

**COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY**

5 Warren Street, Suite 210  
Glens Falls, New York 12801

Tel. (518) 792-1312  
website: www.warren-washingtonida.com

To: All Board Members of the Industrial Development Agency and Civic  
Development Corporation

From: Dave O'Brien, Chair

Date: March 21, 2023

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The Counties of Warren and Washington Industrial Development Agency and  
Civic Development Corporation will hold a Special Meeting as follows:

**Date:** Thursday March 30, 2023 at 4 pm.

**Locations:** Washington County Municipal Center, Fort Edward, NY  
2729 North Beach Road Unit 212, Englewood, FL

Attached please find:

→ Meeting Agenda

**Remember to call or email Alie at the Agency Office at least 24 hours**  
**beforehand if possible if you are unable to attend the meeting.**

cc: Amanda Allen, Warren Co. Board Clerk with agenda  
Debra Prehoda, Washington Co. Board Clerk with agenda  
The Post Star, with agenda  
Robert Terwilliger, Esq., First Assistant County Attorney with agenda

**Counties of Warren and Washington  
Industrial Development Agency and  
Civic Development Corporation**

**Special Meetings Announcement/Agenda**

**Thursday, March 30, 2023 @ 4:00 pm  
at the Washington County Municipal Building – 383 Broadway, Fort Edward  
also at 2729 N Beach Rd, Until 212, Englewood FL**

Members of the public may also listen/view/comment via the livestreaming on YouTube under Warren Washington IDA.

Minutes of this Warren Washington Industrial Development Special Meeting will be transcribed and posted on the WWIDA website.

**CDC Special Meeting**

Agenda

- Call Meeting to Order
- 2022 Audit Report Review
- Adjournment

**IDA Special Meeting**

Agenda

- Call Meeting to Order
- Hyde Collection bond maturity date extension
- 2022 Audit Report Review
- Proposed UTEP - discussion on comments and amendments
- Policy Manual
- Adjournment

Resolution No. \_\_\_\_\_

Adopted March 30, 2023

Introduced by \_\_\_\_\_

Seconded by \_\_\_\_\_

**RESOLUTION OF THE COUNTIES OF WARREN AND WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY CONCERNING THE MATURITY DATE FOR THE HYDE COLLECTION TRUST REISSUANCE BOND, SERIES 2013A**

**WHEREAS**, on March 28, 2013, the Counties of Warren and Washington Industrial Development Agency (the "Agency") authorized a bond reissuance in the amount of \$1,100,000 in connection with a project undertaken by the Hyde Collection Trust (the "Hyde") and financed by Glens Falls National Bank and Trust Company ("GFNB"); and

**WHEREAS**, in light of the current economic conditions resulting from COVID-19 GFNB consented to a deferment of payments; and

**WHEREAS**, the balance was not re-amortized resulting in a lump sum payment being due and payable on April 1, 2023 (the "Maturity Date"); and

**WHEREAS**, it is the intention of GFNB to extend the Maturity Date until August 1, 2023, so that the Hyde can make installment payments; and

**WHEREAS**, upon due consideration thereon, the Agency has determined that it is in the best interests of the Agency to consent to the extension of the Maturity Date.

**NOW, THEREFORE, BE IT RESOLVED THAT:**

1. The Agency hereby consents to the extension of the Maturity Date of the Hyde Collection Trust Reissuance Bond, Series 2013A issues March 28, 2013 to August 1, 2023.
2. The Chairman is hereby authorized to execute any and all necessary documents necessary to effectuate this resolution.
3. This resolution shall take effect immediately.

COMMENT	SCHOOLS										TOWNS										COUNTY	TOTAL
	Argyle	Fort Edward	Greenwich	Hartford	Hudson Falls	Queensbury	Lake George	Whitehall	Easton	Kingsbury	Granville	Hartford	Washco									
TITLE: Directing and Instructing Washington County Appointed Members of the Counties of Warren and Washington Industrial Development Agency Regarding Procedures For Tax Exemptions Granted by the Agency RESOLVED, that the Board of Supervisors directs and instructs its appointed members to the Counties of Warren and Washington Industrial Development Agency to ensure that any IDA UTEP or other policy that provides for tax abatement or exemption require the affirmative consent of any taxing entity whose revenues or operations will be affected prior to that tax abatement or exemption being granted																			YES			
CDC contain same terminology as A4																			YES			
Cost Benefit Analysis (ROI)																			YES			
The List of towns who have requested to be on the Approval of PILOT by Towns be maintained and that the towns are required to take into account the school and village needs.	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES		12		
No limits on comments											YES							YES		3		
Restablish solar policy requiring approval of taxing jurisdictions	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES		12		
No tax abatements to residential apartments unless requested by taxing jurisdiction							YES						YES					YES		3		
Any deviation require approval of taxing jurisdiction except for pilots less than standard												YES						YES		3		
Future UTEP changes required to be approved by all taxing jurisdictions												YES						YES		3		

## APPENDIX C – PROJECT CHANGE REQUEST POLICY

**Project Change Request:** Applicable to all Agency approved projects when the owner is requesting an extension, an assignment, or other project change.

The following procedures, written documents and fees are required when submitting a request to the Warren-Washington Industrial Development Agency (the “Agency”) for an extension, an assignment, an increase in sales tax exemption authorization, a refinance or other project changes (collectively referred to herein as “Project Change Request”) for an existing approved project. Upon receipt of all completed documents and fees, the Members will review and act upon the Project Change Request in a timely manner. Documents can be transmitted through digital means and will be accepted if they meet the following requirements.

1. Provide a cover letter on the applicant’s business letterhead that is dated and signed and explains the need for the Project Change Request. The letter should address the specific actions the applicant is requesting of the IDA regarding the project timeline and any other applicable elements of the project impacted by the Project Change Request including but not limited to the project financing, Payment in Lieu of Tax (“PILOT”) agreement, sales tax exemption and/or mortgage tax exemption.
2. If the project has financing with external lenders or investors, and that financing is impacted in anyway because of the Project Change Request, provide fully executed copies of all relevant agreements or signed and accepted Letters of Intent with those parties to confirm and explain the terms, collateral requirements, and conditions.
3. Provide an updated project schedule, if applicable.
4. If applicable, report the terms and conditions of all existing or pending lease agreements with current and future tenants of the project.
5. Report any changes in how the project is or plans to advance full, part-time, and/or temporary job opportunities. Update the current or projected number of full, part-time, and/or temporary job opportunities the project will achieve.
6. The Agency has an established Fee Schedule for Project Change Requests, attached as **Exhibit A. Agency and Legal Fees**, as well as any out-of-pocket expenses, are applicable for all project changes including but not limited to extensions, increases, refinancing, modification of financing, change in ownership, and assignments. An assignment of the project to an unrelated entity may require a new application to be submitted, and separate additional fees may be applicable.
7. The Agency reserves the right to request any additional information and/or documentation that it reasonably deems necessary to consider the Project Change Request.

When completed, the required documents and project information described above can be transmitted digitally as a PDF to Warren-Washington IDA, 5 Warren Street, Suite 210, Glens Falls, New York 12801.

## EXHIBIT A

### Project Change Request: Fee Schedule

Date: As of December 2022 (subject to change)

1. The **Agency Fees** for projects requesting change are as follows:

a. Extension of project completion date:	\$300.00
b. Increase in Sales Tax Exemption Authorization:	\$300.00
c. New Mortgage/Refinance/Modification of Financing:	\$500.00
d. Change in Ownership Structure with same majority member:	\$300.00
e. Assignment of Project (under new ownership):	\$300.00

**Note:** An assignment of the project to an unrelated entity may require a new application to be submitted, for which a separate fee(s) may be applicable.

2. In addition to the above-referenced Agency Fees, the applicant shall be responsible for the **Legal Fees** and expenses of the Agency as well as any out-of-pocket expenses of the Agency that may be incurred.

All Agency Fees are due at the time Project Change Request documents are submitted to the Agency. For Agency Fees, make checks payable to Warren-Washington IDA. Legal Fees and other out-of-pocket expenses are generally remitted at time of closing, unless otherwise noted.

**COUNTIES of WARREN & WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY**  
**UNIFORM TAX EXEMPTION POLICY (UTEP)**

March 2023

**SECTION I. PURPOSE AND AUTHORITY.**

Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the "Act"), the Counties of Warren and Washington Industrial Development Agency (the "Agency") is required to establish a Uniform Tax Exemption Policy applicable to the provision of any financial assistance.

**SECTION II. 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:

- (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, including, but not limited to legal fees, (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) "Base PILOT" shall mean the taxes calculated on the Assessed Value of the existing property before any improvements.
- (E) "County" shall mean the Counties of Warren or Washington.
- (F) "Deviation" or "Enhanced" shall mean a substantive departure from any one or more requirements or conditions from obtaining Financial Assistance and/or the extent to which Financial Assistance is available and its amount. For purposes of this Policy, offering less Financial Assistance for a particular project than the

maximum amount otherwise available under this Policy shall not constitute a deviation of this Policy.

- (G) “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.
- (H) “School District” shall mean any school district located in Warren or Washington Counties.
- (I) “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.
- (J) “Town” shall mean any town located in Warren or Washington Counties.
- (K) “Village” shall mean any village located in Warren or Washington Counties.

**SECTION III. GENERAL PROVISIONS.**

- (A) General Policy: The general policy of the Agency is to grant tax exemptions as hereinafter set forth to any project that qualifies based on the terms of this UTEP and as allowed by law. Any Company which has been or will be financed by the issuance by the Agency of bonds, notes or other evidence of indebtedness with respect thereto shall also qualify for incentives as outlined in this policy, as may be applicable.
- (B) Enhanced PILOTs and Deviations. 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 Sections 874(4)(a) of the Act. Enhanced PILOTs and/or Deviations resulting



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 to the initial acquisition, construction, expansion, renovations, equipping of each project, and any other form as allowed by law 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, expansion, renovations, equipping of each project, and any other form as allowed by law, 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 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 evidence of indebtedness with respect to the project and ending on the date of completion of the project. Tax exemption will begin for all projects not receiving forms of indebtedness from the Agency at the time of the execution of the Project Agreement and Agent Agreement and payment of any Agency fees due at that time.
  - (2) Early Commencement. If applicable, 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) such date as approved by the Board. 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

in larger than standard incentives, as more fully described herein, shall require the approval of the towns.

1. Notice Requirement: As required by law and as set forth herein, all affected tax jurisdictions shall be notified of any proposed deviation of the Uniform Tax Exemption Policy and the reasons for such deviation. Affected tax jurisdictions shall have the opportunity to provide input regarding deviation of this policy prior to final action by the Agency.

The town will be required to take into consideration the needs of the school district and/or village within which the project is located. All Enhanced PILOTS require the approval of the Town in which the project is located. Any comments provided by the town should be considered in the Agency review process prior to taking action on approving the PILOT. These comments should be received Three (3) business days prior to the Public Hearing. Comments will also be accepted up to and during the Public Hearing but early receipt allows for review and distribution prior to the Public Hearing. The IDA will respond directly to comments provided. Comments will always be accepted on any project at any time but to be considered during the project approval process must be received as outlined above.

- (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) Federal, State, County or Planning Board Approvals: Financial benefits will not be granted until the project has received the necessary Federal, State, County, or Planning Board Approvals, if any, are required.
- (E) Use of Local Contractors, and Workers and Suppliers: 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.

#### SECTION IV. 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

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 based on 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; and
  - (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; and
  - (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. 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 V. 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 debt obtained by approved projects 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 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 or otherwise has jurisdiction over a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt for the purpose of refinancing prior debt, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid and the Agency has consented to said exemption upon written request to the Agency.
- (C) Non-Agency Projects. In the event that the Agency does not hold title to or have jurisdiction over 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) 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.
- (E) 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 VI. 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.
- (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 VII. REAL PROPERTY 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 Exemption: The general policy of the Agency is to allow the assessor of the municipality in which the project is located to ascertain the BASE assessed value of a project under the jurisdiction of the Agency as of the date of the PILOT Agreement. The BASE value generally is the assessed value of the land and the improvements as it exists as of the date of the PILOT Agreement. Once the assessed BASE value is established it will remain the BASE for the term of the PILOT Agreement and one hundred percent of all taxes assessed by the respective taxing jurisdictions will be paid on the BASE value. The assessed value of the eligible improvements on the property, once determined will be reduced by the exemption percentage established by the Agency, and the resulting value will become the value for PILOT purposes (the "PILOT value"). The PILOT payment will then be computed for each taxing jurisdiction in each year by multiplying the PILOT value by the applicable tax rate of the respective taxing jurisdictions in such year.

**(D) UNIFORM TAX EXEMPTION SCHEDULES**

**(1) Types of Projects:**

<p><b>a) Manufacturing, Industrial and Research &amp; Development</b></p> <p>Base PILOT</p> <p>New Construction* PILOT</p>	<p>Eligible projects are limited to manufacturing, re-manufacturing, assembly processing, warehouse, wholesale/distribution, research and development, and software development.</p> <p><i>Continue</i> to pay 100% of taxes on land and existing buildings. <i>Continue</i> to pay 100% of water, sewer, and special assessments.</p> <p>100% exemption for 5 years; 50% exemption for the next 5 years; 0% exemption for 11<sup>th</sup> year and onward.</p>
<p><b>b) Other Eligible Projects</b></p> <p>Base PILOT</p> <p>New Construction* PILOT</p>	<p>Eligible projects permitted by General Municipal Law except as otherwise mentioned in this policy.</p> <p><i>Continue</i> to pay 100% of taxes on land and existing buildings. <i>Continue</i> to pay 100% of water, sewer, and special assessments.</p> <p>50% exemption for 5 years; 25% exemption for the next 5 years; 0% exemption for 11<sup>th</sup> year and onward.</p>
<p><b>c) Hotels, Mixed Use, Commercial, Housing, Apartments, Planned Unit Developments, Resorts, and Planned Recreational Developments</b></p>	<p>Resorts destination for vacation or recreation.</p> <p>Planned Unit Developments for condominiums, commercial property such as retail stores, or any combination of these types. Mixed Use and Apartment projects. Planned Recreational Developments with public facilities designed and used to provide</p>





- H. **Solar, Wind, Farm Waste:** Applications will be entertained by the WWIDA only after the local municipalities agree in writing to work with the WWIDA on a PILOT. To respect variations in local municipal policy, each project WWIDA application will be noticed to the host municipality and school for their feedback.
- I. **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 by the Agency to each affected tax jurisdiction within thirty (30) days of receipt.
- J. **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.
- K. **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 exemption 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.
- L. **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 at the expense of the Applicant.
- M. **Employment Filings.** If the Agency grants the applicant an exemption under this Section VII, 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.

N. RECAPTURE OF BENEFITS POLICY: The recapture policy of the Agency of the real property tax exemptions will be incorporated into all PILOT agreements. Parameters of recapture will be included in the PILOT Agreement as an Exhibit.

**SECTION VIII: CRITERIA FOR CONSIDERING APPLICATIONS**

**A. Project Feasibility**

- (1) 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.

- (2) In determining Project feasibility, the Agency may examine the information and documentation it deems necessary to make an informed judgment which may 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

- (3) After receipt of a completed Application, the Agency shall provide a copy of the Application to the Town Supervisor, School Superintendent, Business Manager, and Assessor in which the Project is located. The Town Supervisor, School official or his representative shall be invited to the Agency’s executive meeting or the Agency’s meeting at which the application is presented to the board and the applicant is present. Three (3) business days prior to the date of the Public Hearing the Town may submit any comments on the project for the Agency’s consideration in its evaluation of Project’s Application requesting financial assistance. Comments will also be accepted up to and during the Public Hearing, but early receipt allows for review and distribution prior to the Public Hearing. The Agency shall

not be bound by the input of the Town except for those towns listed in Appendix A but will take comments into consideration during the final approval of the Project and will respond in writing to any comments and/or the reasons for its decision to grant or deny of financial assistance.

- (4) Project feasibility issues that are not resolved to the satisfaction of the Agency are an appropriate reason for refusal.

**B. 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 to determine whether or not they would have a significant beneficial impact upon the County's economy. Measures of significance may 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 created by or retained by project upon commencement of operation of the facility.
2. Tax Exemptions: The tax exemptions 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 Analysis (Return on Investment (ROI)): The approval of the project, also known as project inducement, must result in an economic benefit to the county, city, town, village, and school district in which the project is located, which may include an analysis of the projected revenues that may result from the project.
5. Timely Completion: Developer's ability to complete the project in a timely fashion.
6. Economic Benefits: The economic benefits which support the local economy.
  - a. Increases in assessed value made by investment of a company in relocating to the area, expansion of current facilities, retention of companies in the areas served by the WWIDA.

7. 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.
8. 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.
9. Existing Business: The effect the project will have on existing businesses will be considered by the Agency.
10. The Agency may promote renewable Energy projects which provide economic benefits to the area.

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

**C. 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 resolution approving the project, as well as the project 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.

**D. Approval 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 IX: CRITERIA FOR CONSIDERING ASSISTANCE TO 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 or an Opportunity 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.

## **SECTION X. ANNUAL REVIEW OF POLICIES.**

At the Agency's Annual Meeting, 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.

**APPENDIX A**

**LIST OF MUNICIPALITIES REQUIRING APPROVAL OF STANDARD AND ENHANCED PILOTS**

**Warren County NY:**

Towns of:

Town/Date Added to Appendix A:

Horicon – 7/15/99  
Johnsburg – 7/6/99  
Stony Creek – 7/20/99

**Washington County, NY:**

Towns of:

Town/Date Added to Appendix A:

Argyle – 6/21/99  
Cambridge – 7/12/99  
Fort Edward – 6/14/99  
Greenwich – 7/13/99  
Kingsbury – 7/12/99  
Salem – 8/11/99  
White Creek – 8/10/99  
Hartford – 7/14/2020  
Granville – 8/13/20  
Easton

## REPORT TO THE BOARD

March 16, 2023

The Board of Directors  
Counties of Warren and Washington  
Industrial Development Agency

Dear Board Members:

We have audited the financial statements of the business-type activities and the discretely presented component unit of the Counties of Warren and Washington Industrial Development Agency (the Agency) for the year ended December 31, 2022. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards and Government Auditing Standards, as well as certain information related to the planned scope and timing of our audit. We have communicated such information to you in our engagement letter. Professional standards also require that we communicate to you the following information related to our audit.

### Significant Accounting Policies

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Agency are described in note 1 to the financial statements. As described in note 2 to the financial statements, the Agency adopted Governmental Accounting Standards Board Statement No. 87 - "Leases," during the year ended December 31, 2022. We noted no transactions entered into by the Agency during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

### Accounting Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

For the year ended December 31, 2022, we evaluated the key factors and assumptions used by management in determining that accounting estimates were reasonable in relation to the financial statements taken as a whole.

### Sensitive Disclosures

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The financial statement disclosures are neutral, consistent and clear.

### Difficulties Encountered in Performing the Audit

We encountered no difficulties in dealing with management in performing and completing our audit.

### Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements.

### Disagreements with Management

For purposes of this report, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

### Management Representations

We have requested certain representations from management that are included in the management representation letter.

### Management Consultations with Other Independent Accountants

In come cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the Agency's financial statements or a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.



Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management prior to appointment as the Agency's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our appointment.

Other Matters

We applied certain limited procedures to the required supplementary information (RSI) that supplements the basic financial statements. Our procedures consisted of inquires of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

\* \* \* \* \*

This information is intended solely for the use of the Audit Committee, Board of Directors and management of the Counties of Warren and Washington Industrial Development Agency and is not intended to be, and should not be, used by anyone other than these specified parties.

Very truly yours,

EFPR Group, CPAs, PLLC

EFPR GROUP, CPAs, PLLC

March 16, 2023

CONFIDENTIAL

The Board of Directors  
Counties of Warren and Washington  
Industrial Development Agency

Dear Board Members:

We have completed our audit of the financial statements of the Counties of Warren and Washington Industrial Development Agency (the Agency) for the year ended December 31, 2022. Considering the test character of our audit, you will appreciate that reliance must be placed on adequate methods of internal control as your principal safeguard against irregularities which a test examination may not disclose. We now present for your consideration our comments and recommendations based upon observations made during our audit.

This report is intended solely for the information and use of the Board of Directors, management and others within the Agency.

Operating Policies and Procedures

During our audit, we reviewed the policies and procedures maintained by the Agency. It was noted that the cash receipt process was not documented. While there is a process in place, in order to improve internal control we recommend that the process be appropriately documented.

Disaster Recovery

During our audit, we inquired about the Agency's accounting system and information technology. It was noted that there is no disaster recovery plan (the Plan). The Plan should include information on what the Agency and employees should do if the accounting system or other technology based applications were to be compromised. We recommend that the Agency work with a third-party information technology provider to develop a written formal plan as well as develop and perform procedures on how often to test the Plan.

The Board of Directors  
Counties of Warren and Washington  
Industrial Development Agency  
Page 2

\* \* \* \* \*

We wish to take this opportunity to express our appreciation for the courtesy and cooperation extended to us by the Agency personnel during our audit. If you have any questions regarding the foregoing comments or wish any assistance in their implementation, please contact us at your convenience.

Very truly yours,

*EFPR Group, CPAs, PLLC*

EFPR GROUP, CPAs, PLLC

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Financial Statements

December 31, 2022

(With Independent Auditors' Report Thereon)

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

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## INDEPENDENT AUDITOR'S REPORT

The Board of Directors  
Counties of Warren and Washington  
Industrial Development Agency

### Report on the Audit of the Financial Statements

#### Opinions

We have audited the accompanying financial statements of the business-type activities and the discretely presented component unit of the Counties of Warren and Washington Industrial Development Agency (the Agency), as of and for the year ended December 31, 2022, and the related notes to the financial statements, which collectively comprise the Agency's basic financial statements as listed in the table of contents.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities and the discretely presented component unit of the Agency, as of December 31, 2022, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Agency and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### Emphasis of Matter

As described in note 5 to the financial statements, restatements of the prior period were made during the year ended December 31, 2022. Our opinions are not modified with respect to these matters.

As discussed in notes 1(m) and 5 to the financial statements, the Agency adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 87 - "Leases," during the year ended December 31, 2022. Our opinion is not modified with respect to this matter.

## Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Agency's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and Government Auditing Standards will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and Government Auditing Standards, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Agency's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Management's Discussion and Analysis

December 31, 2022

Our discussion and analysis of the Counties of Warren and Washington Industrial Development Agency's (the Agency) financial performance provide an overview of the Agency's financial activities for the year ended December 31, 2022. Please read it in conjunction with the Agency's financial statements. Included in this report is the Counties of Warren and Washington Civic Development Corporation (the Corporation), a discretely presented component unit.

FINANCIAL HIGHLIGHTS

Financial Highlights:

- Total Agency's current assets increased by \$780,887 and noncurrent assets increased by \$11,196,899 from 2021.
- The Agency acquired land for development along the Hudson River near Lock 8 in Washington County worth an estimated fair market value of \$11,179,600.
- The Agency's opening net position was restated by \$164,985.
- The Agency adopted the provisions of Governmental Accounting Standards Board Statement No. 87 - "Leases," during the year ended December 31, 2022.
- The Corporation gave a grant to the Agency in the amount of \$1,238,240.
- The Corporation's opening net position was restated by \$2,587.

USING THIS ANNUAL REPORT

This annual report consists of two parts: Management's Discussion and Analysis and Financial Statements. The Financial Statements also include notes that explain in more detail some of the information in the financial statements.

OVERVIEW OF FINANCIAL STATEMENTS

This discussion and analysis is intended to serve as an introduction to the Agency's financial statements. The financial statements are designed to provide readers with a broad overview of the Agency's finances.

The Statement of Net Position presents information on all the Agency's assets and liabilities, with



COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Management's Discussion and Analysis, Continued

The Statement of Revenue, Expenses and Changes in Net Position presents information showing how the Agency's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows.

Notes to Financial Statements. The notes provide additional information that is essential to a full understanding of the data provided in the financial statements.

FINANCIAL ANALYSIS

Net position may serve over time as a useful indicator of a government agency's financial position. In the case of the Agency and the Corporation, assets exceeded liabilities by \$13,641,857 and \$797,794, respectively, as of December 31, 2022.

The Agency's financial position is the product of several financial transactions including the net results of activities, the acquisition and payment of debt, the acquisition and disposal of capital assets, and the depreciation of capital assets.

The following tables present a summary of the Agency's and Corporation's net position as of December 31, 2022 and 2021.

	2022		2021*	
	Industrial Development Agency	Civic Development Corp. (Component Unit)	Industrial Development Agency	Civic Development Corp. (Component Unit)
Assets:				
Current assets	\$ 1,654,511	797,794	873,624	36,946
Capital assets	12,110,080	-	962,284	-
Other	50,279	-	1,176	-
Total assets	13,814,870	797,794	1,837,084	36,946
Total liabilities	20,501	-	3,008	-
Deferred inflows of resources - lease	152,512	-	-	-
Net position:				
Net investments in capital assets	12,110,080	-	962,284	2,587
Unrestricted	1,531,777	797,794	871,792	34,359
Total net position	\$13,641,857	797,794	1,834,076	36,946

### Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by GASB, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with GAAS, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, we have also issued our report dated March 16, 2023, on our consideration of the Agency's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Agency's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the Agency's internal control over financial reporting and compliance.

EFPR Group, CPAs, PLLC

Williamsville, New York  
March 16, 2023

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Management's Discussion and Analysis, Continued

Changes in the Agency's and Corporation's net position can be determined by reviewing the following condensed Statement of Revenue, Expenses and Changes in Net Position for the years ended December 31, 2022 and 2021.

	<u>2022</u>		<u>2021*</u>	
	Industrial Development Agency	Civic Development Corp. (Component Unit)	Industrial Development Agency	Civic Development Corp. (Component Unit)
Operating revenue	\$ 2,335,113	2,002,055	566,000	157,751
Operating expenses	<u>1,744,629</u>	<u>1,241,027</u>	<u>417,200</u>	<u>136,324</u>
Net operating revenue	<u>590,484</u>	<u>761,028</u>	<u>148,800</u>	<u>21,427</u>
Net nonoperating revenue	<u>11,217,297</u>	<u>-</u>	<u>616,977</u>	<u>-</u>
Change in net position	11,807,781	761,028	765,777	21,427
Net position at beginning of year, as restated	<u>1,834,076</u>	<u>36,946</u>	<u>1,068,299</u>	<u>15,519</u>
Net position at end of year	<u>\$ 13,641,857</u>	<u>797,974</u>	<u>1,834,076</u>	<u>36,946</u>

\* Restated for correction of errors.

CAPITAL ASSETS

The Agency's capital assets are recorded at cost and consist mainly of land and related development costs. Capital assets as of December 31 are comprised as follows:

	<u>2022</u>	<u>2021*</u>
Land	\$ 11,520,198	962,284
Equipment	9,198	9,198
Accumulated depreciation	<u>(9,198)</u>	<u>(9,198)</u>
Capital assets, net	<u>\$ 11,520,198</u>	<u>962,284</u>

\*Restated for correction of error.

FACTORS BEARING ON THE AGENCY'S FUTURE

The Agency's operations are dependent on the ability to attract new business into Warren and Washington Counties.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Management's Discussion and Analysis, Continued

CONTACTING THE AGENCY'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, customers and creditors with a general overview of the Agency's finances and to demonstrate the Agency's accountability for the money it receives. If you have any questions about this report or need additional financial information, contact the Agency at (518) 792-1312 or by mail: Counties of Warren and Washington Industrial Development Agency, 5 Warren Street, Suite 210, Glens Falls, New York 12801.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Statement of Net Position  
December 31, 2022

	<u>Industrial Development Agency</u>	<u>Civic Development Corporation</u>
Assets:		
Current assets:		
Cash and equivalents	\$ 1,499,058	797,414
Accounts receivable	36,869	560
Prepaid expenses	4,265	-
Current portion of lease receivable	114,319	-
Total current assets	<u>1,654,511</u>	<u>797,974</u>
Noncurrent assets:		
Escrow cash	12,086	-
Lease receivable, net of current portion	38,193	-
Capital assets, net	12,110,080	-
Total noncurrent assets	<u>12,160,359</u>	<u>-</u>
Total assets	<u>13,814,870</u>	<u>797,974</u>
Liabilities:		
Accounts payable	216	-
Accrued liabilities	5,462	-
Due to other governments	14,823	-
Total liabilities	<u>20,501</u>	<u>-</u>
Deferred inflows of resources - lease	<u>152,512</u>	<u>-</u>
Net position:		
Net investment in capital assets	12,110,080	-
Unrestricted	<u>1,531,777</u>	<u>797,974</u>
Total net position	<u>\$ 13,641,857</u>	<u>797,974</u>

See accompanying notes to financial statements.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY  
Statement of Revenue, Expenses and Changes in Net Position  
Year ended December 31, 2022

	Industrial Development Agency	Civic Development Corporation
Operating revenue:		
Charges for services	\$ 1,075,731	2,001,500
Reimbursements	21,142	555
WWCDC grant	<u>1,238,240</u>	<u>-</u>
Total operating revenue	<u>2,335,113</u>	<u>2,002,055</u>
Operating expenses:		
Personal services	149,416	-
Contractual expenses	1,558,976	2,787
Payroll taxes	36,237	-
WWCDC grant	<u>-</u>	<u>1,238,240</u>
Total operating expenses	<u>1,744,629</u>	<u>1,241,027</u>
Total operating income	<u>590,484</u>	<u>761,028</u>
Nonoperating revenue (expenses):		
Interest income	174	-
Land donation	11,179,600	-
Real property tax expense	(11,837)	-
Sale of property	<u>49,360</u>	<u>-</u>
Total nonoperating revenue	<u>11,217,297</u>	<u>-</u>
Change in net position	<u>11,807,781</u>	<u>761,028</u>
Net position at beginning of year, before restatement	1,999,061	39,533
Correction of errors (note 6)	<u>(164,985)</u>	<u>(2,587)</u>
Net position at beginning of year, as restated	<u>1,834,076</u>	<u>36,946</u>
Net position at end of year	<u>\$ 13,641,857</u>	<u>797,974</u>

See accompanying notes to financial statements.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Statement of Cash Flows  
Year ended December 31, 2022

	Industrial Development Agency	Civic Development Corporation
Cash flows from operating activities:		
Cash received from providing services	\$ 1,062,744	2,001,495
Cash payments - contractual expenses	(1,543,970)	(2,787)
Cash payments - personal services and payroll taxes	(183,166)	-
Operating grants disbursed	-	(1,238,240)
Operating grants received	<u>1,238,240</u>	<u>-</u>
Net cash provided by operating activities	<u>573,848</u>	<u>760,468</u>
Cash flows from noncapital financing activities - real property taxes	<u>(11,837)</u>	<u>-</u>
Cash flows from investing activities - interest income	<u>174</u>	<u>-</u>
Cash flows from capital and related financing activities - proceeds from sale of assets	<u>81,164</u>	<u>-</u>
Change in cash and equivalents	643,349	760,468
Cash and equivalents at beginning of year	<u>867,795</u>	<u>36,946</u>
Cash and equivalents at end of year	<u><u>\$ 1,511,144</u></u>	<u><u>797,414</u></u>
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	590,484	761,028
Adjustments to reconcile operating income to net cash provided by operating activities:		
Changes in:		
Accounts receivable	(34,129)	(560)
Accounts payable	183	-
Accrued liabilities	2,487	-
Due to other governments	<u>14,823</u>	<u>-</u>
Net cash provided by operating activities	<u><u>\$ 573,848</u></u>	<u><u>760,468</u></u>

See accompanying notes to financial statements.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements

December 31, 2022

(1) Summary of Significant Accounting Policies

The financial statements of the Counties of Warren and Washington Industrial Development Agency (Agency) have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) as applied to government units. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The most significant accounting policies of the Agency are described below.

(a) Organization and Purpose

The Agency was created in 1971 by the Warren and Washington County (the Counties) Boards of Supervisors under the provisions of Chapter 862 of the 1971 Laws of New York State (the State). The purposes of the Agency are to promote, develop, encourage, and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, and horse racing facilities and thereby advance the job opportunities, health, general prosperity, and economic welfare of the Counties and the residents thereof; and to improve their recreational opportunities, prosperity, and standards of living.

The Agency accomplishes its purposes through arranging for issuance of taxable and tax-exempt Industrial Development revenue bonds and notes, granting of sales and mortgage tax exemptions, and the arranging and administration of payment-in-lieu-of-taxes agreements to prospective businesses upon an application and approval process. The Agency considers these activities to be operating revenue. All revenue and expenses not meeting this definition are reported as nonoperating revenue and expenses, including the sale of land. The Agency also owns approximately 90 acres of land located in the Counties of which its primary purpose is to add business properties to an existing industrial park in order to attract prospective businesses.

The Agency is exempt from federal, state, and local income taxes. The members of the Board of the Agency are appointed by the Counties' Boards of Supervisors.



COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies. Continued

(f) Net Position

Net position is classified under the following components:

Investment in Capital Assets - This represents the Agency's total investment in capital assets, net of outstanding debt obligations related to those capital assets. To the extent debt has been incurred but not yet expended for capital assets, such amounts are not included as a component of net investment in capital assets.

Restricted Net Position - Represents of net positions with constraints on the use either by (1) external groups such as creditors, grantors, contributors, or laws or regulations of other governments; or (2) law through constitutional provisions or enabling legislation.

Unrestricted Net Position - Represents all other assets that do not meet the definition of net investment in capital assets or restricted net position.

(g) Use of Estimates

The preparation of financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

(h) Cash and Equivalents

The Agency considers all checking, savings, and certificate of deposit accounts with a maturity of three months or less to be cash equivalents for purposes of the statement of cash flows.

Cash and equivalents at December 31, 2022, are as follows:

	<u>Agency</u>	<u>Corporation</u>
Operating cash	\$ 1,499,058	797,414
Escrow cash	<u>12,086</u>	<u>-</u>
Total cash and equivalents	<u>\$ 1,511,144</u>	<u>797,414</u>

(i) Accounts Receivable

The Agency considers accounts receivable to be fully collectible. Accordingly, no allowance for doubtful accounts is required. If amounts become uncollectible, they will be charged to operations when the determination is made. The Agency has no stated policy for deeming receivables to be delinquent and no interest is charged to receivables.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies. Continued

(b) Component Unit of the Agency

The Counties of Warren and Washington Civic Development Corporation (the Corporation), an exempt organization under Sec. (501)(c)(3) of the Internal Revenue Code, was created in 2011 for the purpose of promoting community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of the Counties by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses, and other entities to access low interest tax-exempt and non-tax-exempt financing for their eligible projects; and undertaking projects and activities within the Counties for the purpose of relieving and reducing unemployment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the Counties by attracting new industry to the Counties or by encouraging the development of, or retention of, an industry in the Counties, and lessening the burdens of government and acting in the public interest. The Corporation's governing body is substantively the same as the Agency's and therefore, the Corporation is considered a component unit of the Agency and is discretely presented.

(c) Basis of Presentation

The Agency's financial statements consist of three statements that provide information about the Agency's activities. The first statement is the Statements of Net Position, which lists all of the Agency's assets and liabilities, with the difference reported as net position. The second statement is the Statements of Revenue, Expenses and Changes in Net Position, which details how the Agency's net position changed during the current year based on the reporting of the revenue and expenses recognized by the Agency. The third statement is the Statements of Cash Flows, which reports the activities that provide or use the cash of the Agency.

(d) Measurement Focus and Basis of Accounting

The financial statements of the Agency are reported using the economic resources measurement focus and the accrual basis of accounting. Revenue is recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of when the related cash transaction takes place. Nonexchange transactions, in which the Agency gives or receives value without directly receiving or giving equal value in exchange, include grants. Revenue from grants is recognized in the fiscal year in which all eligibility requirements have been satisfied.

(e) Income Taxes

The Agency does not believe that it has any uncertain tax positions, and has not recorded any unrecognized tax benefits or liability or penalties or interest.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(1) Summary of Significant Accounting Policies, Continued

(j) Capital Assets

The Agency's capital assets are recorded at cost and consist mainly of land and related development costs.

Land is recorded at cost when acquired and consists of approximately 90 acres. The Agency is developing sections of the land for sale to prospective businesses. Various legal, surveying, engineering, and other development costs are capitalized as incurred. Depreciation of office equipment and signs and mailboxes is recognized on a straight-line basis over the estimated useful lives of the assets, five and ten years, respectively.

(k) Subsequent Events

The Agency has evaluated subsequent events through the date of the report which is the date the financial statements were available to be issued.

(l) Future Implementations of GASB Pronouncements

GASB has issued the following pronouncements which will be implemented in the years required. The effects of the implementation of these pronouncements are not known at this time.

- Statement No. 94 - "Public-Private and Public-Public Partnerships and Availability Payment Arrangements," which will be effective for the year ending December 31, 2023.
- Statement No. 96 - "Subscription-Based Information Technology Arrangements," which will be effective for the year ending December 31, 2023.
- Statement No. 99 - "Omnibus 2022," which will be effective for the year ending December 31, 2024.

(m) Accounting for Leases

During the year ended December 31, 2022, the Agency implemented GASB Statement No. 87 - "Leases," which provides guidance for identifying certain leased assets and liabilities for leases that were previously classified as operating leases and recognized as inflows or outflows based on payment provisions of the contract.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(2) Industrial Development and Civic Development Revenue Bond and Note Transactions

Industrial Development revenue bonds and notes issued by the Agency are secured by property which is leased to companies and is retired by lease payments. The bonds and notes are not obligations of the Agency or the State of New York. The Agency does not record the assets or liabilities resulting from completed bonds and notes issued in its accounts, since its primary function is to arrange the financing between the borrowing companies and the bond and note holders, and funds arising therefrom are controlled by trustees or banks acting as fiscal agents.

The Agency receives an administration fee calculated as a percentage of the amount of bonds issued or cost of the project in the case of a straight lease transaction, in addition to reimbursements for any legal costs incurred by the Agency. Such administrative fee income is recognized immediately upon the closing of the project.

Industrial Development revenue bonds and notes outstanding as of December 31, 2022, total \$5,925,161. Civic Development revenue bonds and notes outstanding as of December 31, 2022, total \$42,867,666.

(3) Cash and Equivalents

The Agency's investment policies are governed by State statutes. Agency monies must be deposited in Federal Deposit Insurance Corporation (FDIC) insured commercial banks or trust companies located within the State. The treasurer is authorized to use demand accounts and certificates of deposit. Permissible investments include obligations of the U.S. Treasury and U.S. Agencies, repurchase agreements, and obligations of the State or its localities.

Custodial credit risk is the risk that in the event of a bank failure, the Agency's deposits may not be returned to it. While the Agency does not have a specific policy for custodial credit risk, the State statutes govern the Agency's investment policies, as described above.

The Agency's insured and collateral status of the year-end bank balances were as follows:

	<u>Agency</u>	<u>Corporation</u>
Bank balance	\$ 1,508,870	797,414
Covered by FDIC insurance	<u>1,508,870</u>	<u>250,000</u>
Uncovered	\$ <u>          -</u>	<u>547,414</u>

The Agency does not typically purchase investments of a duration long enough to cause it to believe that it is exposed to any material interest rate risk. The Agency does not typically purchase investments denominated in a foreign currency and is not exposed to foreign currency risk.

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(4) Capital Assets

Capital assets at December 31 are comprised as follows:

	Balance January 1, <u>2022*</u>	<u>Additions</u>	Retirements/ <u>Dispositions</u>	Balance December 31, <u>2022</u>
Land	\$ 962,284	11,179,600	(31,804)	12,110,080
Office equipment	1,614	-	-	1,614
Signs and mailboxes	<u>7,584</u>	-	-	<u>7,584</u>
	971,482	11,179,600	(31,804)	12,119,278
Less accumulated depreciation	<u>(9,198)</u>	-	-	<u>(9,198)</u>
Capital assets, net	\$ <u>962,284</u>	<u>11,179,600</u>	<u>(31,804)</u>	<u>12,110,080</u>

\*Restated for correction of error.

(5) Lease Receivable

As of December 31, 2022, the implementation of GASB Statement No. 87 - "Leases," the present value of the lease receivable measured using an interest rate of 3.99% was \$152,512.

The leased property consists of land located in the Town of Fort Edward, New York.

The following is the amortization schedule of the lease receivable:

<u>Year ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2023	\$ 114,319	3,881	118,200
2024	<u>38,193</u>	<u>207</u>	<u>38,400</u>
	\$ <u>152,512</u>	<u>4,088</u>	<u>156,600</u>

The following is the amortization schedule for the corresponding deferred inflows of resources:

<u>Year ending</u>	
2023	\$ 122,010
2024	<u>30,502</u>
	\$ <u>152,512</u>

COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY

Notes to Financial Statements, Continued

(6) Correction of Errors

The Agency and the Corporation each made a correction to certain December 31, 2021 balances. In the Agency, there was insufficient documentation to provide evidence of the previously reported land balance. In the Corporation, organizational costs were capitalized and amortized. These costs should have been expensed when they were incurred.

	<u>Agency</u>
December 31, 2021, as previously stated	\$ 1,999,061
Correction of error - over valued land	<u>(164,985)</u>
December 31, 2022, as restated	\$ <u>1,834,076</u>
	<u>Corporation</u>
December 31, 2021, as previously stated	\$ 39,533
Organizational costs:	
Historic cost	(7,756)
Accumulated depreciation	<u>5,169</u>
Correction of error	<u>(2,587)</u>
December 31, 2022, as restated	\$ <u>36,946</u>

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER  
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

The Board of Directors  
Counties of Warren and Washington  
Industrial Development Agency

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, the financial statements of the business-type activities and the discretely presented component unit of the Counties of Warren and Washington Industrial Development Agency (the Agency), as of and for the year ended December 31, 2022, and the related notes to financial statements, which collectively comprise the Agency's basic financial statements, and have issued our report thereon dated March 16, 2023.

Report on Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Agency's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements, on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Agency's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

### Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Agency's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

### Purpose of This Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Agency's internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the Agency's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

EFPR Group, CPAs, PLLC

Williamsville, New York  
March 16, 2023





# IDA Annual Compliance Report State Sales Tax Recapture

For IDA fiscal year ending 12 31 22  
(mmdyy)

Due within 90 days of the end of each fiscal year.

### IDA information

Name of IDA Warren Washinton Industrial Development Agency		
Street address 5 Warren Street, Suite 210		Telephone number ( 518 ) 792-1312
City Glens Falls	State NY	ZIP code 12801

### Terms and conditions for the recapture of state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

1 Did the IDA provide state sales tax exemption benefits to any project established, amended, or extended during the fiscal year entered above? ..... 1 Yes  No   
 If Yes, continue below.  
 If No, skip to question 3.

2 When an IDA establishes a project, appoints an agent/project operator, or amends or extends a project established in a prior year, the IDA must include terms and conditions for the recapture of state sales tax exemption benefits in its resolutions and project documents. This applies to all projects established, amended, or extended on or after March 28, 2013 (see instructions).

Did the IDA use the same terms and conditions regarding the recapture of state sales tax exemption benefits in the project documents for each of its projects (as described above)? ..... 2 Yes  No   
 If Yes, attach a copy of the terms and conditions used.

If No, attach a copy of each version used. Be sure to identify the projects to which each version of the terms and conditions relate.

If the IDA did not include terms and conditions for the recapture of state sales tax exemption benefits in the project documents, attach a list of these projects (see instructions).

### Activities and efforts to recapture state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

3 Did the IDA make efforts to recapture any state sales and use tax exemption benefits from an agent, project operator, or other person or entity (see instructions)? ..... 3 Yes  No   
 If Yes, continue below.  
 If No, skip question 4 and complete the Certification below.

4 Did the IDA file Form ST-65, IDA Report of Recaptured Sales and Use Tax Benefits, for each recapture, and remit the funds to the Tax Department? ..... 4 Yes  No   
 If Yes, you must keep a copy of Form ST-65 and supporting documentation related to the recapture activities.  
 If No, attach an explanation of the IDA's recapture efforts (see instructions).

### Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.		
Print name of person signing on behalf of the IDA Alie Weaver		Print title of person signing on behalf of the IDA Office Administrator
Signature	Date 03-21-2022	Telephone number ( 518 ) 792-1312

### Mailing instructions

Mail completed form and attachments to:

NYS TAX DEPARTMENT  
 IDA UNIT  
 W A HARRIMAN CAMPUS  
 ALBANY NY 12227-0866

If not using U.S. Mail, see Publication 55, Designated Private Delivery Services.

**COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY**

**RECAPTURE POLICY**

Section 1. Reasons for the recapture of benefits (Financial Assistance) include the following:

- a. Sale or closure of the facility and departure of the company from the Counties of Warren or Washington (Notwithstanding any of the terms set forth herein, this occurrence shall result in the immediate termination of Financial Assistance).
- b. Significant change in the use of the facility and/or the business activities of the company.
- c. Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.
- d. Failure to comply with any periodic and/or annual reporting requirements of the Agency, State or Federal governmental agency.
- e. Failure to meet or comply with the Material Terms, as determined by the Agency at the time of the acceptance of the project for Financial Assistance and as set forth in the Inducement Resolution, Preliminary Agreement.

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 in the foregoing Section A, 2 Impact on Local Economy in the Policy Manual of the Agency.

- f. For a project that failed to comply with a significant term or condition to use property or services in the manner required by any and all provisions of the agreements that the company has entered into with the Agency.

Section 2. For companies receiving real property tax abatements the recapture of benefits schedule (applicable to the real property tax abatements) is as follows:

Years 1-5      100% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 6-7      75% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 8-9      50% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Year 10        25% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 11+      0% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions.

The time period above is from the effective date of the PILOT Agreement.

In the case of real property taxes, any amounts recovered, recaptured, received or otherwise obtained shall be payable to the appropriate taxing jurisdictions, unless otherwise agreed to in writing by the taxing jurisdiction.

Section 3. In addition to the above reasons for recapture, the Agency shall recover, recapture, receive or otherwise obtain from the company, or its subagents, sales tax benefits that were taken or purported to be taken which are:

- a. In excess of the amounts authorized; or
- b. For property or services not authorized; or
- c. For a project that failed to comply with a significant term or condition to use property or services in the manner required by any and all provisions of the agreements that the company has entered into with the Agency.

For purposes of this Recapture Policy, the Company and its subagents shall cooperate with the Agency in its efforts to recover, recapture, receive or otherwise obtain such State sales and use benefit exemptions and shall promptly pay over such amount to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of Taxation and Finance to assess and determine State sales and use taxes due from the Company under Article 28 of the New York State Tax Law, together with any penalties and interest due on such amounts.

In the event that the Agency recovers, recaptures, receives or otherwise obtains any amount of State sales and use tax exemption benefits from the Company or its agents, the Agency shall, within thirty (30) days of coming into possession of such amount, remit it to the Commissioner of Taxation and Finance, together with such other information and report that the Commissioner deems necessary to administer payment over such amount.

#### Section 4.

In the event that the agency determines that there exists a basis for recapture as set forth in Section 1 herein, the Agency shall notify the company, in writing, that the Agency has determined that a basis for recapture exists. The company shall be given a reasonable timeframe within which to remedy the violation, such timeframe being commensurate to the violation, and the company shall provide additional information and/or an explanation as to why the violation has occurred or the Material Term has not been achieved, as the case may be. If requested by the Agency, the company shall make a presentation to the Agency concerning this default.

Thereafter the Agency may make a determination pursuant to this Recapture Policy. Imposition of any recapture is at the sole discretion of the Agency and is reviewed/considered on a case by case company, the Agency, at its sole discretion, may make a determination to discontinue the Financial Assistance in its entirety, per the provisions set forth in the Lease Agreement; or suspend the Financial Assistance for a specific stated period of time in order for the company to correct or comply with the Material Term being breached; or, in the case of real property taxes exemptions, modify the PILOT Agreement to decrease the exemption and increase the payments due for the remaining term of the PILOT Agreement.