor (campus) will follow to select participating businesses. The description should identify the membership of any group or committee that may make recommendations, the final decision-maker, and the criteria that will be used to make decisions. This group or committee must include representation from faculty governance.

### **Selection Process for Business Participation**

D'Youville College has established the following system to provide businesses interested in partnering with the college in the START-UP NY Program with an accessible, collaborative and transparent application and selection process.

#### ***Step #1: Submit the START-UP NY Business Application to D'Youville College***

Businesses interested in participation in the START-UP NY Program with D'Youville College will first complete the online START-UP NY Business Application, which can be found at the D'Youville START-UP NY website (to be established). The following information is required: contact information, business information, employment, investment, business competitors and agreement. All Applicants must fall under one of the following State designated business categories: New Business, Existing NYS Business Expanding, Previous NYS Business relocating to NYS or NYS Incubator Graduate.

*The goal of Step #1 will be receipt of a completed START-UP NY Business Application.*

#### ***Step #2: Participate in an Eligibility Assessment Meeting***

Once D'Youville College has received the completed START-UP NY Business Application, an eligibility assessment meeting will be convened at the college. The Applicant will meet with the D'Youville START-UP NY Campus Team to review:

- The Applicant's business
- The business's alignment with the college's mission and vision
- The D'Youville and State selection process,
- The State's requirement for a competitive analysis,
- The potential job creation opportunities associated with the Applicant business

The Campus Team consists of representatives from the D'Youville College Office of Administrative Services and External Relations, the Office of Financial Affairs, and the Office of Institutional Advancement.

*The goal of Step #2 will be to determine the Applicant's fulfillment in meeting the State's "Eligibility criteria for businesses" to participate in the START-UP NY Program, and alignment to the college's mission and vision.*

**Step #3: Comprehensive Competitive Analysis**

The Applicant and the D'Youville START-UP NY Campus Team will collaborate on completing the competitive analysis as required by the State process. This will include:

- Review of the selected "Community," as defined by START-UP NY regulations.
- Review of North American Industry Classification System (NAICS) codes of businesses in the same Community as required by START-UP NY regulations.
- Review of commercially available database lists in determining potential Competitors in the selected Community.
- Review of any businesses in the Community which may be considered Competitors.

If no Competitors are identified through the Comprehensive Competitive Analysis, then a formal request will be submitted to the Empire State Development (ESD) for cross-reference checking of their Department of Labor (DOL) database to determine if there are any Competitors.

If no Competitors are identified through the D'Youville College and ESD comprehensive review process, then a notice will be published in a local daily print or online newspaper for five days, allowing potential business Competitors to identify themselves, per the START-UP NY regulations.

*The goal of Step #3 will be formal documentation of completion of a Comprehensive Competitive Analysis confirming that there are no Competitors in the selected Community. In the event that a potential Competitor is identified, D'Youville College will formally request review by the Commissioner. The Commissioner will make the final determination, per the START-UP NY regulations.*

**Step #4: Applicant Presentation to D'Youville START-UP NY Campus Selection Team**

Upon successful completion of the Comprehensive Competitive Analysis, the Applicant business will be required to formally present its business model and how its participation in the START-UP NY Program will have positive community and economic benefits. The Applicant business will formally present to the Selection Committee, which will be comprised of the Vice President for Administrative Services and External Relations, the Vice President for Financial Affairs, the Vice President for Institutional Advancement, the College's Deans, Faculty Leadership, and any other administrative, faculty or student representative(s) deemed appropriate for participation in the final selection process.

*The goal of Step #4 will be final review of the proposed business partnership and determination as to whether the D'Youville College Campus Selection Team agrees to Sponsor the Applicant business for participation in the START-UP NY Program.*

**Step #5: Submit Final Application to the State**

If the D'Youville College START-UP NY Campus Selection Team approves the Applicant business, the Campus Team will then collaborate with the Applicant to complete the required information for the Sponsoring Application to NYS, with the primary focus being new job creation in the designated area.

*The goal of Step #5 will be the successful submission of a completed application, with all required supporting documentation.*

### **Sponsoring Criteria**

In order for D'Youville College to Sponsor an Applicant, the Applicant business must meet all of the following eligibility criteria, as established through the START-UP NY regulations:

**Prohibited Businesses:** The Applicant must not be any of the business types that "are prohibited from participating in the START-UP NY Program."

**Eligible Business:** The Applicant must prove its eligibility to participate in the START-UP NY Program by qualifying under one of the following business categories:

- New Business
- Existing NYS Business Expanding
- Previous NYS Business Relocating
- NYS Incubator Graduate

**Non-Competitive:** The Applicant must prove to have no business competitors in the community in which it will be located.

**Compliance:** The Applicant "business must be in compliance with all worker protection and environmental laws and regulations. In addition, the business may not owe past due federal or state or local property taxes."

**Mission Alignment:** "The mission and activities of the business must align with or further the academic mission" (and vision) of D'Youville College.

**Beneficial Contributor:** The Applicant must prove that "the business's participation in the START-UP NY Program will have positive community and economic benefits."

**Job Creation:** The Applicant "business must demonstrate that it will, in its first year of operation, create net new jobs."

**Sustainability:** The Applicant must satisfy all criteria to remain eligible as set forth by the START-UP NY regulations, as they pertain to "net new jobs created" and all Program reporting requirements.

Location	Unique ID	Owner	Property Type	Street Address City, Zip Code	Parcel ID	Building	Space Type	Sq Ft	Description	On Campus	Latitude	Longitude
Buffalo	DYC-5	DYC	1	555 Prospect Ave.* Buffalo, 14201	99.75-2-1.211	D'Youville Academic Center (DAC)	B	11,150	Sixth Floor	Yes	42.8954000	-78.8323000

- 1= on campus
- 2= 1 mile off campus
- 3= State Asset
- A=entire building
- B=floor within building
- C=Room within building
- D=land on campus
- E= land off campus
- F=entire building off campus
- G=partial building off campus
- H=state asset

\*Per the City of Buffalo geographic information system (GIS) the D'Youville College Campus property address is listed as 555 Prospect Avenue, which includes the DAC Building.  
NOTE: The DAC Building is located at the corner of Connecticut St. and Fargo Ave.



Peace Bridge

CANADA  
UNITED STATES

190

190

Front Park

Connecticut Street Armory

Resident Parking

Columbus Park

Prospect Park

Niagara Branch Library

D'Youville-Porter Campus

School # 2

Holy Angels Church

1. KAB—Koesster Administration Building
2. BFAC—Bauer Family Academic Center
3. ALT—Dr. Pauline M. Alt Building
4. APT—Student Apartment Complex
5. DAC—D'Youville Academic Center
6. DEC—D'Youville Education Center
7. LIB—Montante Family Library
8. MAD—Madonna Hall
9. CC—College Center
10. MGT—Marguerite Hall
11. NIA—Niagara Street Annex
12. DYC Chiropractic Health Center
13. Innovation Center

- K The Kavinoky Theatre
- ♿ Handicapped Entrance
- P Parking Lot
- V Visitor Parking





DYC-5  
D'Youville  
Academic Center  
(DAC)

Connecticut St

Fargo Ave

West Ave

York St

Porter Ave

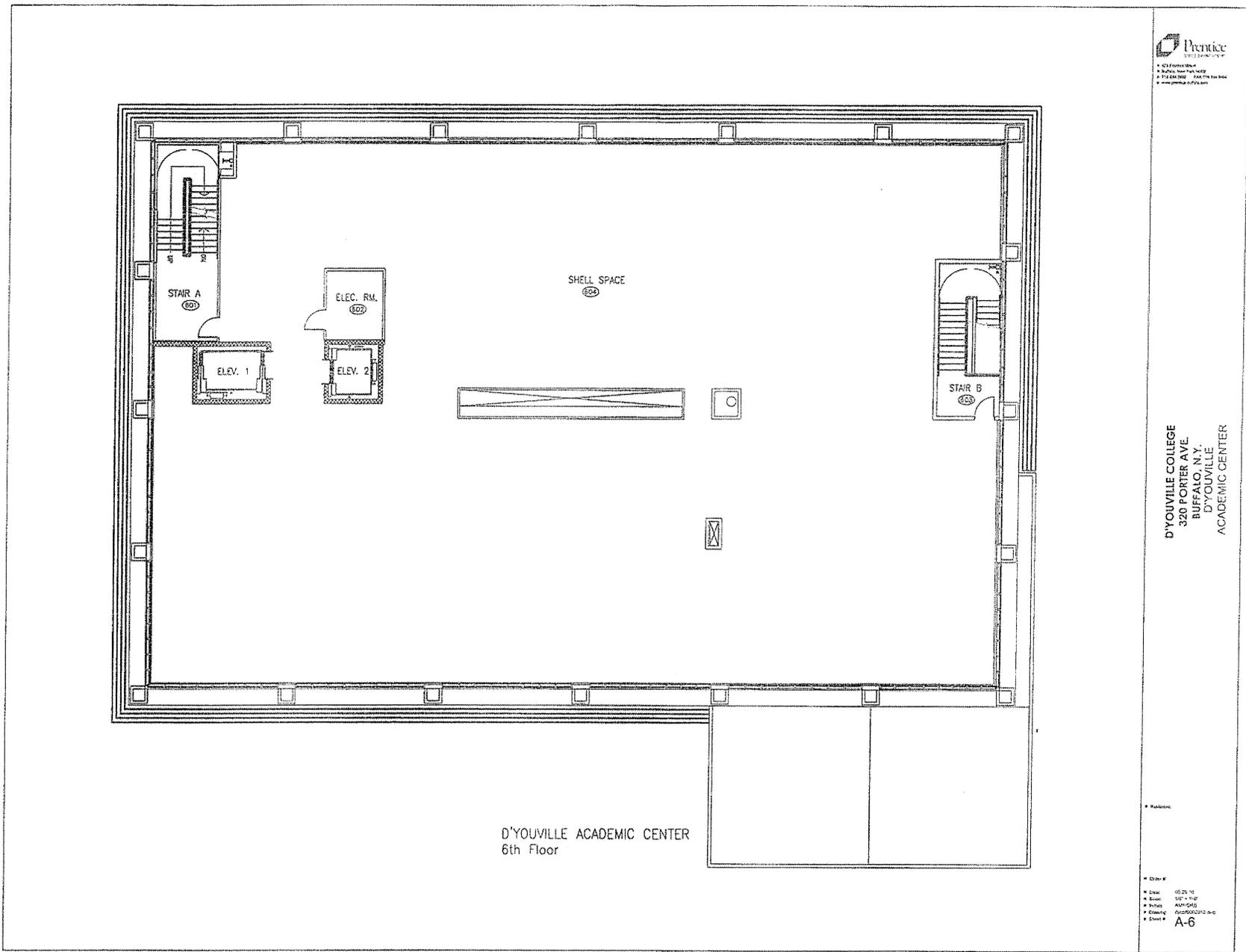
Fargo Ave

West Ave

Niagara

Prospect Park





DYC-5: D'Youville Academic Center (DAC) 6th Floor (11,150 square feet)

## **Conflict of Interest Policy for START-UP NY Program**

### **I. Introduction:**

This document states D'Youville College's ("DYC") Conflict of Interest Policy as it relates to the START-UP NY Program. It is designed to protect the integrity of the College and the START-UP NY Program.

### **II. Scope of Policy:**

The policy requires that any College Official self-disclose potential, real, or perceived conflicts of interest, as those interests relate to the START-UP NY Program, to the President of DYC.

### **III. Definitions:**

Terms not defined elsewhere in this policy are defined below:

"Business Interest" means that an individual (1) owns or controls 10% or more of the stock of an entity (or 1% in the case of an entity the stock of which is regularly traded on an established securities exchange); or (2) serves as an officer, director, or partner of an entity.

"Relative" means any person living in the same household as another individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant.

"START-UP NY Program" means the SUNY Tax-free Areas to Revitalize and Transform Upstate NY, established by Article 21 of the Economic Development Law.

"College Official" means a college board of trustee member, an employee at the level of dean and above as well as any other college employee with decision-making authority over the START-UP NY Program.

### **IV. General Provisions:**

A conflict of interest exists whenever a College Official has a personal, professional, commercial, or financial interest, or other interest or activity outside of the College, which has the possibility, whether potential, real, or perceived, of: (a) compromising the College Official's judgment; (b) influencing the College Official's decision or behavior with respect to the START-UP NY Program; or (c) resulting in personal or a Relative's gain or advancement at the expense of the College.

It is important to keep in mind that the College Official does not have to actually do anything wrong or improper for a conflict of interest to exist: The conflict exists by

virtue of a relationship that could result in an undue influence on the College Official's professional judgment.

- Service as a College Official shall not be used as a means for private benefit or inurement for the College Official, a Relative thereof, or any entity in which the College Official or Relative thereof has a Business Interest.
- Any College Official who is a vendor or employee of a vendor of goods or services to the College, or who has a Business Interest in such vendor, or whose relative has a Business Interest in such vendor, shall not vote on, or participate in the administration by the College of, any transaction with such vendor; and

**V. Procedures:**

Upon becoming aware of an actual or potential conflict of interest, a College Official shall advise the College President of his or her or a Relative's Business Interest in any such existing or proposed vendor with the College.

**VI. Records Management:**

The College shall maintain a written record of all disclosures of actual or potential conflicts of interest made pursuant to this policy, and shall report such disclosures, on a calendar year basis by January 31<sup>st</sup> of each year, to the auditor of the College. The auditor shall forward such reports to the Commissioner of Economic Development for the State of New York, which shall make public such reports.

May 20, 2014

D'Youville College  
320 Porter Avenue  
Buffalo, New York 14201

Commissioner of Economic Development  
State of New York  
Albany, New York

Ladies and Gentlemen:

Re: Designation of Tax-Free NY Areas

You have requested our opinion in connection with an application by D'Youville College (the "**College**") to designate certain areas on or around the College's campus as "**Tax-Free NY Areas**" under the START-UP NY Program created under Article 21 of the Economic Development Law of the State of New York. In particular, you have asked, with respect to any proposed Tax-Free NY area which has been financed with any tax-exempt bonds, whether designation of the Tax-Free NY Area financed with tax-exempt bonds will jeopardize or conflict with any existing tax-exempt bonds used to finance any property of the College.

The College has advised us that a portion of areas proposed to be designated as Tax-Free NY Areas by the College (the "**Bond-Financed Areas**") were financed with proceeds of tax-exempt bonds issued on behalf of the College by the Dormitory Authority of the State of New York (the "**Authority**"), particularly the D'Youville College Revenue Bonds, Series 2008 (the "**Bonds**"). With respect to the Bonds, the College entered into a loan agreement, dated October 28, 2008, with the Authority and a First Amendment of Loan Agreement, dated as of March 28, 2012, (collectively, the "**Loan Agreement**"), under which the College made certain representations and covenants designed to ensure the validity of each of the Bonds, and to ensure that the College would take no action subsequent to the issuance of such bonds that would adversely affect the exclusion from gross income of interest thereon. In addition, with respect to the Bonds, the College executed an Amended and Restated Tax Certificate, dated May 30, 2012 (the "**Tax Certificate**") under which the College made certain representations and covenants designed to ensure that the interest on each of the Bonds is excludable from gross income for federal tax purposes.

The opinion set forth in this letter is based solely upon (a) our review of, as submitted to us, (i) the Loan Agreement and (ii) the Tax Certificate (collectively referred to as the "Reviewed Documents"), and (b) such review of published sources of law as we have deemed necessary based solely upon our review of the Reviewed Documents. Other than our review of the Reviewed Documents, we have made no inquiry or other investigation as to any factual matter (including, but not limited to, (x) any review of any of the files and other records of the College or (y) any review of any of our files and other records).

We have assumed without any inquiry or other investigation (a) the genuineness of each signature on any of the Reviewed Documents, the completeness of each of the Reviewed Documents, the authenticity of each of the Reviewed Documents submitted to us as an original, the conformity to the original of each of the Reviewed Documents submitted to us as a copy and the authenticity of the original

of each of the Reviewed Documents submitted to us as a copy, (b) the accuracy on the date of this letter as well as on the date made of each statement as to any factual matter contained in any of the Reviewed Documents, (c) the legality, validity, binding effect and enforceability as to each person of each document executed and delivered or to be executed and delivered and of each act done or to be done by such person and (d) that at all times from the original issuance of the Bonds until the date of this letter, interest payable pursuant to the Bonds has been excludable from gross income for federal income tax purposes.

We have further assumed the current and continued compliance with all covenants and agreements contained in the Loan Agreement and the Tax Certificate with respect to the Bonds, including (without limitation) covenants and agreements compliance with which is necessary to assure that actions, omissions or events on and after the date of issuance of the Bonds have not caused and will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We have not undertaken to determine compliance with any of such covenants and agreements or any other requirements of law, and, except as expressly described herein, we have not otherwise reviewed any actions, omissions or events occurring after the date of issuance of the Bonds or the exclusion of interest on the Bonds from gross income for federal income tax purposes.

We do not express any opinion concerning any law other than the tax laws of the United States of America and the laws of the State of New York. Any opinion set forth in this letter (a) deals only with the specific legal issue or issues it explicitly addresses and does not address any other matter and (b) does not update any opinion previously given by us with respect to any transaction contemplated by the Loan Agreement. This letter is given without regard to any change after the date of this letter with respect to any factual or legal matter, and we disclaim any obligation to notify either of you of any such change or any effect of any such change on the opinion set forth in this letter

Subject to the qualifications and assumptions set forth in this letter, it is our opinion that the designation of the Bond-Financed Areas as Tax-Free NY Areas, in and of itself, will not jeopardize or conflict with any of the Bonds.

This letter is solely for your benefit with respect to the proposed designation of the Bond-Financed Areas as Tax-Free NY Areas and, without our express written consent, may not be furnished to or relied upon, referred to or otherwise used by any other party or relied upon, referred to or otherwise used other than in connection with such proposed designation of the Bond-Financed Areas as Tax-Free NY Areas.

Very truly yours,

**HODGSON RUSS LLP**

By 

Victoria J. Saxon



May 21, 2014

Mr. Kenneth Adams  
President and CEO  
Empire State Development Corporation  
633 3<sup>rd</sup> Avenue  
New York, NY 10017

**Re: START-UP NY Program –  
Designation of Tax Free New York Areas (the “Plan”)  
D’Youville College Revenue Bonds, Series 2008 (the “Bonds”)**

Dear Mr. Adams:

D’Youville College is aware that there are non-governmental use limitations on properties financed with tax exempt bonds or Build America Bonds (collectively, “**Tax-Advantaged Bonds**”).

Upon approval of our Plan for the designation of certain areas on the College’s campus as Tax Free New York Areas, we will be permitted to market the designated property to businesses who wish to participate in the START-UP NY Program.

We commit to ensuring that interested businesses are aware that Tax-Advantaged Bonds may have been used to finance certain portions of the designated property and that non-governmental use may be limited and other measures may be required in order to preserve the tax benefits associated with the interest on the Tax-Advantaged Bonds in accordance with the applicable federal, state, or local tax law and regulations (“**Tax Compliance Measures**”).

We commit to taking all appropriate steps, including any appropriate Tax Compliance Measures, to ensure that non-governmental use of property funded with **Tax-Advantaged Bonds** for START-UP NY Program purposes will not jeopardize the tax-exempt status of any Tax-Advantaged Bonds impacting designated Tax Free New York Areas.

We confirm our understanding that approval of our Plan for designation of a Tax Free NY Area or our participation in the START-UP NY Program does not replace or modify any existing obligations or requirements related to any Tax-Advantaged Bonds or Tax Compliance Measures.

Sincerely,

A handwritten signature in cursive script that reads "Sister Denise A. Roche".

Sister Denise A. Roche, GNSH, Ph.D.  
President