

COUNTIES OF WARREN AND WASHINGTON
INDUSTRIAL DEVELOPMENT AGENCY

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A special meeting of the Counties of Warren and Washington Industrial Development Agency was held on Monday, May 23, 2022 at 4:48 pm via Zoom.

The following were:

PRESENT:

Dave O'Brien	Chair
Nick Caimano	Member
Chuck Barton	Member
Craig Leggett	Vice Chair
Dan Bruno	Park Chair

ABSENT:

Mike Wild	Member
Ginny Sullivan	Member
Brian Campbell	Member
Michael Bittel	Member
Mary King	Member

The following were also present:

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Mike Ostrander	Executive Director, WWIDA
Tim Robinson	WWIDA CFO
Jeffrey Meyer	Attorney for Foothills Builders
Joe Leuci	Foothills Builders
Teri Ross	Queensbury Tax Assessor
Minutes were taken by: Alie Weaver	Office Administrator

Roll call was taken, and a quorum was not confirmed.

78-80 Main Street LLC Project Approval – Mr. O'Brien stated that the 78-80 Main Street LLC project would not be approved at this time, pending Queensbury Planning Board approval and SEQR determination.

PTO Policy Approval – Mr. O'Brien stated that the proposed Personal Time Off Policy had been sent to the Board Members to review as it will be discussed at the next meeting.

Video Conference Resolution – Mr. O'Brien stated that the Public Hearing date cannot be set at this meeting as a quorum was not confirmed and this agenda item will be discussed at the next meeting.

Review of UTEP – Mr. O'Brien encouraged the members present to review the UTEP changes that are being proposed in preparation for discussion at the next meeting.

He noted some highlights:

To provide more information to Towns and their Assessor of potential projects and invite them to meetings where said project will be discussed.

To potentially expand assistance in mixed-use and PUD policies.

To create a stand-alone UTEP vs. having it included in the IDA Policy Manual.

After some discussion on the frequency and reasons of assessment changes, Ms. Ross stated that the equalization rates do not affect the value of property; noting that the state creates a ratio from current sales vs. corresponding assessments.

Adjournment – There being no further business to discuss, Mr. O'Brien adjourned the meeting at 5:02 pm.

Adopted _____

Introduced _____
by who moved its
adoption

Seconded by _____

RESOLUTION AUTHORIZING THE USE OF VIDEOCONFERENCING IN
EXTRAORDINARY CIRCUMSTANCES BY THE COUNTIES OF WARREN AND
WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

WHEREAS, Chapter 56 of the laws of 2022 relating to the New York State Budget for 2022-2023 State fiscal year included an Amendment to the Open Meetings Law (OML) to make permanent (until July 1, 2024) the expanded use of videoconferencing by public bodies to conduct meetings, under extraordinary circumstances, regardless of a declaration of emergency; and

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (WWIDA) has successfully utilized videoconferencing during the COVID pandemic and would like the ability to continue to utilize videoconferencing.

NOW, THEREFORE, BE IT

RESOLVED that the WWIDA Board hereby establishes the following guidelines and procedures for the WWIDA to utilize videoconferencing:

1. WWIDA members shall be physically present at all meetings unless a member is unable to be physically present due to extraordinary circumstances which shall include:
 - a. Disability
 - b. Illness
 - c. Caregiving responsibilities
 - d. Family death
 - e. Lack of transportation to/from the meeting
 - f. Weather
 - g. Travel
 - h. Other significant or unexpected factors or events which precludes an WWIDA member's physical attendance at a meeting.
2. An WWIDA member who is participating from a remote location due to extraordinary circumstances that is not open to in-person physical attendance by the public may not be

counted toward a quorum of the public body. Said WWIDA member may participate and vote if there is a quorum of members at a physical location open to the public.

3. If the WWIDA uses videoconferencing to conduct a meeting, the public notice for the meeting must inform the public that videoconferencing will be used and that one or more members may be participating via videoconference due to extraordinary circumstances and must include directions for how the public can view and/or participate (if participation is permitted) in such meeting. The WWIDA shall provide the opportunity for members of the public to view the meeting, using remote technology or in person, in real time.
4. The minutes of all WWIDA meetings involving videoconferencing shall include which, if any, WWIDA members participated remotely.
5. Any WWIDA member appearing by videoconference shall be on video and remain on video for the duration of the meeting unless said member has a conflict of interest with an item in the Agenda and said member leaves the meeting while the topic is discussed.
6. All WWIDA meetings conducted using videoconferencing shall be recorded and such recordings posted or linked on the WWIDA's website within five (5) business days following the meeting and shall remain so available for a minimum of five (5) years thereafter. Such recordings shall be transcribed upon request."

And be it further

RESOLVED that the in-person participation requirements of Public Officers Law above shall not apply during a State disaster emergency declared by the governor pursuant to section twenty-eight of the executive law, or a local State of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting, and be it further

RESOLVED that this Resolution shall take effect immediately.

The foregoing resolution was thereupon declared duly adopted.

AYES:

NAYS:

ABSENT:

ABSTAIN:

PERSONAL TIME OFF POLICY

The integrated leave policy for the WWIDA (Agency) is designed to provide employees with time off from work when PTO is desirable or when personal illness/medical difficulties arise. When an employee qualifies for PTO, and in accordance with the parameters below, employees may take their PTO (to the extent that such benefits have been accrued and are unused) or in the form of unpaid leave if they have used their time. Any unpaid leave must be approved by the board.

Employees should not take unpaid leave unless they have used all accrued PTO. Leave for any reason must be scheduled and approved by the Board. Unpaid leave will be approved on a case by-case basis.

Regardless of which forms of leave are taken, either singularly or in combination, The Agency will not guarantee an individual's same or equivalent job beyond twelve (12) weeks of PTO except as may be legally required.

The Agency believes that time off is important to the health and well being of our employees and encourages them to utilize all PTO available to them. PTO provides you with the flexibility to use your time off to meet your personal needs, while recognizing your individual responsibility to manage your paid time off.

Personal Time Office is established at one-hundred thirty (130) hours annually for full time employees and sixty-five (65) hours annually for part time employees. PTO can be used for vacation, illness, caring for immediate family members, medical and dental appointments, leave, personal business or emergencies. With the approval of the Board Personal Time can be carried over year to year with a maximum of 150% of annual accrued time being accrued in total. PTO will be paid out upon termination unless the pay out of additional time is required by state law. The amount paid out is capped at your annual accrual amount.

The annual amount of PTO, as listed above, will be deposited in your account upon employment and refreshed on your annual anniversary. An employee may use no more than 2 days off for any scheduled time prior to ninety (90) days of service without Chair/Board approval. The Agency may require you to use any unused PTO during disability or family medical leave, or any other leave of absence if permitted by law. The amount of PTO earned will depend on your length of your service with the Agency,

PTO does not replace the Agency's holiday schedule. We will continue to have designated paid holidays each year.

Recording Paid Time Off:

You must complete a Time Off Request form for all PTO time used.

It is the Employee's responsibility to ensure PTO is recorded properly

The amount of PTO time available to you will appear on your bi-weekly pay slip.

Paid Time Off Parameters

Management of PTO:

You are responsible for managing your PTO account. It is important that you plan ahead for how you will use it. This means developing a plan and coordinating with the Chair for vacation time, as well as doctor's appointments and personal business. It also means responsibly holding some time in "reserve" for the unexpected, such as emergencies and illnesses.

Minimum increments of PTO:

The minimum amount of PTO you can use at one time depends on whether you are an exempt or a nonexempt status employee. An exempt employee receives an annual salary, and a non-exempt employee

PART 18

UNIFORM TAX EXEMPTION POLICY

SECTION 1801. PURPOSE AND AUTHORITY. Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the "Act"), Warren-Washington County Industrial Development Agency (the "Agency") is required to establish a uniform tax exemption policy applicable to the provision of any financial assistance of more than one hundred thousand dollars to any project.

SECTION 1802. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

(A) "Administrative fee" shall mean a charge imposed by the Agency to an applicant or project occupant for the administration of project.

(B) "Agency fee" shall mean the normal charges imposed by the Agency on an applicant or a project occupant to compensate the Agency for the Agency's participation in a project. The term "Agency Fee" shall include not only the Agency's normal administrative fee, but also may include (1) reimbursement of the Agency's expenses, (2) rent imposed by the Agency for use of the property imposed by the Agency, and (3) other similar charges imposed by the Agency.

(C) "Applicant" shall mean an applicant for financial assistance.

(D) "County" shall mean the County of Warren and Washington.

(E) "PILOT" or "Payment in Lieu of Tax" shall mean any payment made to the Agency or an affected tax jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an affected tax jurisdiction with respect to a project but for tax exemption obtained by reason of the involvement of the Agency in such project, but such term shall not include Agency fees.

(F) "School District" shall mean any school district located in the County.

(G) "Tax exemption" shall mean any financial assistance granted to a project, which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency.

(H) "Town" shall mean any town located in the County.

(I) "Village" shall mean any village located in the County.

SECTION 1803. GENERAL PROVISIONS. (A) General Policy. The general policy of the Agency is to grant tax exemption as hereinafter set forth to any project which has been or will be financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto.

(B) Exceptions. The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider factors which make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to project; (2) whether the affected tax jurisdictions will be reimbursed by the project occupant if the project does not fulfill the purposes for which tax exemption was granted; (3) the impact of the project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by the project; (5) demonstrated public support for the project; (6) the estimated value of the tax exemptions requested; and (7) the extent to which the proposed project will provide needed services and/or revenues to the affected tax jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

(C) Application. No request for a tax exemption shall be considered by the Agency unless an application and environmental assessment form are filed with the Agency on the forms prescribed by the Agency pursuant to the rules and regulations of the Agency. Such application shall contain the information requested by the Agency, including a description of the proposed project and of each tax exemption sought with respect to the project, the estimated value of each tax exemption sought with respect to the project, the proposed financial assistance being sought with respect to the project, the estimated date of completion of the project, and whether such financial assistance is consistent with this part.

(D) Planning Board Approval: Financial benefits will not be granted until the project has received necessary Planning Board Approvals. NOTE there may be the need to a two part close for sales tax and PILOT approvals

SECTION 1804. SALES AND USE TAX EXEMPTION. (A) General. State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales taxes applicable only to the initial acquisition, construction and/or equipping of each project with respect to which the Agency grants financial assistance. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of a project from sales and/or use taxes applicable to the initial acquisition, construction and/or equipping of such project, except (1) as described in subsection (E) below or (2) in the circumstance where (a) a project is offered sales tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (b) such event does not occur, in which case the Agency may require that the applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance. (B) Period of Exemption. Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the "tax exemption period") shall be determined as follows:

(1) General. Unless otherwise determined by the Agency, the tax exemption for sales and use taxes shall be for the tax exemption period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to the project and ending on the date of completion of the project.

(2) Early Commencement. The tax exemption period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's debt relating to the project, provided that (a) the Agency has complied with the requirements of Section 859-a of the Act, (b) the Agency thereafter adopts a resolution determining to commence such period earlier (c) the applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (d) the authorized officer of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.

(3) Normal Termination. The tax exemption period will normally end upon the completion of the project. On construction projects, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date, which is six (6) months after the estimated date of such project. On non-construction project, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date, which is three (3) months after the estimated date of completion of the project. If the Agency and the applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the applicant make the determination on the basis of available evidence.

(4) Later Termination. The Agency, for good cause shown, may adopt a resolution extending the period for completion of the project and/or extending the tax exemption period.

(C) Items Exempted. The sales and use tax exemption granted by the Agency shall normally extend only to the following items acquired during the tax exemption period described in subsection (B) above:

(1) Items incorporated into the real property;

(2) Tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased as agent of the Agency;

(3) the rental of tools and other items necessary for the construction and/or equipping of the project, if rented as agent of the Agency; and

(4) office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the project, if purchased as agent of the Agency.

(D) Items Not Exempted. A sales and use tax exemption shall not be granted for the following:

(1) purchases occurring beyond the tax exemption period described in subsection (B) above;

(2) repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or

(3) operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act.

(E) Percentage of Exemption. Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of the Agency's involvement in the project. If an exemption of less than one hundred percent (100%) is determined by the Agency, then the applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the affected tax jurisdictions in accordance with Section 874(3) of the Act.

(F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Such confirmation letter shall be in the form of either Appendix 18B (where the exemption is permanent, because the Agency is satisfied that any conditions precedent to such tax exemption, such as the issuance of bonds by the Agency, have been satisfied) or Appendix 18C (where such exemption is tentative, because there remain conditions precedent to such tax exemption which have not been satisfied). Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

(G) Required Filings. The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales tax exemption. For example, TSB-M-87(7) outlines the materials that must be filed to establish entitlement to sales tax exemption as "agent" of the Agency. It is the responsibility of the applicant and/or project occupant to ensure that the proper documentation is filed with each vendor to obtain any sales tax exemptions authorized by the Agency.

(H) Required Reports and Records. (1) Pursuant to Section 874(8), the applicant and/or project occupant is required to annually file with the New York State Department of Taxation and Finance a statement of the value of all sales and use tax exemptions claimed under the Act by the applicant (ST-340) and/or the project occupant and/or all agents, subcontractors and consultants thereof. The project documents shall require that (1) a copy of such statement will also be filed with the Agency and (2) that the project occupant shall maintain, for a period ending seven (7) years after the last purchase made under the sales and use tax exemption, and make available to the Agency at

the request of the Agency, detailed records which shall show the method of calculating the sales and use tax exemption benefit granted by the Agency.

(2) Pursuant to Section 874(9) of the Act, the Agency is required to file within thirty (30) days of the date that the Agency designates an applicant to act as agent of the Agency a New York State Department of Taxation and Finance form ST-60. The form identifies the agent of the Agency, provides a brief description of the project and an estimate of the value of the sales tax exemption and certain other information. The project documents shall require the applicant to assist the Agency in completing the form.

SECTION 1805. MORTGAGE RECORDING TAX EXEMPTION. (A) General. State law provides that mortgages recorded by the Agency are exempt from mortgage recording taxes imposed pursuant to Article 11 of the Tax Law. The Agency has a general policy of abating mortgage recording taxes for the initial financing obtained from the Agency with respect to each project with respect to which the Agency issues debt which will be secured by a mortgage upon real property. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing of the Agency immediately upon the completion of the project, the Agency's general policy is to abate the mortgage recording tax on both the construction financing and the permanent financing.

(B) Refinancing. In the event that the Agency retains title to a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt issued by the Agency for the purpose of refinancing prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid. If such financing should be contemplated the Applicant shall come back to the agency for approval.

(C) Non-Agency Projects. In the event that the Agency does not hold title to a project, it is the policy of the Agency not to join in a mortgage relating to that project and not to abate any mortgage recording taxes relating to that project.

(D) Non-Agency Financings. Occasionally, a situation will arise where the Agency holds title to a project, the project occupant needs to borrow money for its own purposes (working capital, for example), and the lender will not make the loan to the project occupant without obtaining a fee mortgage as security. In such instances, the policy of the Agency is to consent to the granting of such mortgage and to join in such mortgage, so long as the following conditions are met:

(1) the documents relating to such proposed mortgage make it clear that the Agency is not liable on the debt, and that any liability of the Agency on the mortgage is limited to the Agency's interest in the project;

(2) the granting of the mortgage is permitted under any existing documents relating to the project, and any necessary consents relating thereto have been obtained by the project occupant; and

(3) the payment of the Agency fee relating to same.

(E) Exemption Affidavit. The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto. A sample exemption affidavit is attached as Appendix 18D.

(F) NON EXEMPT MORTGAGE. If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a "nonexempt mortgage"), then the applicant and/or project occupant or other person recording same shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the "normal mortgage tax"). Such mortgage recording taxes are payable to the County Clerk of the County, who shall in turn distribute same in accordance with law. If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such nonexempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in accordance with Section 874(3) of the Act.

SECTION 1806. REAL ESTATE TRANSFER TAXES. (A) Real Estate Transfer Tax. Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate transfers. Section 1405(b)(2) of the Tax Law provides that transfers into the Agency are exempt from such tax, and the New York State Department of Taxation and Finance has ruled that transfers of property by the Agency back to the same entity, which transferred such property to the Agency are exempt from such tax. The general policy of the Agency is to impose no payment in lieu of tax upon any real estate transfers to or from the Agency.

(B) Real Property Transfer Gains Tax. Article 31-B of the Tax Law provides for the imposition of a tax upon gains derived from the transfer of certain real estate in New York State. Certain transfers are exempt from such tax. It is the policy of the Agency to comply with the law, and to file the appropriate documentation with the New York State Department of Taxation and Finance to obtain preclearance by that department for any documents transferring real property to or from the Agency.

(C) Required Filings. It shall be the responsibility of the applicant and/or project occupant to ensure that all documentation necessary relative to the real estate transfer tax and the real estate transfer gains tax are timely filed with the appropriate officials.

SECTION 1807. REAL ESTATE TAX EXEMPTION. (A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes but not exempt from special assessments and special ad valorem levies. However, it is the general policy of the Agency that, notwithstanding the foregoing, every nongovernmental project will be required to enter into a payment in lieu of tax agreement (a "PILOT Agreement"), either separately or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

(B) PILOT Requirement. Unless the applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance,

Division of Equalization and Assessment Form EA-412-a (an "Exemption Form") with respect to the project, and the project documents shall provide that the applicant and/or the project occupant shall be required to make PILOT payments in such amounts as would result from taxes being levied on the project by the taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the applicant and/or project occupant have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such agreement.

(C) PILOT Agreement. Unless otherwise determined by resolution of the Agency, all PILOT Agreements shall satisfy the following general conditions:

(1) Amount of Abatement: The general policy of the Agency is to allow the assessor of the municipality in which the project is located to ascertain the assessed value of a project owned by the Agency. Once the assessed value is established, the Agency will reduce the assessed value by an exemption percentage, and the resulting value will become the value for PILOT purposes (the "PILOT value"). The PILOT payment will then be computed for each taxing entity in each year by multiplying the PILOT value by the applicable tax rate of such tax entity in such year.

(2) After receipt of a completed Application the IDA shall provide a copy of the application to the Town Supervisor and Assessor. At the WWIDA executive meeting or the WWIDA meeting which the application is presented to the board and the applicant is present, the Town Supervisor or his representative shall be invited to the meeting. Prior to the date of the Public Hearing the town is welcome to submit any comments on the project for the WWIDAs consideration in their evaluation of providing benefits. The IDA is not bound by the input of the municipality but should take comments under consideration during the final approval of the project and will notify the town in writing of the reasons for their decision to modify awarding or denying benefits.

(D) UNIFORM TAX ABATEMENT SCHEDULES

A. PAYMENTS IN LIEU OF TAXES:

MANUFACTURING/R &D/ OFFICE PROJECTS:

Eligible projects are limited to manufacturing, re-manufacturing, assembly processing, warehouse, wholesale/distribution, research and development, software development

BASE PILOT:

Continue to pay 100% of taxes on land and existing buildings.

Continue to pay 100% of water, sewer and special assessments.

PILOT ON NEW CONSTRUCTION:

100% exemption for a period of 5 years;
50% exemption for the next 5 years.

100% of taxes year 11.

OTHER ELIGIBLE PROJECTS:

Eligible projects permitted by General Municipal Law 874 except as otherwise mentioned in this policy

BASE PILOT:

Continue to pay 100% of taxes on land and existing buildings.

Continue to pay 100% of water, sewer and special assessments.

PILOT ON NEW CONSTRUCTION:

50% exemption for 5 years; 25% exemption for the next 5 years. 100% taxes year 11.

Eligible office projects are limited to the following functions: communications, media, computer programming, data processing, financial services (not local insurance, financial planning, or stock broker agencies), or central administrative offices.

<p style="text-align: center;"><u>PILOT ON NEW</u></p> <p><u>CONSTRUCTION**:</u></p>	<p><i>Continue to pay 100% of taxes on land and existing buildings.</i></p> <p><u>Continue to pay 100% of water, sewer, and all special assessments</u></p> <p><u>Abatements start at 50% of new construction and decline 5% until the tenth year. At the 11th year the exemption will be 0%. An accelerated abatement may be considered.</u></p>
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**There will be no Town reviews or approvals required for projects under this section.*

*** Improvements and expansion to existing properties are considered New Construction.*

HOUSING PROJECTS ARE CONSIDERED COMMERCIAL PROPERTIES AND AS SUCH ARE ELIGIBLE FOR TAX ABATEMENTS UNDER THE WWIDA TAX ABATEMENT POLICY.

It is the intent of the Warren and Washington IDA to encourage applicants to make every effort to use local suppliers, contractors and workers during the construction phase.

ADDITIONAL TYPES OF TAX EXEMPTIONS WHICH MAY BE CONSIDERED

(2) Purchase of Existing Facilities

- a. Industrial projects consisting of the purchase and refurbishment of an existing facility will have taxes frozen at the amount (annual property tax liability) in place at the time of purchase for the first 5 years subsequent to the purchase. In year 6-10 , any tax increase in the amount of annual property taxes, over the above frozen amount, will be abated by 50%
- b. Commercial projects consisting of the purchase and refurbishment of an existing facility will have taxes frozen at the amount (annual property tax liability) in place at the time of purchase for the first 3 years subsequent to the purchase. In years 4 and 5, any tax increase in the amount of annual local property taxes, over the above the frozen amount, will be abated by 50%. In years 6-10, any tax increase in the amount of annual local property taxes, over above the frozen amount, will be abated by 25%.

(3) Improvement of Existing Facility Currently

- a. Any project, industrial or commercial, which consists of capital improvements to the facility, will have taxes frozen at that amount (annual property tax liability) in place prior to improvements for the first 3 years. In year 4 and 5, any tax increase in the amount of annual property taxes, over the above frozen amount, will be abated 50% and years 6-10, 25%.

ADDITIONAL ELIGIBILITY FOR SALES TAX AND MORTGAGE TAX

ABATEMENT : The Agency shall consider providing Sales Tax and Mortgage Tax Abatement for projects not qualifying for or who decline PILOT benefits should the Applicant be able to show that the project will not be viable without this relief.

SECTION XI: CRITERIA FOR CONSIDERING ENHANCED REAL PROPERTY TAX ABATEMENTS FOR AGENCY PROJECTS

The Counties of Warren and Washington Industrial Development Agency will consider providing enhanced real property tax abatements for Applicants who are proposing projects of material economic impact.

Any enhanced abatement will be provided only on the increased assessed value attributable to the improvements resulting from the proposed project. Current property tax levels already in place will continue to be paid on land and existing buildings.

Proposed enhanced abatements will be considered on a case by case basis and may be up to 100% abatement on improvements.

The Agency will use the following criteria for considering the provisions of real property tax abatements:

1. Number of jobs to be created.
2. Quality of jobs to be created (i.e. wages and benefits).
3. Capital investment by company.
4. Brownfield and/or dilapidated site.
5. Use of local workers, vendors and suppliers during the construction phase.

RECAPTURE BENEFITS POLICY: The recapture of the enhanced portion of real property tax abatements will be incorporated into all PILOT agreements.

REVIEW AND NOTIFICATION OF TOWN NECESSARY: All enhanced real property tax abatements will be subject to the review and notification of proposed benefit as required by GML 874 of the town within which the project is located. The town will be required to take into consideration the needs of the school district and/or village within which the project is located. Town approval is not required but comments provided by town should be considered in the Agency review process.

SECTION VII: CRITERIA FOR CONSIDERING APPLICATIONS

A. AGENCY EVALUATION GUIDELINES

1. Project Feasibility

The applicant must provide information which demonstrates that the proposed project is feasible. The term "Project" means the activity or group of integrally related activities which are to be carried out by the applicant and all public and private participating parties.

Project feasibility includes but is not limited to (1) evidence that costs, both capital and operating, are reasonable; (2) that a reasonable, well thought out business plan exists; (3) that appropriate management and financial accounting capabilities are in place; (4) that there is a market for the proposed service, activity or product(s) and that a reasonable marketing plan is in place; (5) that revenue estimates are reasonable and that all sources of project funds, including Industrial Development Bond buyers, are firmly committed or can reasonably be expected to be firmly committed prior to closing.

In determining Project feasibility, the Agency shall examine the information and documentation it deems necessary to make an informed judgment which shall include, but not be limited to, the following:

- Company's Financial Statement
- Personal Financial Statements (partners and 5% owners of corporations)
- Project Capital Cost Estimate and Equipment Quotes
- Working Capital Needs
- Projection of Income Operating Expenses
- Cash Flow and Net Profit
- Business Plan
- Job Projections - retained and created
- Evidence of Equity and Other Firm Financial Commitments

Project feasibility issues that are not resolved to the satisfaction of the Agency are an appropriate reason for refusal. The Agency shall provide reasonable advice and assistance to the applicant.

2. Impact on Local Economy

The Counties of Warren and Washington Industrial Development Agency will use the following criteria for reviewing Agency applications:

All applications for Agency financing and straight lease transactions will be reviewed by the Agency in order to determine whether or not they would have a significant beneficial impact upon the County's economy. Measures of significance would include, but not be limited to, the following:

1. Jobs:
 - a. Number and type of local jobs retained and used during the construction phase of the project.
 - b. Number and type of jobs retained and created by project upon commencement of operation of the facility.
2. Tax Abatements: The tax abatements available to and requested by the applicant will be considered by the Agency.
3. Cost: Total Cost of project, including the amount of private sector investment.
4. Cost Benefit: Agency inducement results in a project that provides additional revenues to the county, city, town, village, and school district in which the project is located.
5. Timely Completion: Developers ability to complete the project in a timely fashion.
6. Economic Benefits: The economic benefits which support the local economy.
6. Tenant Characteristics: Manufacturing facilities and back office operations; corporate headquarters; moderate priced rental space for start-up and small businesses; incubator space for research and development; tourist destination facilities; research and development activities; energy generation; etc.
7. Uniqueness: Business serves previously under-served segment of market; upgrades a distressed area; project provides amenities for the public; project is supported by the community; project involves redevelopment of an old structure for new purpose; location on a Brownfield site; etc.

8. Existing Business: The effect the project will have on existing businesses will be considered by the Agency.

NOTE: The above significant indicators are not all inclusive and are not in priority order. They are simply meant as examples of measurements to be used when reviewing each application on its merits.

B. MATERIAL TERMS

At the time of project approval the Agency shall identify "Material Terms" which will be used to determine if a project applicant has met the obligations required for the incentives received by the applicant. These "Material Terms" will be described in the inducement resolution approving the project, as well as the preliminary agreement between the parties.

These "Material Terms" as defined for the particular project will be utilized by the Agency in setting and monitoring project benchmarks during the term of the incentives for the purposes of administering the Agency's recapture policy.

For certain numerical "Material Terms" such as job creation/retention or investment amount an achievement factor of 80% will constitute compliance. For non-numeric "Material Terms" such as redevelopment of an old structure for a new purpose or location on a Brown Field site, a determination of compliance will be made upon completion of the project.

It is understood that these "Material Terms" may vary depending on project type and project specifics, and may be selected from the criteria set forth herein. .

It is the intent of the Agency to encourage applicants to make every effort to use local suppliers, contractors and workers during the construction phase.

C. FINANCING DECISIONS

Before making its final decision, the Agency will perform and put in writing an estimated cost benefit analysis that identifies the extent to which the project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional source of

revenue for municipalities and school districts; and any other public benefits that might occur as the result of the project.

SECTION VIII: CRITERIA FOR CONSIDERING FINANCING OF RETAIL PROJECTS

Section 862 of the General Municipal Law states that no financial assistance of the Agency shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost.

Retail projects are permitted in the following limited circumstances:

- I. Tourist destination facilities (projects that attract a significant number of visitors from outside the economic development region).
- II. Notwithstanding the foregoing, a retail project can be funded if the Agency finds that:
 - a. The predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town, or village within which the proposed project would be located because of lack of reasonably accessible retail trade facilities offering such good or services; or
 - b. The project is located in a "highly distressed" area as defined in Section 854 (18) of the NYS General Municipal Law.
 - c. The project is located in an area designated as a former Empire Zone.
- III. The Agency must find after a duly constituted public hearing for the project that the undertaking of the project will serve the public purposes of Article 18-A of the general Municipal Law by preserving permanent, private sector jobs, or increasing the overall number of permanent, private sector jobs in the state.

It is the intent of the Agency to encourage applicants to make every effort to use local suppliers, contractors and workers during the construction phase.

(5) Special District Taxes. As indicated above, the Agency is not exempt from special assessments and special ad valorem levies, and accordingly these amounts are not subject to abatement by reason of ownership of the Project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by

the applicant and/or project occupant. However, applicant and project occupants should be aware that the courts have ruled that an Agency sponsored project is eligible to apply for a tax-exemption under Section 485-b of the Real Property Tax Law. If an applicant or project occupant desires to obtain an exemption under Section 485-b, it is the responsibility of the applicant and/or project occupant to apply for same.

(6) **Payee.** Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an affected tax jurisdiction shall be assessed, billed and collected directly by the Agency. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each affected tax jurisdiction within thirty (30) days of receipt.

(7) **Enforcement.** An affected tax jurisdiction, which has not received a PILOT payment due to it under a PILOT Agreement may exercise its remedies under Section 874(6) of the Act. In addition, such affected tax jurisdiction may petition the Agency to exercise whatever remedies that the Agency may have under the project documents to enforce payment and, if such affected tax jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred in connection therewith, the Agency may take action to enforce the PILOT Agreement.

(E) **Required Filings.** As indicated in subsection (B) above, pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, no real estate tax exemption with respect to a particular project shall be effective until an exemption form is filed with the assessor of each county, city, town, village and school district in which such project is located (each, a "Taxing Jurisdiction"). Once an exemption form with respect to a particular project is filed with a particular Taxing Jurisdiction, the real property tax exception for such project does not take effect until (1) a tax status date for such Taxing Jurisdiction occurs subsequent to such filing, (2) an assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date, (3) such assessment roll becomes the basis for the preparation of a tax roll for such Taxing Jurisdiction, and (4) the tax year to which such tax roll relates commences.

(F) **Real Property Appraisals.** Since the policy of the Agency stated in subsection (C)(1) is to base the value of a project for payment in lieu of tax purposes on a valuation of such project performed by the Assessor of the Town, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the assessor of any particular Taxing Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the applicant or by someone acting on behalf of the applicant, rather than by an assessor for a Taxing Jurisdiction or by the Agency. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.

(G) Employment Filings. If the Agency grants the applicant an exemption under this Section 1807, the applicant will be required 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.

- a. Sublease of all or part of the Project Facility in violation of the Agency Agreement with the Company;
 - b. A change in the use of the Project Facility, other than as a facility of that of the Company.
- (2) The Project Financial Assistance to be recaptured by the Agency upon the occurrence of a Recapture Event during the Recapture Period shall be an amount equal to the sum of the following:
- a. The portion of the amount of New York State sales and use taxes allocable to the County that the Company would have paid in connection with the undertaking of the Project if the Project Facility was not deemed owned or under the jurisdiction and control of the Agency;
 - b. The amount of any real property and mortgage recording tax exemption provided by the Agency to the Company in connection with the undertaking of the Project.

SECTION 1808. PROCEDURES FOR DEVIATION. (A) General. In the case where the Agency shall determine that any policy of the Agency as herein established is inappropriate or unfair, the Agency may determine:

- (1) the amount of the tax exemption, the amount and nature of the PILOT, the duration of the exemption and of the PILOT and whether or not an exemption of any kind shall be granted and shall impose such terms and conditions as shall be just and proper; and
- (2) the Agency shall give written notice of the proposed deviation from the policy set forth herein to each affected taxing jurisdiction setting forth the terms and conditions of the deviation and the reasons there for. Such notice to the affected tax jurisdictions shall be given to the chief executive officer of each affected tax jurisdiction at least thirty days prior to the meeting of the Agency at which the Agency shall consider whether to approve such deviation. Prior to taking any final action on a proposed deviation, the Agency shall review and respond to any correspondence received from any affected tax jurisdiction regarding the proposed deviation and allow any representative of an affected tax jurisdiction present at such meeting to address the Agency regarding the proposed deviation.

(B) Unusual Projects. Where a project is unusual in nature and requires special considerations related to its successful operations as demonstrated by appropriate evidence presented to the Agency, the Agency shall consider the granting of a deviation from the established exemption policy in accordance with the procedures provided in the title. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.

SECTION 1809. ANNUAL REVIEW OF POLICIES. (A) General. At least annually, the Agency shall review its tax exemption policies to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate.