POLICIES AND PROCEDURES MANUAL

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

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 Craig Leggett Vice Chair Warren

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

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**SECTION I: GENERAL INFORMATION**

I. Purpose and Benefits of Agency Financing

The Counties of Warren and Washington Industrial Development Agency is a public benefit corporation organized under the laws of the State of New York. 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, horse racing facilities, and continuing care retirement communities, housing, green energy projects and thereby advance the job opportunities, health, general prosperity and economic welfare of the Counties of Warren and Washington and the residents thereof; and to improve their recreational opportunities, prosperity and standard of living.

The Agency accomplishes its purposes through the issuance of its Industrial Development Revenue Bonds, straight lease transactions, and installment sale agreements as well as various tax advantages. The interest earned on qualified IDA bonds issued for manufacturing purposes is not included in the gross income of the bond holder for federal income tax purposes. Interest earned on IDA bonds issued for projects such as office buildings and shopping centers is not exempt for federal income tax purposes. Due to the particular structuring of the financing documents, purchases made for materials and equipment for an Industrial Development Agency project are exempt from sales tax; and the project will be exempt from mortgage recording tax. Moreover, unlike municipal bonds, Industrial Development Revenue Bonds are available to fund privately owned projects.

Although the private companies benefiting from Agency participation are technically exempt from local city, town, village, school and county property taxes, a Payments in Lieu of Taxes Agreement (PILOT) is entered into between the Agency and any applicant for Industrial Development Agency involvement whereby that applicant contractually agrees to make payments in lieu of the taxes for which it would be liable if it were not an Industrial Development Agency project. These PILOT Agreements are used as an incentive for business to locate, improve, and/or expand business operations in Warren or Washington County. Although the Developer initially pays less taxes than it would if the project were privately owned, there is no decrease in the local tax base due to such projects. In fact, there will normally be a net increase in the amount of tax revenue to the local taxing authorities, as is the case when a vacant or run-down parcel is developed into a productive parcel or change of use through Agency funding. Consequently, the only impact on the local community is a positive one, as both temporary and permanent jobs are created, the tax base is maintained or increased, the economic potential of the two counties is further developed, and additional dollars are injected into the local economy.

It is this availability of tax-exempt bonds, beneficial PILOT agreements, sales tax exemption, and mortgage tax treatment usually afforded only to government entities, municipalities, and certain non- profit agencies which make Industrial Development Agency projects attractive to private businesses. Also, IDA Bonds are often more marketable than the notes of a private company.

II. Members of Agency

The members of the Counties of Warren and Washington Industrial Development Agency (“Members”) are appointed by the Boards of Supervisors of Warren and Washington Counties. The members serve without pay, give freely of their time and expertise to contribute to the economic development of the Counties of Warren and Washington. They look forward to further service in this area and welcome the opportunity to be of service to potential applicants for Agency funding.

III. Costs Involved in Financing the Project

The application fee, the administrative fee and legal fees incurred are costs that will be incurred by the applicant and are fully set forth in this manual entitled FEES AND AGENCY’S COSTS.

New York State imposes a Bond Issuance Fee based upon the bonding amount. This fee is paid to the NYS Department of Tax and Finance and may be paid out of bond proceeds. The NYS fee schedule is fully set forth in this Manual.

Legal fees constitute the bulk of the remaining costs involved. The nature and amount of the applicant's legal fees depend on whatever arrangements it makes with its attorneys. The Agency's legal counsel fees are based on the number of hours spent on the project. In connection with a particular project, and after a review of the extent and complexity of the same, Agency Counsel will be able to quote an estimated fee for the project. The Applicant is responsible for the Agency's legal counsel fees and for any disbursements regarding its project made by the Agency's legal counsel or by the Agency itself.

The bond counsel for an Agency issue must be approved by the ultimate bond purchaser and by the Agency. The nature and amount of bond counsel fees vary.

In some cases, especially those projects involving smaller bond issues, the Agency's legal counsel will prepare the bond documents and give a legal opinion acceptable to the lender. This is done to reduce the cost to the Developer of smaller projects in an effort to contain costs for smaller projects.

The legal and administrative fees of the bond purchaser will vary and can be ascertained when discussing the proposed bond purchase with prospective buyers. The applicant can anticipate that such costs will be passed through to it by the bond purchaser.

Any accounting services required by the applicant for planning the financing will increase the costs of financing the project.

All the above costs should be considered in planning the project and included in the applicant's proposal for assistance. For bond projects: These costs may be reimbursed to the applicant through the bond proceeds. Consequently, they should be considered and included in the applicant's proposal for bond financing set forth in the Application.

**SECTION II: RESPONSIBILITIES AND ADMINISTRATION**

II. Responsibilities of Agency Staff and Officials

1. Chief Executive Officer: Under the day-to-day supervision by the Chair, the Chief Executive will be responsible for managing all aspects of the Agency. The CEO will make recommendations to the Board, possess the ability to represent The Agency to local organizations and businesses and be a representative of economic development in Warren and Washington Counties through appearances locally, regionally, and nationally when necessary. The CEO will be responsible for working with the Board to develop a long-term vision and direction of the Board. The CEO will be responsible for marketing and outreach to businesses and individuals as well as economic organizations and agencies in Warren and Washington County. The CEO must be able to work with the Agency Administrator, Staff and Counsel to ensure necessary reports are filed with the NYS Authorities Budget Office and the Office of the State Comptroller, have human resources skills and the ability to work well with others.
2. Administrator: General supervision over the administration of the business affairs of the Agency including oversight of and accountability for the Agency’s legal responsibilities in regard to record keeping, reporting, etc. are handled by the Agency's Administrator. The Administrator, in conjunction with Agency Counsel, are responsible for ensuring that all applications are handled promptly and efficiently, and that all federal, state, local and agency laws, rules and regulations and procedures are followed.
3. Economic Development Coordinator: The Economic Development Coordinator will work under the direction of the CEO to develop, plan, and implement the economic development activities and then proposing to the Board strategies to achieve the goals and objectives set forth by the Board. Once approved the Economic Development Coordinator shall execute these strategies under the direction of the CEO. Shall also monitor, state, local, and federal legislation to ensure compliance with regulatory requirements and be well versed in financing and grant programs. Assist in creation of, analysis of tax incentive financing, and other responsibilities proscribed in the Resolution approving the appointment of the Economic Development Coordinator. Shall also develop a catalog of grants and funding sources for current, expanding and new businesses to assist in expanding and recruiting economic development in Warren and Washington Counties.

. General Counsel: The Agency's legal counsel is responsible for the following: (a) reviewing applications to determine whether they propose appropriate Agency projects under the General Municipal Law; (b) ensuring compliance with environmental rules and regulations, including the State Environmental Quality Review Act (SEQRA); (c) attending Agency meetings; (d) negotiating and drafting resolutions and agreements; and (e) preparing, reviewing and negotiating closing documents.

5. Agency Member Profile: In light of the particular demands of membership on the Agency, the following statement is offered to educate prospective and new members regarding the demands of membership:

Tax burdens, regulations, competition, and present-day financing all contribute to the increasing complexity of the Agency. Members, accordingly, must be well informed, interested, and active participants in the decisions of the Agency. Members need to understand key aspects of the rules, regulations, and objectives, as well as the by-laws, in order to assume an effective role. In spite of the limitations under which members operate, they are public spirited, non-compensated citizens trying to fulfill their civic duty in a responsible manner. One of the purposes of this Policies and Procedures Manual is to help agency members understand and carry out their responsibilities.

6. Roles and responsibilities of the Chair, Vice Chair, Secretary/Treasurer, and CFO are as outlined in the WWIDA By-Laws.

III. Administrative Policies.

1. Orientation of New Members: Because of the particular demands of membership on the Agency, it is understood that new members should receive a fundamental orientation regarding the policies, procedures, and activities of the Agency. While it is expected that each member of the Agency will share their experience with new members, the principal responsibility for orientation will lie with the Chair.

In addition, all new members are required to take a New York State certified, one-day course which covers duties and requirements under the Public Authorities Accountability Act of 2005, as may be amended from time to time, including Agency members’ fiduciary responsibilities.

2. Distribution of Materials: Written materials pertaining to an application for Agency financing ordinarily are distributed to the entire Agency membership. Materials of a more general nature that do not relate to active projects may be distributed initially only to the Chair and subsequently to others should the Chair so direct.

**SECTION III: FEES AND AGENCY’S COSTS**

1. Application Fee: The Agency has established an application fee of FIFTEEN HUNDRED DOLLARS ($1,500) to cover the anticipated costs of the Agency in processing the application. A check or money order made payable to the *“Counties of Warren and Washington Industrial Development Agency”* must accompany each application. THE APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.

A SEVEN HUNDRED FIFTY DOLLAR ($750) credit will be applied to costs and expenses of the applicant at the time of the closing.

2. Agency Administrative Fee: The Agency has established an administrative fee to be paid by the applicant upon successful conclusion of the sale of the bonds, procurement of substitute financing, or closing a straight lease transaction; said fee being intended to cover the indirect expenses incurred by the Agency in administering the project. The administrative fee will be calculated according to the following schedule applied to the aggregate principal amount of the bonds issued or of the entire project cost in the event of substitute financing or straight lease transactions:

 Amount of Bonds/Cost of Project Applicable Percentage

 First $10,000,000 0.90%

 Next $10,000,000 0.65%

Next $30,000,000 0.40%

Portion Over $ 50,000,000 0.25%

Refinancing Fee for Agency Bonds 0.25% of Principal

3. New York State Bond Issuance Charge. New York State adopted legislation in 2002 that requires the payment of a “bond issuance charge” to the State for any bonds issued by public benefit corporations, including IDAs. (See: Public Authorities Law § 2976). This bond issuance charge is typically passed on to and paid by the developer. This is in addition to the Agency’s Administrative Fee cited above. The bond issuance fee charge is calculated by multiplying the principal amount of the bonds by the following schedule:

 Principal Amount of Bonds Applicable Percentage

 $1,000,000 or less 0.168%

 $1,000,001 to $5,000,000 0.336%

 $5,000,001 to $10,000,000 0.504%

 $10,000,001 to $20,000,000 0.672%

 More than $20,000,000 0.840%

4. Agency’s Costs: The applicant will be required to pay to the Agency all actual costs incurred in connection with the application and the project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency's bonds issued to finance the project). The costs incurred by the Agency, including the Agency's legal fees and other "soft costs" such as bond counsel and accountant fees, may be considered as a part of the costs of the project and included in the calculation of the amount of the Industrial Development Revenue Bond issue. NOTE PLEASE ADD FEES AS OTHER AGENCIES CHARGE FOR ADDITIONAL SERVICES

5. Security Deposit: To ensure that the Agency’s costs are reimbursed if the project does not proceed, applicant shall pay to the Agency a security deposit equal to one-half of one percent (0.5%) of the cost of the project or $10,000, whichever is greater. The maximum initial deposit is set at $25,000. Payment shall be made at the time the application is accepted and a public hearing is scheduled.

In the event that prior to closing the actual costs incurred, or anticipated costs to be incurred, by the Agency equal or exceed the original security deposit, the Agency may require an additional security deposit before incurring any additional expense and proceeding with the project.

At the time of closing, or in the event the project is discontinued, after reimbursement of the Agency’s costs, any excess funds shall be returned to the applicant. Should the Agency’s costs exceed the deposit, applicant shall pay the Agency the difference between the costs and the deposit.

The Agency reserves the right to deviate from the foregoing based upon the size and nature of the project and the financial strength of the applicant.

6. Annual Fees: The Agency will charge an Annual Administrative Fee which shall be invoiced by the IDA on or about January 1st of each year and shall be paid to the Agency during the term of the Approved Project. The Annual Fee shall be $400.

7. Project Change Fees: In the event an Approved Project is requesting a change to their project for assignment, extension, or other project change there will be a fee. The Project Change Request Policy is located at Appendix C.

**SECTION IV: INDUSTRIAL DEVELOPMENT BONDS**

In order to promote economic development, the Counties of Warren and Washington IDA is authorized to issue both tax-exempt and taxable industrial development revenue bonds. The Agency issues these bonds for businesses that either wish to locate or expand their operations in the Counties of Warren or Washington. Typical projects eligible for financing include the purchase and rehabilitation of existing buildings, the construction of new buildings, or the construction of additions to existing facilities. Machinery and equipment may also be financed with IDA bonds. However, in most cases machinery and equipment is financed in conjunction with the purchase of an existing building or the construction of a new facility.

The Agency acts as a financing conduit through which the transaction takes place. ALTHOUGH THE AGENCY ISSUES THE BONDS, IT DOES NOT ACTUALLY LOAN THE MONEY DIRECTLY TO A COMPANY. Rather, a financial institution loans the funds to an applicant, through the Agency. Typically, a bank or an underwriter will purchase the bonds and, in effect, make the loan. It is the responsibility of the company to discuss with lending institutions their interest in purchasing the Agency's bonds to finance the project. However, an Agency representative can help arrange these discussions and suggest institutions which might be most receptive. The lending institution reviews the project and makes the credit decision as to whether or not to purchase the bonds. In addition, the company and financial institution negotiate the terms and conditions of the loan (its length, interest rate, etc.) independently of the Agency.

THE BONDS ARE SECURED BY THE FINANCIAL STRENGTH AND CREDIT OF THE APPLICANT. Normally, the loan is secured by a mortgage on the facility financed with the bonds. However, additional guarantees and collateral may be required by the lending institution similar to what may be the case in a conventional financing. This means that Agency approval of a project does not automatically result in funding being available. The applicant is responsible for the repayment of the bonds. NEITHER THE AGENCY, THE COUNTIES, NOR THE STATE GUARANTEE ANY SUCH INDEBTEDNESS.

The Counties of Warren and Washington Industrial Development Agency issues both tax-exempt and taxable industrial development revenue bonds for the acquisition, construction, and equipping of manufacturing and commercial facilities. Tax-exempt bonds are regulated by federal tax law. The interest income on tax-exempt bonds is exempt from federal and state income tax. Interest income on taxable bonds is exempt from state income tax only. In addition to the reduced interest rate on the bonds, an Agency financed project is exempt from paying sales tax, mortgage recording tax, and is eligible for property tax exemptions.

There are four bond financing mechanisms available through the Agency:

1. Tax-exempt manufacturing bonds - Manufacturing facilities can be financed with tax-exempt bonds.

2. Taxable bonds - Commercial non-manufacturing projects such as office buildings, retail, and warehouse facilities, qualify for taxable bonds.

3. Tax-exempt and taxable bonds - A combination of tax-exempt and taxable bonds can be issued for projects that include both manufacturing and non-manufacturing activities.

4. Refunding bonds - Projects which were previously assisted with tax-exempt bonds may, under certain circumstances, be allowed to repay/refund the outstanding principal amount of the "old" bonds with new tax-exempt refunding bonds bearing a lower interest rate. Refunding at lower interest rates allows companies to remain competitive in Warren County and Washington County by reducing their facility costs.

**SECTION V: APPLICATION FOR BOND FINANCING INSTRUCTIONS**

1. The Agency will not approve any application unless in the judgment of the Agency said application contains sufficient information upon which to base a decision whether to approve or tentatively approve the project contemplated therein.

2. Fill in all blanks, using "none" or "not applicable" or "N/A" where the question is not appropriate to the project which is the subject of the application.

3. If an estimate is given as the answer to a question, put "(est.)" after the figure or answer which is estimated.

4. If more space is needed to answer any specific question, attach a separate sheet, and so state on the application form.

5. The Agency will not give final approval to the application until the Agency receives a completed full Environmental Assessment Form (EAF) (Parts 1 & 2) concerning the project which is the subject of the application.

6. When completed, return one original and one electronic copy of the application, EAF and supporting documents to the Agency at the address indicated on the first page of the application.

7. Please note that Article 6 of the Public Officers Law states that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the project which are in the nature of trade secrets which if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant's competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law.

8. As used in the application, the word "person" refers to a natural person, partnership, corporation, and/or any other business entity.

9. If the information necessary to respond to a particular question is unknown at the time of submittal of the application, so indicate in the appropriate space(s) on the application.

10. A complete application, as described above, must be received by the Agency's Chair and legal counsel at least five business (5) days prior to the Agency meeting where the Application will be presented to the Executive Committee or Full Board.

**SECTION VI: COMPARISON OF FEDERAL TAX-EXEMPT AND TAXABLE BONDS**

 Federal Tax-Exempt Taxable

1. Interest Rate Subject to Market Subject to Market

 Conditions. Conditions (similar

 Lower than Taxable to commercial rates

 Bond Rate. prime to 2 points

 above prime)

2. Federal Income Exempt Applicable

 Tax on Interest

 Income

3. New York State Exempt Exempt

 Personal Income

 Tax on Interest

 Income

4. Property Tax Eligible Eligible

 Exemptions

5. Other Considerations Subject to all Not Applicable

 Federal

 Regulations/

 Requirements &

 Prohibitions

 Governing Tax-

 Exempt Bonds

**SECTION VII**: **RECAPTURE OF BENEFITS POLICY**

(Adopted May 31, 2022, as amended)

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 any approval Resolution, as may be amended from time to time and the Project Agreement.

f. Sale or transfer of a majority or controlling interest in the company, without prior consent of the Agency.

g. 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.

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.

Section 2. For companies receiving real property tax exemptions the recapture of benefits schedule (applicable to the real property tax exemptions) 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 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 basis. In lieu of imposing the above recapture penalties and for good cause shown by the company, the Agency, at its sole discretion, may make a determination to discontinue the Financial Assistance in its entirety, per the provisions set forth the 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.

Repayment Provisions

Project documents for projects receiving real property tax exemptions pursuant to this Policy shall contain benefit recapture provisions including but not limited to the following: If the minimum number of new jobs is not created by the end of three (3) year period or is not continuously maintained during the balance of term of the PILOT Agreements, the exemption schedule for the following year will revert automatically to the schedule provided in Section 485-B of the New York Real Property Tax Law (the “485-B Schedule”). In addition, repayment will be required in any year for which job creation requirements are not met (the “Disqualifying Year”), as an additional payment in lieu of taxes. The repayment amount is equal to the difference between benefits received in years on through the Disqualifying Year and the tax benefits which would have been received in your one through the Disqualifying Year in Section 485-B of the New York Real Property Tax Law. Under extenuating circumstances, the Agency may waive the above penalties after reviewing a written request of the waiver of penalties.

**SECTION VIII: GENERAL MUNICIPAL LAW**

**Article 18-A - INDUSTRIAL DEVELOPMENT**

§ 852. POLICY AND PURPOSES OF ARTICLE.

It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects identified and called for to implement a state heritage area management plan as provided in title of the parks, recreation and historic preservation law through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states and to promote the development of renewable energy projects to support the state's renewable energy goals as may be established or amended from time to time.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

§ 858. PURPOSES AND POWERS OF THE AGENCY. (Excerpt)

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring,
constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, renewable energy and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities, renewable energy projects and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

(1) To sue and be sued;

(2) To have a seal and alter the same at pleasure;

(3) To acquire, hold and dispose of personal property for its corporate purposes;

(4) To acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans and state designated heritage area management plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine. In the case of railroad facilities, however, the phrase to use real property or rights or easements therein shall not be interpreted to include
operation by the agency of rail service upon or in conjunction with such facilities.

(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.

(6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;

(7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency;

(8) (a) To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;

(8) (b) An attorney acting as bond counsel for a project must file with the agency a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the agency the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the agency.

(9) To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; provided, however, that any extension of an existing contract, lease or other agreement entered into by an agency with respect to a project shall be guided by the provisions of this article;

(10) To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

(11) To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

(12) To borrow money and to issue bonds and to provide for the rights of the holders thereof;

(13) To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14) To designate the depositories of its money either within or without the state;

(15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;

\* (16) To establish and re-establish its fiscal year; and

\* NB Effective December 31, 2022

\* (17) To provide loans to small businesses or not-for-profit corporations as authorized in section eight hundred fifty-nine-c of this title; and

\* NB Effective until December 31, 2022

\* (18) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

\* NB Effective December 31, 2022

**SECTION IX**: **ANNUAL REPORTING REQUIREMENTS**

***Subject to change per New York State law, regulations, policies, and procedures.***

SAMPLE MEMO FOR YEAR END REPORTING

(Actual wording may differ from sample)

Counties of Warren and Washington Industrial Development Agency

5 Warren Street, Suite 210

Glens Falls, New York 12801

To:

From: Office Administrator

Date:

Re: Annual Report to Counties of Warren and Washington

 Industrial Development Agency

 Enclosed is a form for your use in preparing your annual report to the Counties of Warren and Washington Industrial Development Agency for the fiscal year ending December 31, \_\_\_\_.

 Included is a copy of the Employment Impact portion of your original application to this Agency.

 We have also provided space for any comments on employment projections which you may be able to provide.

 **Please complete this form as soon as possible and return it to my attention within 20 days.**

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

***5 Warren Street, Suite 210***

***Glens Falls, New York 12801***

***ANNUAL EMPLOYMENT SURVEY AND COST BENEFIT REPORT***

***For Year Ending: December 31, 20\_\_***

**Project Name:**

***EMPLOYMENT***

**1. Full Time Equivalent (FTE\*) Jobs Created and Retained**

 ***\*Jobs of 30 or more hours per week = 1 full time job (FTE).***

 ***2 Part time jobs (less than 30 hours per week per person) = 1 FTE***

1. FTE Employees at Project Location Prior to IDA Assistance:
2. Original Estimate of Total FTE Jobs to be Created per application:
3. Average estimated annual salary of Jobs to be Created: \_\_\_\_\_\_\_\_\_\_\_

 Salary range for jobs to be Created: $\_\_\_\_\_\_\_\_\_\_\_ to $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Original Estimate of Total FTE Jobs to be Retained:
2. Average estimated annual salary of Jobs to be Retained: \_\_\_\_\_\_\_\_\_\_\_
3. **# FTE Employees as of December 31st: \*\***
4. # FTE Jobs Created During Current Fiscal Year:
5. # FTE Jobs Retained During Current Fiscal Year:

**2. FTE Construction Jobs**

 # Of FTE Construction Jobs During Current Fiscal Year:

***\*\* Per new regulations by NYS, please submit a photocopy of page 1 only of your fourth quarter NY-45 payroll report with this report. For employee privacy, please redact all social security numbers and last names from form.***

***Counties of Warren and Washington Industrial Development Agency - Page 2***

***COST BENEFIT – for year ended December 31, 20\_\_***

**3. Taxes (PILOT) Paid this year:**

 PILOT paid for County: $\_\_\_\_\_

PILOT paid for Town: $\_\_\_\_\_\_\_\_

PILOT paid for Village (if applicable) $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PILOT paid for School: $\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_

**4. Tax amounts exempted due to IDA assistance:**

 a) Mortgage tax savings: $

 b) Real property & School tax savings: $

1. (Total) Sales tax savings due to exemptions: ##

 State $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Local $*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**## *Enclose photocopy of all ST-340 forms being submitted to NYS by your appointed agents per ST 60 forms. The total number on the ST-340 should equal your total sales tax savings (c)***

**5.** Names of All Tenants (If applicable):

 **Attach a completed Tenant Sheet for each one listed above**

6. Are the employees of your firm covered by a collective bargaining agreement? Yes No

 If yes, Name and Local:

**I certify that to the best of my knowledge the information on these forms are accurate**

 Completed by: \_\_\_\_\_\_\_

 Title: Phone#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature: \_\_\_Date:

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

***5 Warren Street, Suite 210***

***Glens Falls, New York 12801***

TENANT INFORMATION SHEET\*

Tenant's Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**a. Jobs of 30 or more hours per week are considered one full time (FTE) job.**

**b. (2) Part time permanent jobs of less than 30 hours per week = (1) FTE**

 1. Total Number Full Time (FTE) Employees (a) + (b): \_\_\_\_\_\_\_

1. Remaining Part Time Employee not included

 in (b) if applicable: \_\_\_\_\_\_\_\_\_\_\_

***\*\* Per new regulations by NYS, please submit a photocopy of page 1 only of your fourth quarter NY-45 payroll report with this report. For employee privacy, please redact all social security numbers and last names from form.***

**By signing below, I certify that to the best of my knowledge the information on these forms is accurate:**

 Signature: \_\_\_\_\_\_\_\_\_

 Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Date:

\* Landlord is required by IDA to complete (or have completed) and submit a report for each tenant.

**SECTION X: NEW YORK STATE FINANCIAL REPORTING REQUIREMENTS**

**FOR INDUSTRIAL DEVELOPMENT AGENCIES**

The Laws of New York impose financial reporting requirements on all agencies in New York State. Of particular importance to Agency applicants is Section 859 and the requirements under the Public Authorities Accountability Act of 2005, as amended. This section requires agencies to transmit financial statements within 90 days following the end of an agency's fiscal year (FY = 1/1 - 12/31), prepared by an independent, certified public accountant, to the New York State Comptroller, the Commissioner of the New York State Department of Economic Development, and the governing body of the municipality for whose benefit the Agency was created (Counties of Warren and Washington). These audited financial statements shall include supplemental schedules listing the following information:

1. All bonds and notes issued, outstanding or retired during the period and whether or not they are obligations of the Agency.

2. All new bond issues and straight lease transactions shall be listed, and for each new bond issue and straight lease, the following information is required:

 a. Name of the project.

 b. Name and address of each owner of the project.

 c. The amount of tax exemptions granted for each project.

 d. Purpose of the bond or lease.

 e. Bond interest rate at issuance and, if variable, the range of interest rates applicable.

 f. Bond maturity date.

 g. Federal tax status of the bond issue.

 h. Estimate of jobs created and/or retained.

Please sign below to indicate that you have read and understood the above.

 Chief Executive Officer of Applicant Date

**SECTION XI: SECTION 220 of the LABOR LAW**

Currently projects financed by Industrial Development Agencies in New York State ***are not subject to Section 220 of the Labor Law*** which requires that "prevailing wages" be paid to workers during the construction/renovation phase of the project. However, it is the policy of the Counties of Warren and Washington IDA to maximize the economic benefit to the counties of Warren and Washington of an Agency assisted project. Therefore, the Counties of Warren and Washington IDA encourages/urges that local labor/workers, local contractors, and local suppliers/vendors be utilized on the Agency assisted project to the greatest extent possible and practical.

**SECTION XII: GENERAL MUNICIPAL LAW SECTION 858-b**

**EQUAL EMPLOYMENT OPPORTUNITIES**

1. Each agency shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York State department of labor community services division and with the administrative entity of the service delivery area created by the federal job training partnership act (PL 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership act (PL 97-300) who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such new employment opportunities.

 **SECTION XIII**: **ENVIRONMENTAL REQUIREMENTS**

In addition to complying with all SEQRA requirements/procedures the WWIDA also requires the following environmental documentation:

1. When a financial institution requires that an independently certified Phase I environmental audit be performed; the Agency is to be included as one of the recipients of the audit report.

2. In cases where the bond is purchased by an entity related to the applicant, such as the parent company, full disclosure is required as to all outstanding environmental problems or violations, if any, and the steps being taken to rectify such problems or violations.

3. In addition to the above, an Environmental Indemnification Agreement is to be signed by all applicants and other respective parties. This Agreement is to be included as a standard document in all future Agency financing.

**APPENDIX A**

BY-LAWS

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX B**

UNIFORM TAX EXEMPTION POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX C**

PROJECT CHANGE FEES

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX D**

CODE OF ETHICS

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX E**

COMPENSATION, REIMBURSEMENT & ATTENDANCE POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX F**

DEFENSE AND INDEMNIFICATION POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX G**

 DISPOSITION OF PROPERTY GUIDELINES

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX H**

FOIL POLICY, as last amended July

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX I**

INVESTMENT POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX J**

PROCUREMENT POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX K**

SEXUAL HARASSMENT POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX L**

TRAVEL POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX M**

WHISTLEBLOWER POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX N**

GOVERNANCE COMMITTEE CHARTER

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX O**

AUDIT & FINANCE COMMITTEE CHARTER

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX P**

STATEMENT REGARDING LOBBYING

(Adopted: February 14, 2011)

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

***“The Agency does not engage in lobbying, and therefore, we do not have a lobbying policy.”***

**APPENDIX Q**

CHARTER DISCRETIONARY FUNDS POLICY

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX R**

INDUSTRIAL PARK COMMITTEE CHARTEREXECUTIVE AND NOMINATING COMMITTEE CHARTER

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY

**APPENDIX S**

INDUSTRIAL PARK COMMITTEE CHARTER

of the

COUNTIES OF WARREN AND WASHINGTON

INDUSTRIAL DEVELOPMENT AGENCY