

# ***AGENCY POLICY MANUAL***

***ALBANY COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY***

## *PREAMBLE*

This Policy Manual of the Albany County Industrial Development Agency reflects an effort by the members and staff of the Agency to reorganize the administrative procedures of the Agency (1) to respond to requirements contained in Chapters 356 and 357 of the Laws of 1993 and the subsequent amendments to Title 1 of Article 18-A of the General Municipal Law (collectively, the “IDA Reform Legislation”) and (2) to respond to requirements contained in Chapter 766 of the Laws of 2005 and Chapter 506 of the Laws of 2009 (collectively, the “Public Authorities Accountability Act”).

The Policy Manual is organized into three major sub-parts: (1) Organization of the Agency, (2) Internal Policies and (3) Project-Specific Policies and Procedures and is designed to assist the members and the staff of the Agency in setting forth various legal requirements applicable to the operations of the Agency. The staff recognize that legal requirements imposed on the Agency by federal and state law are not static and that this Policy Manual will change to reflect changes in law.

ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
AGENCY POLICY MANUAL

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## PART 1

### ENABLING ACT

#### GENERAL MUNICIPAL LAW

#### ARTICLE 18 A - INDUSTRIAL DEVELOPMENT

#### TITLE 1 - AGENCIES, ORGANIZATION AND POWERS

Section 850.	Short title.
Section 852.	Policy and purposes of article.
Section 854.	Definitions.
Section 856.	Organization of industrial development agencies.
Section 858.	Purposes and powers of the agency.
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Section 882.	Termination of the agency.
Section 883.	Conflicts of interest.
Section 884.	Public bidding.
Section 886.	Title not affected if in part unconstitutional or ineffective.
Section 888.	Inconsistent provisions in other acts superseded.

**PART 2**  
**SPECIAL ACT CREATING THE AGENCY**

**SECTION 201. SPECIAL ACT.** A copy of Chapter 178 of the Laws of 1975 is attached hereto as Appendix 2A.

## APPENDIX 2A

As of 06/01/2023 02:05PM, the Laws database is current through 2023  
Chapters 1-135

### **General Municipal**

\* § 903-b. Albany county industrial development agency. For the benefit of the county of Albany and the inhabitants thereof, an industrial development agency, to be known as the ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the county of Albany, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the county of Albany. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

\* NB Agency expires per §§ 856 and 882

## PART 3

### BY-LAWS OF AGENCY

**SECTION 301. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish such procedures relating to the making of By-Laws of the Albany County Industrial Development Agency (the “Agency”) as necessary for the implementation of Section 858(5) of Title One of Article 18-A of the General Municipal Law (the “Act”). Section 858(5) of the Act provides as follows:

“(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.”

**SECTION 302. BY-LAWS.** A copy of the By-Laws of the Agency is attached hereto as Appendix 3A.

**SECTION 303. AMENDMENT OF BY-LAWS.** The By-Laws of the Agency may be amended only with the approval of at least a majority of all of the members of the Agency at a regular or a special meeting, but no such amendment shall be adopted unless at least seven (7) days written notice thereof has been previously given to all members of the Agency.

## APPENDIX 3A

### BY-LAWS

of the

#### ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to the authority contained in section 858, Title 1 of Article 18-A of the General Municipal Law, as set out in Chapter 1030 of the laws of 1969, and section 903-b of the General Municipal Law as set out in Chapter 178 of the Laws of 1975 of the State of New York, the Albany County Industrial Development Agency hereby approves the following by-laws for the regulation of its activities.

### ARTICLE I

#### NAME; SEAL

Section 1. Name. The name of the Agency shall be the “Albany County Industrial Development Agency”.

Section 2. Seal. The corporate seal of the Agency shall be in the form of a circle and shall bear the name of the Agency and the year of its organization. The corporate seal of the Agency may be used by causing it to be impressed directly upon an instrument of writing, upon adhesive substance affixed thereto or by facsimile, whether engraved, printed, stamped or reproduced by photographic process.

Section 3. Office of the Agency. The office of the Agency shall be at the Albany County Office Building, Albany, New York; provided, however, that the Agency may have such other offices at such other places as the members of the Agency may from time to time designate by resolution.

Section 4. Execution of Instruments. Except as otherwise provided in these bylaws, instruments and documents of the Agency may be signed or countersigned, executed, verified or acknowledged by such officer or officers or other person or persons as the Agency may designate by resolution.

### ARTICLE II

#### MEMBERS; OFFICERS OF THE BOARD; BOARD COMMITTEES

Section 1. Appointment of Members; Qualifications Thereof. (A) Pursuant to Article 18-A of the General Municipal Law of the State of New York (the “Act”), the members of the Agency (each, a “Member”) are appointed by, and serve at the pleasure of, the County Legislature of Albany County. Each Member must be a resident of Albany County. A public officer or employee may be appointed as a Member of the Agency without forfeiture of any other public office or employment.

(B) Except for Members who serve as Members by virtue of holding a civil office of the State, the majority of the remaining Members appointed after January 13, 2006 shall be “Independent Members”.

(C) For purposes of these bylaws, the term “Independent Member” means a Member who: (1) is not, and in the past two years has not been, employed by the Agency (or an “Affiliate” of the Agency) in an executive capacity; (2) is not, and in the past two years has not been, employed by an entity that

received remuneration valued at more than \$15,000 for goods and services provided to the Agency or received any other form of financial assistance valued at more than \$15,000 from the Agency; (3) is not a relative of an executive officer or employee in an executive position of the Agency (or an “Affiliate” of the Agency); and (4) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Agency (or an “Affiliate” of the Agency).

(D) For purposes of these bylaws, the term “Affiliate” means a corporate body having substantially the same ownership or control as the Agency.

Section 2. Responsibilities of Members; Training Requirement. (A) The Members of the Agency constitute the governing body of the Agency (the “Board”), and shall have and shall responsibly exercise all of the powers prescribed by the Act and other applicable law, including but not limited to Chapter 766 of the 2005 Laws of the State of New York (the “PAAA”).

(B) The Chairman shall appoint a Chief Executive Officer and a Chief Financial Officer of the Agency, neither of whom shall be a Member of the Agency. Both the Chief Executive Officer and the Chief Financial Officer shall serve at the pleasure of the Chairman.

(C) Every annual financial report of the Agency must be approved by the Board.

(D) The Members of the Agency shall: (1) execute direct oversight of the Chief Executive Officer of the Agency and other senior management of the Agency in the effective and ethical management of the Agency; and (2) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency.

(E) The Board shall not, directly or indirectly, including through a subsidiary, extend or maintain credit or arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, Member or employee (or equivalent thereof) of the Agency.

(F) Members of the Agency shall file annual financial disclosure statements with the Albany County Board of Ethics.

(G) Individuals newly appointed as Members of the Agency must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities within one year of appointment to such Board. Existing Members shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

Section 3. Officers of the Board. (A) Each officer of the Board must be a Member of the Agency. All officers of the Board (except the first Chairman) shall be appointed at the annual meeting of the Board from among the Members. All officers of the Board shall remain in office for one year. Any two or more offices of the Board, except the offices of Chairman and Secretary, may be held by the same person.

(B) The officers of the Board shall be a Chairman, a Vice Chairman, a Secretary, an Assistant Secretary, a Treasurer, and an Assistant Treasurer.

(C) The officers of the Board shall perform the duties and functions specified in these bylaws and such other duties and functions as may from time to time be authorized by resolution of the Members of the Agency or required to effect the statutory purposes of the Agency.

(D) Should any office of the Board become vacant, the Agency shall appoint a successor from among its Members at the next regular meeting, and such appointment shall be for the unexpired term of said office.

Section 4. Chairman. (A) The Chairman of the Agency shall preside at all meetings of the Members of the Agency.

(B) Except as otherwise authorized by resolution of the Members of the Agency, the Chairman shall execute all instruments and documents of the Agency, including all instruments of indebtedness. The Chairman shall have the authority, at all times, to execute, on behalf of the Agency, instruments and documents of a ministerial or procedural nature which the Chairman deems expedient in order to further the statutory purposes of the Agency, provided the execution of such instruments and documents does not contravene any provision of these bylaws or any resolution of the Board.

(C) Except as otherwise authorized by resolution of the Board, all checks for the payment of money of the Agency shall be signed by the Treasurer of the Agency and countersigned by the Chairman of the Agency.

Section 5. Vice Chairman. The Vice Chairman of the Agency shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in case of the resignation or death of the Chairman, the Vice Chairman shall perform such duties as are imposed on the Chairman until such time as the Board shall appoint a new Chairman.

Section 6. Secretary. (A) The Secretary of the Agency shall keep the records of the Board, shall act as secretary at the meetings of the Board and record all votes of the Board, shall keep a record of the proceedings of the Board in a journal of proceedings to be kept for such purposes, and shall perform all duties incident to the office of Secretary of the Agency.

(B) The Secretary of the Agency shall keep in safe custody the corporate seal of the Agency and shall have the power to affix such corporate seal to all instruments and documents authorized to be executed by the Agency. When a facsimile corporate seal is authorized to be used, the Secretary of the Agency shall have the power to approve the manner and fashion of such facsimile and authorize such minor variations as are expedient to implement the process by which such facsimile is created.

Section 7. Assistant Secretary. The Assistant Secretary of the Agency shall perform the duties of the Secretary in the absence or incapacity of the Secretary; and in case of the resignation or death of the Secretary, the Assistant Secretary shall perform such duties as are imposed on the Secretary until such time as the Board shall appoint a new Secretary.

Section 8. Treasurer. Except as otherwise authorized by resolution of the Board, the Treasurer of the Agency shall sign all checks for the payment of money of the Agency; and shall pay out and disburse such moneys under the direction of the Board. Except as otherwise authorized by resolution of the Board, all such checks shall be countersigned by the Chairman of the Agency.

Section 9. Assistant Treasurer. The Assistant Treasurer of the Agency shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer; and in the case of the resignation or death of the Treasurer, the Assistant Treasurer shall perform such duties as are imposed on the Treasurer until such time as the Board shall appoint a new Treasurer.

Section 10. Committees. The Chairman and members of all committees shall be appointed by the Chairman of the Agency who shall be an ex-officio member of each committee. A quorum of any committee shall consist of a majority of members of that committee.

Section 11. Governance Committee. (A) The Chairman shall appoint a Governance Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Governance Committee; provided, however, that in the event that a board has less than three (3) Independent Members, the board may appoint non-Independent Members to the Governance Committee, provided that the Independent Members must constitute a majority of the Members of the Governance Committee.

(B) The Governance Committee shall: (1) keep the board informed of current best governance practices; (2) review corporate governance trends; (3) recommend updates to the Agency's corporate governance principles; (4) advise appointing authorities on the skills and experiences required of potential board Members, (5) examine ethical and conflict of interest issues, (6) perform board self-evaluations and (7) recommend by-laws which include rules and procedures for conduct of board business, and (8) advise the Board on the skills and experiences required of potential Members of the Agency.

Section 12. Audit Committee. (A) The Chairman shall appoint an Audit Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Audit Committee; provided, however, that in the event that a board has less than three (3) Independent Members, the board may appoint non-Independent Members to the Audit Committee, provided that the Independent Members must constitute a majority of the Members of the Audit Committee.

(B) Members of the Audit Committee shall be familiar with corporate financial and accounting practices.

(C) The Audit Committee shall ensure that the Agency arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, the annual financial reports and the annual financial audit required by Article 18-A of the General Municipal Law.

(D) The Audit Committee shall recommend to the Board the hiring of a certified independent public accounting firm for the Agency, establish the compensation to be paid to the accounting firm, and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose. The Audit Committee shall not recommend the hiring of a certified independent public accounting firm to provide audit services to the Agency if the Chief Executive Officer, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Agency was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Agency during the one year period preceding the date of the initiation of the audit.

(E) If the lead (or coordinating) audit partner (having primary responsibility for the audit) of the certified independent public accounting firm proposing to provide an annual independent audit for the Agency, or the audit partner responsible for reviewing the audit, has performed audit services for the Agency in each of the five previous fiscal years of the Agency, the Audit Committee shall prohibit such certified independent public accounting firm from providing an annual independent audit for the Agency.

(F) The Audit Committee shall require that each certified independent public accounting firm that performs for the Agency an audit required by law shall timely report to the Audit Committee: (1)

all critical accounting policies and practices to be used; (2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the Agency, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (3) other material written communications between the certified independent public accounting firm and the management of the Agency, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

(G) The Audit Committee shall prohibit the certified independent public accounting firm providing an annual independent audit for the Agency from performing any non-audit services to the Agency contemporaneously with the audit, unless receiving previous written approval by the Audit Committee, including: (1) bookkeeping or other services related to the accounting records or financial statements of the Agency; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions, (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the audit.

Section 13. Finance Committee. (A) The shall appoint a Finance Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Finance Committee; provided, however, that in the event that a board has less than three (3)Independent Members, the board may appoint non-Independent Members to the Finance Committee, provided that the Independent Members must constitute a majority of the Members of the Finance Committee.

(B) The Finance Committee shall be responsible for the following:

(1) Reviewing proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations concerning those proposals to the Members;

(2) Making recommendations to the Members concerning the level of debt and nature of debt issued by the Agency;

(3) Making recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency;

(4) Meeting with and requesting information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.

(5) Annually reviewing the Agency's financing guidelines and making recommendations to the Members concerning criteria that should govern its financings;

(6) Reporting annually to the Members how it has discharged its duties and met its responsibilities as outlined in the charter adopted by the committee; and

(7) Conducting an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the Member's approval for proposed changes.

(8) Reviewing and filing the annual budget of the Agency.

## ARTICLE III

### MEETINGS OF THE BOARD

Section 1. Annual Meeting. The annual meeting of the Agency shall be held on the first Wednesday of January, at 5:30 p.m. at the regular meeting place of the Agency, or at such other time and place as from time to time may be determined by resolution of the Agency. In the event such day shall fall on a legal holiday, the annual meeting shall be held on the next succeeding day that is not a legal holiday.

Section 2. Regular Meetings. Regular meetings of the Agency shall be held on the first Wednesday of every month at 5:30 p.m. at the regular meeting place of the Agency, or at such other time and place as from time to time may be determined by resolution of the Agency.

Section 3. Special Meetings. The Chairman of the Agency may, when the Chairman deems it desirable, and the Chairman or the Secretary shall, upon the written request of any two Members of the Agency, call a special meeting of the Board for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each Member of the Agency, mailed to the business or home address of each Member of the Agency or delivered by telephone to each Member of the Agency at least two days prior to the date of such special meeting. Waivers of notice may be signed by any Members failing to receive proper notice. At such special meeting, no business shall be considered other than as designated in the call, but if all the Members of the Agency are present at a special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

Section 4. Quorum. At all meetings of the Board, a majority of the Members of the Agency shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until the quorum is obtained.

Section 5. Resolutions. Whenever possible, all resolutions shall be in writing. A written copy of all resolutions adopted by the Board shall be copied in or attached to a journal of the proceedings of the Board.

Section 6. Voting. (A) The voting on all questions coming before the Agency shall be by roll call, and the yeas and nays shall be entered on the minutes of such meeting, except in the case of appointments when the vote may be by ballot.

(B) All resolutions of the Agency shall be passed by a majority of the Members of the Agency. In order to vote on a resolution, a Member of the Agency must be present at a meeting of the Board either in person or via videoconference.

Section 7. Order of Business. The order of business at regular meetings shall be:

- (a) Roll call. Determination of quorum.
- (b) Reading of minutes from preceding meeting.
- (c) Approval of the minutes of previous meeting.
- (d) Reports of Committees.
- (e) Communications.
- (f) Unfinished business.
- (g) New Business.
- (h) Adjournment.

## ARTICLE IV

### EXECUTIVE OFFICERS AND EMPLOYEES

Section 1. Chief Executive Officer. (A) The Chief Executive Officer shall be appointed by the Chairman, shall serve at the pleasure of the Chairman, and shall be the chief executive officer of the Agency.

(B) The Chief Executive Officer shall have general supervision over the administration of the business and affairs of the Agency, subject to the direction of the Board. Whenever possible, the Chief Executive Officer shall attend each meeting of the Board, and shall submit such recommendations and information to the Board as the Chief Executive Officer may consider proper concerning the business, affairs and policies of the Agency.

(C) The Chief Executive Officer shall be charged with the management of all projects of the Agency.

(D) The Chief Executive Officer shall also serve as the Contracting Officer of the Agency, and, as such, be responsible for (1) the disposition of property of the Agency, and (2) the Agency's compliance with the Agency's property use and disposition guidelines.

(E) Every annual financial report of the Agency must be certified in writing by the Chief Executive Officer that based on the Chief Executive Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Agency as of, and for, the periods presented in the financial statements.

Section 2. Chief Financial Officer. (A) The Chief Financial Officer shall have the care and custody of all funds of the Agency and shall deposit the same in the name of the Agency in such bank or banks as the Board may select or, if the Board have not so selected a bank or banks, which the Chief Financial Officer selects.

(B) The Chief Financial Officer shall keep regular books of accounts showing receipts and expenditures, and shall render to the Audit Committee at each regular meeting thereof an account of such transactions and also of the financial condition of the Agency.

(C) The Chief Financial Officer shall give such bond for the faithful performance of his duties as the Agency may determine.

(D) Every annual financial report of the Agency must be certified in writing by the Chief Financial Officer that based on the Chief Financial Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Agency as of, and for, the periods presented in the financial statements.

Section 3. Additional Personnel. The Agency may from time to time employ such personnel as it deems necessary to exercise its statutory powers, duties and functions. The selection and compensation of all personnel shall be determined by the Agency. The Agency shall have the power to appoint Agency

Counsel, Bond Counsel or other Counsel by resolution (collectively, "Counsel"). The compensation for such Counsel shall be determined by the Agency from proceeds derived from the issuance of bonds, or other manner consistent with law. Private consultants for professional and technical assistance and advice may be employed by the Agency as required.

**Section 4.** Financial Disclosure. Officers and employees of the Agency shall file annual financial disclosure statements with the Albany County Board of Ethics.

**Section 5.** Bonding of Officers and Employees. The officers of the Agency (Chairman, Secretary and Treasurer), and if necessary the Chief Executive Officer and the Chief Financial Officer, and such other officers as the Agency may require, shall execute bonds conditioned upon the faithful performance of the duties of their offices, the amount and sufficiency of which shall be specified by the Agency and the premiums therefor shall be paid by the Agency.

## ARTICLE V

### INDEMNIFICATION OF DIRECTORS AND OFFICERS

**Section 1.** Right of Indemnification. Each Member and officer of the Agency, whether or not then in office, and any person whose testator or intestate was such a Member or officer, shall be indemnified by the Agency for the defense of, or in connection with, any threatened, pending or completed actions or proceedings and appeals therein, whether civil, criminal, administrative or investigative, in accordance with and to the fullest extent permitted by the Section 18 of the Public Officers Law of the State of New York or other applicable law, as such law now exists or may hereafter be adopted or amended; provided, however, that the Agency shall provide indemnification in connection with an action or proceeding (or part thereof) initiated by such a Member or officer only if such action or proceeding (or part thereof) was authorized by the Board.

**Section 2.** Advancement of Expenses. (A) Expenses incurred by a Member or officer in connection with any action or proceeding as to which indemnification may be given under Section 1 of this Article V may be paid by the corporation in advance of the final disposition of such action or proceeding upon (1) the receipt of an undertaking by or on behalf of such Member or officer to repay such advancement in case such Member or officer is ultimately found not to be entitled to indemnification as authorized by this Article V and (2) approval by the Board.

(B) To the extent permitted by law, the Board shall not be required to find that the Member or officer has met the applicable standard of conduct provided by law for indemnification in connection with such action or proceeding before the Agency makes any advance payment of expenses hereunder.

**Section 3.** Availability and Interpretation. To the extent permitted under applicable law, the rights of indemnification and to the advancement of expenses provided in this Article V (A) shall be available with respect to events occurring prior to the adoption of this Article V, (B) shall continue to exist after any rescission or restrictive amendment of this Article V with respect to events occurring prior to such rescission or amendment, (C) shall be interpreted on the basis of applicable law in effect at the time of the occurrence of the event or events giving rise to the action or proceeding or, at the sole discretion of the Member or officer (or, if applicable, at the sole discretion of the testator or intestate of such Member or officer seeking such rights), on the basis of applicable law in effect at the time such rights are claimed and (D) shall be in the nature of contract rights that may be enforced in any court of competent jurisdiction as if the Agency and the Member or officer for whom such rights are sought were parties to a separate written agreement.

Section 4. Other Rights. The rights of indemnification and to the advancement of expenses provided in this Article V shall not be deemed exclusive of any other rights to which any Member or officer of the Agency or other person may now or hereafter be otherwise entitled, whether contained in these by-laws, a resolution of the Board or an agreement providing for such indemnification, the creation of such other rights being hereby expressly authorized. Without limiting the generality of the foregoing, the rights of indemnification and to the advancement of expenses provided in this Article V shall not be deemed exclusive of any rights, pursuant to statute or otherwise, of any Member or officer of the Agency or other person in any action or proceeding to have assessed or allowed in his or her favor, against the Agency or otherwise, his or her costs and expenses incurred therein or in connection therewith or any part thereof.

Section 5. Severability. If this Article V or any part hereof shall be held unenforceable in any respect by a court of competent jurisdiction, it shall be deemed modified to the minimum extent necessary to make it enforceable, and the remainder of this Article V shall remain fully enforceable. Any payments made pursuant to this Article V shall be made only out of funds legally available therefor.

## ARTICLE VI

### AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws of the Agency may be amended only at a meeting of the Board for which at least seven days written notice has been previously given to all Members of the Agency.

## ARTICLE VII

### MISCELLANEOUS

Section 1. Interpretation. In these By-Laws, words of masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.

## PART 4

### DEPOSITS AND INVESTMENTS OF AGENCY FUNDS

**SECTION 401. PURPOSE AND AUTHORITY.** (A) Agency Funds. The purpose of this Part is to implement Section 858-a(3) of Title One of Article 18-A of the General Municipal Law (the “Act”), which provides that the provisions of Sections 10 and 11 of the General Municipal Law shall be applicable to deposits and investments made by Albany County Industrial Development Agency (the “Agency”) of funds for the use and account of the Agency (“Agency Funds”).

(B) Non-Agency Funds. The provisions of this Part 4 shall not apply to funds derived from the sale of bonds, notes or other obligations issued to fund a particular project for the benefit of a particular applicant, or any other funds of the Agency which are not Agency Funds.

**SECTION 402. DEPOSITS OF AGENCY FUNDS.** (A) Designation of Depositories. The Agency shall by resolution or resolutions of the members of the Agency designate one or more banks or trust companies (each, a “Depository”) for the deposit of Agency Funds received by the treasurer or any other officer of the Agency authorized by law or the by-laws of the Agency to make deposits. Such resolution or resolutions shall specify the maximum amount that may be kept on deposit at any time in each Depository. Such designations and amounts may be changed at any time by a further resolution of the members of the Agency.

(B) Security. All Agency Funds in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereinafter amended shall be secured in accordance with the provisions of Section 10(3) of the General Municipal Law. Generally, Section 10(3) of the General Municipal Law provides that Agency Funds may be secured by (1) a pledge of “eligible securities” (as defined in Section 10(1) of the General Municipal Law), together with a security agreement and custodial agreement meeting the requirements of Section 10(3)(a) of the General Municipal Law, or (2) an “eligible surety bond” or an “eligible letter of credit” (as such quoted terms are defined in Section 10(1) of the General Municipal Law) securing 100% of such Agency Funds.

**SECTION 403. INVESTMENTS OF AGENCY FUNDS.** (A) Investment Policy. It is the general policy of the Agency that Agency Funds not required for immediate expenditure shall be invested as described in subsection (C) below. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

(B) Designation of Investment Officers. The treasurer and any other officer or employee of the Agency so authorized by the by-laws of the Agency or by resolution of the members of the Agency (each, an “Investment Officer”) are authorized to temporarily invest Agency Funds not required for immediate expenditure. Any designation of an Investment Officer made by resolutions of the members of the Agency may be changed at any time by a further resolution of the members of the Agency.

(C) Types of Investments. Except as otherwise provided by resolution of the members of the Agency, an Investment Officer may invest Agency Funds in any obligation described in Section 11(2) and Section 11(3) of the General Municipal Law. Generally, Sections 11(2) and 11(3) of the General Municipal Law permit the following types of investments:

(1) special time deposits in, or certificates of deposit issued by, any bank or trust company located and authorized to do business in the State of New York, provided that such deposit

account or certificate of deposit is secured in the same manner as is provided for securing deposits of Agency Funds by Section 10(3) of the General Municipal Law;

(2) obligations of, or obligations where the payment of principal and interest are guaranteed by, the United States of America;

(3) obligations of the State of New York; and

(4) with the approval of the State Comptroller, tax anticipation notes and revenue anticipation notes issued by any municipality or school district or district corporation organized under the laws of the State of New York.

(D) Custodians. The Agency may, by resolution of the members of the Agency, authorize the Investment Officers to turn over the physical safekeeping and evidences of the investments made pursuant to subsection (C) of this Section (“Agency Investments”) to any entity authorized pursuant to Section 11(4) of the General Municipal Law to act as a custodian of Agency Investments, but only upon compliance with the requirements of Section 11(4) of the General Municipal Law. Generally, Section 11(4) of the General Municipal Law allows the following types of entities to act as custodians of Agency Investments:

(1) any bank or trust company incorporated in the State of New York;

(2) any national bank located in the State of New York; and

(3) any private banker duly authorized by the New York State Superintendent of Banks to engage in business in New York State which maintains a permanent capital of not less than one million dollars in New York State.

(E) Commingling. Any Agency Funds invested pursuant to this Section may be commingled for investment purposes upon compliance with the requirements of Section 11(6) of the General Municipal Law. Generally, Section 11(6) of the General Municipal Law allows commingling of Agency Investments so long as (1) such investment is payable or redeemable at the option of the Agency within such time as the proceeds are needed by the Agency, (2) the separate identity of such funds are maintained at all times, and (3) income received on such commingled monies is credited on a pro rata basis to the fund or account from which the monies were invested.

(F) Proper Records. The treasurer of the Agency shall maintain (or cause the Investment Officers to maintain) a proper record of all books, notes, securities or other evidences of indebtedness held by or for the Agency for purposes of investment. Such record shall at least (where applicable) (1) identify the security, (2) the fund for which held, (3) the place where kept, (4) the date of sale or other disposition, and (5) the amount received from such sale or other disposition.

(G) Sample Resolution. Attached hereto as Appendix 4A is a sample form of resolution naming Depositories and Investment Officers pursuant to this Part and restricting the types of investments in which an Investment Officer may invest Agency Funds.

SECTION 404. INTERNAL CONTROLS. (A) Periodic Reviews. To the maximum extent possible, the treasurer of the Agency shall prepare and submit to the members of the Agency at each regular meeting of the Agency (but not more often than monthly), a summary showing the amount of Agency Funds on deposit in each Depository and the general nature of the investment of such Agency Funds.

(B) Annual Report. Within thirty (30) days of the end of each fiscal year, the treasurer of the Agency shall prepare and submit to the members of the Agency an annual investment report (the "Annual Investment Report") showing the deposits and investments of Agency Funds as of the beginning of such fiscal year, a summary of the changes in such amounts during such fiscal year, a summary of the earnings thereon during such fiscal year, and the balance thereof as of the end of such fiscal year.

(C) Annual Audit. The Annual Investment Report shall be audited by the Agency's independent certified public accountant as part of the Agency's annual general audit required pursuant to Section 859 of the Act.

(D) Annual Review. The members of the Agency shall review the Annual Investment Report and the annual audit and this Part, and shall make any amendments to this Part necessary to achieve the purposes of this Part.

## APPENDIX 4A

### SAMPLE RESOLUTION NAMING DEPOSITORYES AND INVESTMENT OFFICERS AND RESTRICTING TYPES OF INVESTMENTS RESOLUTION NAMING DEPOSITORYES AND INVESTMENT OFFICERS AND RESTRICTING TYPES OF INVESTMENTS

WHEREAS, Albany County Industrial Development Agency (the "Agency") is a public benefit corporation of the State of New York duly established pursuant to Title One of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") and Chapter 178 of the 1975 Laws of the State of New York, as amended (collectively with the Enabling Act, the "Act"); and

WHEREAS, pursuant to Section 858-a(3) of the Act, the provisions of Section 10 and Section 11 of the General Municipal Law apply to the deposit and investment of funds for the Agency's own use and account ("Agency Funds"); and

WHEREAS, Part 4 of the Rules and Regulations of the Agency, constituting a policy regarding the deposit and investment of Agency Funds (the "Deposit and Investment Policy"), was adopted by the members of the Agency on \_\_\_\_\_; and

WHEREAS, the members of the Agency now desire to determine certain matters required to be determined pursuant to the Deposit and Investment Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

SECTION 1. Pursuant to the Deposit and Investment Policy, the Agency hereby (A) designates the following banks and/or trust companies as depositories (each, a "Depository") for the deposit of Agency Funds received by the Agency, and (B) determines that the maximum amount that may be kept on deposit in each such depository is the amount set forth opposite the name of such depository in the following table:

<u>INSTITUTION</u>	<u>MAXIMUM AMOUNT TO BE ON DEPOSIT</u>
_____	\$ _____
_____	\$ _____

SECTION 2. Pursuant to the Deposit and Investment Policy, the following officers of the Agency (each, an "Investment Officer") are authorized to temporarily invest Agency Funds not required for immediate expenditure:

<u>NAME</u>	<u>OFFICE</u>
_____	_____
_____	_____
_____	_____

SECTION 3. Unless otherwise determined by resolution of the members of the Agency, Agency Funds shall be kept in insured certificates of deposit, insured money market accounts or other accounts of a Depository which are insured by the Federal Deposit Insurance Corporation, and no Agency Funds shall be deposited in an account if such deposit would cause such account to exceed the maximum insured limit.

SECTION 4. This resolution shall take effect immediately, and shall remain in effect, as modified, amended, supplemented by subsequent resolutions of the members of the Agency, until the same may be rescinded by subsequent resolutions of the members of the Agency.

## PART 5

### PROCUREMENT POLICY

**SECTION 501. PURPOSE AND AUTHORITY.** The purpose of this Part is to outline the procurement policy of Albany County Industrial Development Agency (the “Agency”) adopted by the Agency pursuant to Section 858-a(2) of Title One of Article 18-A of the General Municipal Law (the “Act”).

#### SECTION 502. REVIEWING PROCEDURE.

(A) General. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under \$20,000 and public works contracts under \$35,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contract; and surplus and second-hand purchases from another governmental entity.

(B) Competitive Bidding. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

**SECTION 503. SECURING GOODS AND SERVICES.** All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases costing less than \$2,500; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to Section 505 of this Part.

#### SECTION 504. METHOD OF PURCHASE.

(A) General. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$2,501-\$5,000	3 verbal quotations
\$5,001-\$20,000	3 written/fax quotations or written request for proposals

<u>Estimated Amount of Public Works Contract</u>	<u>Method</u>
\$2,501-\$5,000	3 verbal quotations
\$5,001 - \$35,000	3 written/fax quotations or written request for proposals

(B) Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) Documentation. (1) Documentation is required of each action taken in connection with each procurement.

(2) Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the reward will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

SECTION 505. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the members of the Agency, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency. In the following circumstances, it may not be in the best interests of the Agency to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional Services. Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Agency, e.g., legal and accounting services, impact liability issues of the Agency and its members, including securities liability in circumstances where the Agency is issuing bonds. These qualifications and the concerns of the Agency regarding its liability and the liability of its members are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Agency shall take into consideration the following guidelines: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and Agency members. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel/special counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of prepackaged software.

(B) Emergency Purchases. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits.

(C) Purchases of Secondhand Goods. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Agency is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

(D) Goods or Services Under \$2,500. The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

SECTION 506. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN. (A) All Agency documents soliciting bids or proposals for Agency contracts shall contain or make reference to the following provisions:

1. The Agency will not discriminate against employees or applicants for employment because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and

2. The Agency shall state, in all solicitations or advertisements for employees, that, in the performance of the Agency contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status.

(B) Any contract awarded by the Agency will include the provisions of Section (A) of this Section in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Agency contract.

(C) The provisions of this Section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Agency contract as expressed by its terms.

(D) In the implementation of this Section, the Agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Agency shall waive the applicability of this Section to the extent of such duplication or conflict.

(E) The Agency shall ensure that "certified businesses" (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Agency contracts and to identify those Agency contracts for which certified businesses may

best bid to actively and affirmatively promote and assist their participation in the performance of Agency contracts so as to facilitate the award of a fair share of Agency contracts to such businesses.

**SECTION 507. POLICY REVIEW.** This policy will be reviewed annually.

**PART 6**  
**ANNUAL BUDGET**

**SECTION 601. PURPOSE AND AUTHORITY.** The purpose of this Part is to implement (A) Section 2801(2) of the Public Authorities Law and (B) Section 861 of the General Municipal Law, which sets forth a requirement that Albany County Industrial Development Agency (the “Agency”) prepare and make available its proposed budget for each fiscal year.

**SECTION 602. BUDGET PREPARATION.** (A) Tentative Budget. The Chairman of the Agency shall annually prepare a tentative budget for the forthcoming fiscal year. The Chairman of the Agency shall deliver such tentative budget to the Treasurer, at least one hundred and twenty (120) days prior to the expiration of the then-current fiscal year.

(B) Form of Budget. The tentative budget shall be in writing and shall contain detailed estimates of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Attached hereto as Appendix 6A is a sample format for a budget for the Agency.

(C) Distribution. The tentative budget shall be distributed to the members of the Agency at least ninety (90) days prior to the expiration of the then-current fiscal year.

(D) Proposed Budget. The Chairman of the Agency shall endeavor to schedule a meeting of the members of the Agency for the purpose of discussing the tentative budget at least seventy – five (75) days prior to the expiration of the current fiscal year. At such meeting the Treasurer shall report on such budget. If such a meeting cannot for some reason be scheduled, then the Chairman of the Agency shall poll the individual members of the Agency to obtain their comments on the tentative budget. Once the Chairman has made any revisions to the proposed budget necessary to reflect the input from the members of the Agency, and such revisions have been reviewed by the Treasurer, the tentative budget shall become the proposed budget.

(E) Distribution of Proposed Budget. Once the proposed budget is prepared, the Chairman of the Agency shall make the proposed budget available for public inspection and comment as follows:

(1) One copy of the proposed budget shall be mailed or delivered to the Chairman of the County Legislature of Albany County, accompanied by a letter in substantially the form of Appendix 6B (the “Enclosure Letter”) and a public notice in substantially the form of Appendix 6C (the “Public Notice”);

(2) One copy of the proposed budget shall be mailed or delivered to the County Executive of Albany County, accompanied by the Enclosure Letter and the Public Notice;

(3) One copy of the Public Notice will be posted on a prominent bulletin board located at the Albany County Office Building, 112 State Street, Albany, New York; and

(4) One copy shall be placed on file in the office of the Agency and made available for public inspection during normal business hours.

(F) Adoption of Budget. After waiting at least twenty (20) days after the mailing or delivery of the proposed budget described in Subsection (E)(1) and (2) above, the members of the Agency shall consider the adoption of a budget for the forthcoming fiscal year.

(G) Filing of Budget. Upon adoption by the Agency of a budget, the Chairman of the Agency shall file not more than ninety (90) days and not less than sixty (60) days prior to the commencement of its fiscal year the budget to the following: (1) the County Executive, (2) the County Comptroller, (3) the Chairman of the County Legislature, (4) the County Clerk and (5) the Authorities Budget Office.

(H) Revisions to Budget. If the Agency revises the budget at any time after the filing thereof with the County Clerk, the Chairman of the Agency shall promptly file such revised budget with the County Clerk.

SECTION 603. REPORTS ON BUDGET. The Treasurer shall provide at each meeting of the Agency a financial report, including a discussion of the status of the Agency's financial operations under its budget. The Chairman shall assist the Treasurer in making such financial report.

APPENDIX 6A  
SAMPLE FORM OF BUDGET  
[SEE ABO PARIS FORM]

APPENDIX 6B

FORM OF ENCLOSURE LETTER

[LETTERHEAD OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY]

\_\_\_\_\_, \_\_\_\_\_

Hon. \_\_\_\_\_  
County Executive  
112 State Street  
Albany, New York 12207

Hon. \_\_\_\_\_  
Chairman  
County Legislature  
111 Washington Ave Suite 100  
Albany, New York 12210

RE: Albany County Industrial Development Agency  
Proposed Budget

Gentlemen:

Pursuant to the requirements of Section 861 of Title One of Article 18-A of the General Municipal Law (the "Act"), enclosed herewith please find a copy of the following:

1. The proposed budget of Albany County Industrial Development Agency (the "Agency") for the fiscal year commencing \_\_\_\_\_, \_\_\_\_; and
2. A public notice relating to same.

Pursuant to the provisions of the Act, to allow for a period of public comment, this budget will not be adopted until at least twenty (20) days subsequent to the date of this letter. Any comments on this proposed budget should be made in writing, addressed to the Chairman of the Agency at \_\_\_\_\_, Albany, New York \_\_\_\_\_.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

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

## APPENDIX 6C

### SAMPLE PUBLIC NOTICE REGARDING PROPOSED BUDGET PUBLIC NOTICE REGARDING PROPOSED BUDGET

PLEASE TAKE NOTICE that, pursuant to Section 861 of the General Municipal Law, Albany County Industrial Development Agency has prepared a proposed budget for the fiscal year commencing \_\_\_\_\_, \_\_\_\_\_, and that copies of said proposed budget are on file at the office of the Agency, located at \_\_\_\_\_, Albany, New York \_\_\_\_\_. Further information regarding the proposed budget may be obtained by contacting the Chairman of the Agency at the above office.

Any written comments received by the Agency relative to the proposed budget prior to \_\_\_\_\_, \_\_\_\_ will be considered by the Agency prior to the adoption by the Agency of its budget for the forthcoming fiscal year.

Dated: \_\_\_\_\_, \_\_\_\_\_

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

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

**PART 7**  
**BOND COUNSEL DISCLOSURE**

**SECTION 701. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish such procedures relating to bond counsel as are deemed by Albany County Industrial Development Agency (the “Agency”) as necessary for the implementation of Section 858(8)(b) of Title One of Article 18-A of the General Municipal Law (the “Act”) and Article 6 of the Public Officers Law (the “FOI Law”).

**SECTION 702. DISCLOSURE STATEMENT.** (A) General. Any attorney seeking to be appointed as bond counsel for a project must file with the Agency a written statement (a “Disclosure Statement”) in which the attorney (1) identifies each party to the transaction which such attorney and his or her firm represents and (2) affirms that attached to such Disclosure Statement is a true and correct copy of the engagement letter or other summary of the method by which such attorney expects to charge for legal services. Each Disclosure Statement shall be substantially in the form of Appendix 7A to this Part.

(B) Additional Disclosures. If bond counsel provides any legal services to parties other than the Agency, the Disclosure Statement must describe the nature of legal services provided by such bond counsel (including such attorney and his firm) to all parties to the transaction, including the nature of the services provided to the Agency.

(C) Time of Filing. A Disclosure Statement is timely filed if executed and delivered no later than the closing date for the transaction.

**SECTION 703. FINANCIAL DISCLOSURE.** Since case law has determined that the legal fees of bond counsel are a public record, each Disclosure Statement filed pursuant to Section 702(C)(1) of this Part shall be accompanied by a copy of the engagement letter or other summary of the method by which such attorney expects to charge for bond counsel services.

**SECTION 704. ENFORCEMENT.** (A) Appointment of Bond Counsel. The Agency shall not adopt any resolutions or take any other action to appoint an attorney as bond counsel for a particular transaction unless such attorney has filed with the Agency a timely Disclosure Statement complying with the requirements of Section 702(A) and (B) and Section 703 of this Part.

(B) Penalty for Failure to File. The Agency shall not adopt any resolutions or take any other action to appoint an attorney or firm as bond counsel for a particular transaction if such attorney or his firm is delinquent in filing any information with the Agency pursuant to this Part.

## APPENDIX 7A

### FORM OF DISCLOSURE STATEMENT BOND COUNSEL DISCLOSURE STATEMENT

TO: Albany County Industrial  
Development Agency  
111 Washington Ave Suite 100  
Albany, New York 12210

RE: [Identify Proposed Bond Issue]

DATE: \_\_\_\_\_, 20\_\_\_\_

Gentlemen:

I hereby request that the members of Albany County Industrial Development Agency (the "Agency") adopt a resolution appointing [me] [my law firm, \_\_\_\_\_] to act as bond counsel in connection with the captioned proposed bond issue. Pursuant to Part 7 of the Rules and Regulations of the Agency, I hereby certify as follows:

A. Attached hereto as Schedule A is a list of each party to the proposed transaction whom either myself or my law firm represents or has represented in the past in connection with the proposed transaction.

B. If either myself or my law firm represents or has represented any party to the transaction other than the Agency, Schedule A also includes a description of the nature of the legal services provided to all parties to the transaction (including the Agency).

C. Attached hereto as Schedule B is a true and correct copy of an engagement letter or other summary of the method by which [I] [my firm] expect to charge for legal services in connection with the transaction.

I hereby affirm that, to the best of my knowledge and belief, all information contained or described herein is true, correct and complete.

SCHEDULE A

LIST OF PARTIES REPRESENTED

<u>PARTIES REPRESENTED</u>	<u>DESCRIPTION OF THE NATURE OF SERVICES PROVIDED TO EACH SUCH PARTY (IF REQUIRED)</u>
----------------------------	--

SCHEDULE B

ENGAGEMENT LETTER OR OTHER SUMMARY OF METHOD  
OF CHARGING EACH PARTY LISTED ON SCHEDULE A

## PART 8

### FINANCIAL RECORDS; ANNUAL FINANCIAL STATEMENTS; FILINGS WITH THE NEW YORK STATE COMPTROLLER

**SECTION 801. PURPOSE AND AUTHORITY.** The purpose of this Part is to implement Section 859 of Title One of Article 18-A of the General Municipal Law (the “Act”) and Section 2800 of the Public Authority Law (the “PAL”), which sets forth certain requirements that Albany County Industrial Development Agency (the “Agency”) must follow with regard to maintenance of financial records, the preparation of annual financial statements and reports, and the filing of such annual financial statements and reports.

**SECTION 802. FINANCIAL RECORDS.** (A) Records regarding Agency Funds. The Agency shall maintain financial books and records in which full and correct entries shall be made of all business and financial affairs of the Agency relating to all funds for the use and account of the Agency (“Agency Funds”).

(B) Records regarding Non-Agency Funds. Financial books and records relating to funds held by a project occupant and/or project beneficiary and/or bondholder and/or trustee or other fiduciary serving on behalf of bondholders (each, a “Third Party”) need not be maintained by the Agency. However, the Agency shall endeavor to negotiate a clause in the project documents executed by such Third Party, whereby such Third Party agrees to provide such information to the Agency and/or its duly authorized agents as is necessary to enable the Agency to make any reports required by law and/or governmental regulation.

**SECTION 803. ANNUAL FINANCIAL STATEMENT.** (A) General. Within ninety (90) days following the close of each fiscal year of the Agency, the Agency shall prepare or cause to be prepared a financial statement for such fiscal year in such form as is prescribed by the New York State Comptroller (the “Comptroller”) or the Authorities Budge Office, such financial statement to include supplemental schedules containing certain additional information required by the Comptroller.

(1) The financial statement shall include an annual report as required by Section 2800 of the Public Authority Law.

(2) The Audit Committee of the Agency will hold such meetings as are necessary to provide for the completion and review of the financial statement and annual report.

(3) Such financial statement shall be approved by the members of the Agency and certified by the Chief Executive Officer and Chief Financial Officer of the Agency, and executed by the Treasurer of the Agency.

(B) Contract with Independent Certified Public Accountant. (1) Pursuant to the Act, such annual financial statement must be audited within ninety (90) days following the close of such fiscal year of the Agency by an independent certified public accountant (an “Accountant”) in accordance with generally accepted accounting principles established by the United States General Accounting Office. To implement this requirement, the Agency shall, in accordance with the Agency’s procurement guidelines, select and contract with an Accountant at least thirty (30) days prior to the end of such fiscal year. Such contract with the Accountant shall require that such Accountant prepare and audit such annual financial statement, together with all supplemental schedules required by the Act and the PAL, and ensure that the same are filed with the Comptroller not later than ninety (90) days following the close of such fiscal year.

(2) The selection and replacement by the Agency of an accounting firm (and lead partners of such accounting firm) shall comply with the provisions of Section 2802(4) of the PAL.

(C) Filings. The Act prescribes certain penalties for (1) failure to file the annual financial statement with the Comptroller or (2) failure to substantially complete such annual financial statement, as determined by the Comptroller. The Chairman of the Agency shall ensure that the annual financial statement is substantially completed and is filed with the Comptroller within the ninety (90) day period required by the Act and the PAL. Within thirty (30) days after completion of the annual financial statement, the Agency and/or the Accountant shall send a copy of such statement to following: (a) the Chairman of the County Legislature; (b) the Authorities Budget Office; (c) the Commissioner of Empire State Development; and (d) the Comptroller.

(D) Failure to File. In the event that the Agency shall receive a notice from the Comptroller that the Agency has either failed to file an annual financial statement, or that the Comptroller has determined that a filed annual financial statement was deficient, the Chairman of the Agency shall take steps to immediately prepare and file such annual financial statement or to remedy the deficiency.

## PART 9

### EQUAL EMPLOYMENT OPPORTUNITIES

**SECTION 901. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish procedures for the implementation of Section 858-b of Title One of Article 18-A of the General Municipal Law (the “Act”).

**SECTION 902. AGENCY EMPLOYMENT.** It is the policy of Albany County Industrial Development Agency (the “Agency”) to ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination. Accordingly, it is the policy of the Agency to prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, disability, age, or marital or domestic partner status in all aspects of its personnel policies, programs, practices and operations in accordance with Title VII of the Civil Rights Act of 1964 and the Human Rights Law of the State of New York.

**SECTION 903. PROJECT EMPLOYMENT OPPORTUNITIES.** (A) **Listing Requirement.** Except as otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall list new employment opportunities which are created as a result of projects of the Agency with the Community Services Division of the New York State Department of Labor and with the administrative entity of the Albany, Rensselaer and Schenectady Service Delivery Area (or successor entity) created by the Federal Job Training Partnership Act (P.L. No. 97-300) where the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)), or current federal statute.

(B) **First Consideration Requirement.** Pursuant to the Act, except as otherwise provided by collective bargaining contracts or agreements, sponsors of projects must agree, where practicable, to first consider persons eligible to participate in the Federal Job Training Partnership programs who are referred by the Department of Human Resources or by the Community Services Division of the Department of Labor for such new employment opportunities.

(C) **Guidelines for Access to Employment Opportunities.** The listing and first consideration requirements of Section 858-b of the Act are substantially the same as the requirements contained in the private activity bond volume allocation act (the “Allocation Act”) enacted annually, except that such new requirements apply to every project undertaken by the Agency. The Allocation Act requires that new employment opportunities shall be listed with the New York State Department of Labor and with the one-stop career center established pursuant to the federal Workforce Investment Act (Pub. L. No. 105-220) serving the locality in which the employment opportunities are being created. Such listing shall be in a manner and form prescribed by the commissioner. All issuers shall further require that for any new employment opportunities created in connection with an industrial or manufacturing project financed through the issuance of qualified small issue bonds by such issuer, industrial or manufacturing firms shall first consider persons eligible to participate in Workforce Investment Act (Pub. L. No. 105-220) programs who shall be referred to the industrial or manufacturing firm by one-stop centers in local workforce investment areas or by the New York State Department of Labor.

**PART 10**  
**CONFLICTS OF INTEREST**

**SECTION 1001. PURPOSE AND AUTHORITY.** The purpose of this Part is to implement Section 883 of Title One of Article 18-A of the General Municipal Law (the “Act”), which provides that Article 18 of the General Municipal Law (the “Conflict of Interest Law”) applies to all members, officers and employees of Albany County Industrial Development Agency (the “Agency”).

**SECTION 1002. DEFINITIONS.** The definitions contained in Section 800 of the Conflict of Interest Law apply to this Part.

**SECTION 1003. CONFLICTS OF INTEREST.** (A) General Rule. Except as authorized by Section 802 of the Conflict of Interest Law:

(1) No member, officer or employee of the Agency shall have an interest in any contract with the Agency when such member, officer or employee, either individually or as a member of a board, has the power or duty to:

- (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;
- (b) audit bills or claims under the contract; or
- (c) appoint an officer or employee who has any of the powers or duties set forth above.

(2) No chief fiscal officer, treasurer, or his or her deputy or employee, of the Agency shall have an interest in a bank or trust company that is designated as a depository, paying agent, registration agent or for investment of funds of the Agency.

(B) Disclosure. Except as provided in subsection (C) below, any member, officer or employee of the Agency who has, will have, or later acquires an interest in any actual or proposed contract with the Agency shall publicly disclose the nature and extent of such interest in writing to the members of the Agency as soon as he or she has knowledge of such actual or prospective interest. Such written disclosure shall be set forth in and made part of the official record of the proceedings of the Agency. Once disclosure has been made with respect to an interest in a contract with a particular person, firm, corporation or association, no further disclosures are required by such member, officer or employee with respect to additional contracts with the same party during the remainder of the fiscal year.

(C) Disclosure Not Required. Pursuant to Section 803(2) of the Conflict of Interest Law, the disclosure required in subsection (B) above is not required in the case of an interest in a contract described in Section 802(2) of the Conflict of Interest Law.

(D) Penalties for Violations. Pursuant to Section 805 of the Conflict of Interest Law, any officer or employee of the Agency who willfully and knowingly violates the foregoing provisions of the Conflict of Interest Law, may be guilty of a misdemeanor. Furthermore, pursuant to Section 804 of the Conflict of Interest Law, any contract that is willfully entered into by or with the Agency in which there is an interest prohibited by the Conflict of Interest Law shall be null, void and wholly unenforceable.

SECTION 1004. PROHIBITED ACTIONS. (A) General. Pursuant to Section 805-a of the Conflict of Interest Law, no member, officer or employee of the Agency shall:

- (1) either directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars (\$75.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended as a reward for any official action on his or her part, or that it was intended to or could reasonably be expected to influence him or her in the performance of his or her official duties;
- (2) disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interests;
- (3) receive or enter into any express or implied agreement for compensation for services to be rendered in relation to any matter before the Agency; or
- (4) receive or enter into any express or implied agreement for compensation for services to be rendered in relation to any matter before the Agency whereby his or her compensation is to be dependent or contingent upon any action by such Agency with respect to that matter; provided, however, that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

(B) Penalty for Violation. Pursuant to Section 805-a of the Conflict of Interest Law, any person who shall knowingly and intentionally violate the Conflict of Interest Law may be fined, suspended or removed from office or employment in the manner provided by law.

SECTION 1005. POSTING. The Chairman of the Agency shall have a copy of the Conflict of Interest Law and of this Part posted in the office of the Agency in a place which is conspicuous to the officers, members and employees of the Agency.

SECTION 1006. MISCELLANEOUS PROVISIONS. (A) Financial Disclosure. Pursuant to Section 810(3) of the Conflict of Interest Law, members, officers and employees of the Agency are deemed to be officers or employees of Albany County for purposes of Sections 811, 812 and 813 of the Conflict of Interest Law (said sections deal generally with financial disclosure).

(B) Compensation. Pursuant to Section 858-a(1) of the Act, the compensation of an officer or full time employee of the Agency (but not including part time employees or consultants, including accountants, attorneys and bond counsel/special counsel to the Agency) shall not be contingent on the granting of financial assistance by the Agency.

**PART 11**  
**INTERACTION WITH OTHER AGENCIES**

**SECTION 1101. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish such procedures relating to the interaction and coordination by the Albany County Industrial Development Agency (the “Agency”) with other County agencies and departments.

**SECTION 1102. DISTRIBUTION OF APPLICATIONS FOR FINANCIAL ASSISTANCE.** The Agency shall distribute copies of any Applications for Financial Assistance to the following officials and departments:

- (A) County Executive’s Office.
- (B) County Attorney.
- (C) Department of Economic Development.
- (D) Planning Board Director.
- (E) Real Property Tax Director.
- (F) Chair of County Legislature.

**PART 12**  
**STRUCTURE OF AGENCY BOARD**

**SECTION 1201. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish such procedures relating to the organization of the membership of the Albany County Industrial Development Agency (the “Agency”) as necessary for the implementation of Section 856 of Title One of Article 18-A of the General Municipal Law (the “Act”), Section 903-b of the Act and the By-Laws of the Agency.

**SECTION 1202. ORGANIZATION.**

(A) Appointment of Members. The members of the Agency shall be appointed by the County Legislature of Albany County. The members serve at the pleasure of the County Legislature. Upon appointment to the Agency, counsel to the Agency must file a Certificate of Appointment with the Secretary of State. A form copy of a Certificate of Appointment is attached hereto as Appendix 12A.

(B) Oath of Office. Each new member of the Agency must take and file an oath of office. The oath of office must be filed in the office of the Clerk of Albany County, New York.

(C) Number of Members. The Agency shall consist of not less than three nor more than seven members.

(D) Qualifications. Each member must be at least 18 years of age and a resident of Albany County.

(E) Representation. Members of the Agency may include representatives of local government, school boards, organized labor and business.

(F) Term of Membership. Each member of the Agency shall serve for the term specified in the resolution adopted by the County Legislature appointing such member. In any event, members of the Agency shall serve at the pleasure of the County Legislature.

(G) Officers. The officers of the Agency shall be a Chairman, Secretary, Treasurer, and such other officers as provided by the By-Laws of the Agency. All requirements regarding the election, duties, tenure of office and other matters involving the officers of the Agency shall be as set forth in the By-Laws of the Agency.

## APPENDIX 12A

(Sample Certificate of Appointment of Member to be filed with Secretary of State pursuant to New York State Industrial Development Agency Act. File with Miscellaneous Records Bureau, Department of State, 162 Washington Avenue, Albany, New York 12225.)

CERTIFICATE  
OF  
APPOINTMENT  
AS MEMBER OF  
ALBANY COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY  
FOR FILING  
WITH  
SECRETARY OF STATE

THIS is to certify that

---

has been appointed as a

MEMBER

of the ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY which has been duly established by Chapter 178 of the Laws of 1975.

COUNTY LEGISLATURE OF ALBANY COUNTY, NEW YORK  
BY: \_\_\_\_\_  
Clerk of Legislature

(SEAL)

**PART 13**  
**ACCESS TO AGENCY RECORDS**

**SECTION 1301. PURPOSE AND SCOPE.** Article 6 of the Public Officers Law (the “Freedom of Information Law”) contains various provisions providing that, with certain exceptions, records maintained by state and local governmental entities are available for public inspection. The purpose of this Part is to set forth procedures to implement the Freedom of Information Law as it applies to records maintained by Albany County Industrial Development Agency (the “Agency”).

**SECTION 1302. DEFINITIONS.** All words and terms used herein and defined in the Freedom of Information Law shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

“Privacy Law” shall mean the personal privacy protection act, being Article 6-A of the Public Officers Law.

**SECTION 1303. GENERAL RULE.** (A) Maintenance of Records. The Agency shall maintain:

- (1) a record of the final vote of each member in every Agency proceeding;
- (2) a record setting forth the name, public office address, title and salary of every officer or employee of the Agency;
- (3) a current list, by subject matter, of all records in the possession of the Agency, sufficiently detailed to permit identification of the category of the record sought, whether or not available pursuant to the Freedom of Information Law. This list shall be updated not less than twice per year.

(B) Access to Records. The Agency shall, in accordance with this Part and the regulations of the Committee on Public Access to Records (21 NYCRR Part 1401), furnish to the public the records required by the Freedom of Information Law.

(C) Maintenance of Web Site. The Agency shall, in accordance with this Part and Section 2800 of the Public Authority Law, maintain a web site for the posting of agendas, meeting minutes, policies and other materials required by Section 2800 of the Public Authority Law and other applicable law.

(D) No Requirement to Prepare Records. Except as otherwise provided in subsection (A) of this section, nothing in this Part shall be construed to require the Agency to prepare any record not possessed or maintained by the Agency.

**SECTION 1304. RECORDS ACCESS OFFICER.** (A) Designation of Records Access Officer. The Chairman of the Agency, or in his absence, the Secretary of the Agency shall be the records access officer of the Agency. The business address of the records access officer of the Agency is 112 State Street, Room 740, Albany, New York 12207. The designation of the records access officer shall not be construed to prohibit Agency personnel who have in the past been authorized to make records or information available to the public from continuing to do so.

(B) Duties of Records Access Officer. It shall be the duty of the records access officer to respond to public requests for access to records. The records access officer will assure that Agency personnel:

- (1) maintain the up-to-date subject matter list required by Section 87(3)(c) of the Public Officers Law;
- (2) assist a person inquiring in identifying requested records, if necessary;
- (3) upon locating the requested records, take one of the following actions pursuant to the procedures set forth herein:
  - (a) make records available for inspection; or
  - (b) deny access to the records in whole or in part and explain in writing the reasons for such action pursuant to Section 1306 herein;
- (4) upon payment or offer to pay the fees set forth in Section 1308 herein:
  - (a) make a copy available; or
  - (b) permit the person inquiring to copy such records; and
  - (c) upon request, certify that a record is a true copy;
- (5) upon failure to locate records, certify that:
  - (a) the Agency is not the custodian for such records; or
  - (b) the records of which the Agency is a custodian cannot be found after diligent search.

SECTION 1305. INSPECTION OF PUBLIC RECORDS. (A) Location. The location where records shall be available for public inspection and copying is: 112 State Street, Room 740, Albany, New York 12207.

(B) Requests for Public Access to Records. Requests for public access to records of the Agency shall be accepted by the Agency during all hours that the Agency is regularly open for business. Except for State holidays, or during weather or other emergencies, these hours are 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday. Unless such requirement is waived by the Agency, each request for access to records of the Agency shall be in writing. A sample form of request for Agency records is attached hereto as Appendix 13A. Such request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought. The records access officer, in his discretion, may waive compliance with any formality required herein.

(C) Response to Requests. The Agency shall respond to any written request reasonably describing the record or records sought within five (5) business days after receipt. If the Agency does not provide or deny access to the record sought within five (5) business days after receipt of a written request, it shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with Section 89(5) of the Public Officers Law relative to trade

secrets. Failure of the Agency to grant or deny access to records within ten (10) business days after the date of acknowledgment of receipt of a request may be construed as a denial of access and may be appealed as provided in Section 1306 herein.

(D) Hours for Public Inspection. Once the Agency has located the requested records, such records shall be open to public inspection at the offices of the Agency during all hours that the Agency is regularly open for business. Except on State holidays, or during weather or other emergencies, these hours are 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday.

(E) Hours for Copying. Records may be copied during regular business hours on all business days to the extent possible in view of priority copying requirements involving regular Agency responsibilities.

SECTION 1306. DENIAL OF ACCESS TO RECORDS. (A) General Rule. If the records access officer shall decide to deny access to any particular records such denial of access shall be in writing, stating the reason for denial and advising of the right to appeal to the counsel. Failure of the Agency to respond to a request within five (5) business days after receipt, as required by Section 1305 herein, shall be deemed a denial of access to the records. The records access officer may deny access to records or portions thereof that:

(1) are exempted from disclosure by the Privacy Law or any other State or Federal statute or judicial decision;

(2) if disclosed, would constitute an unwarranted invasion of personal privacy pursuant to Section 89(2) of the Freedom of Information Law;

(3) if disclosed, would impair present or imminent contract awards or collective bargaining negotiations;

(4) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

(5) are compiled for law enforcement purposes and which, if disclosed, would interfere with law enforcement investigations or otherwise come within the exemptions of Section 87(2)(e) of the Freedom of Information Law;

(6) are interagency or intra-agency materials which are not:

- (a) statistical or factual tabulations or data;
- (b) instructions to staff that affect the public; or
- (c) final agency policy or determinations; or
- (d) external audits; or

(7) are computer access codes; or

(8) are otherwise exempt pursuant to Section 87(2) of the Freedom of Information Law.

(B) Right to Appeal Denial. Except as provided in Section 89(5) of the Public Officers Law relative to trade secrets, any person denied access to records may appeal within thirty (30) days after receipt

of notice of the denial. If the denial is by mail, the 30-day period shall commence to run on the fifth day following the mailing of notice of denial. The Agency Counsel/Special Counsel of the Agency shall act as appeals officer (the "Agency Appeals Officer") to determine appeals regarding denial of access to records under the Freedom of Information Law.

(C) Time for Decision of Appeal. The Agency Appeals Officer shall within ten (10) business days of the receipt of an appeal, decide such appeal in the manner described in subsection (D) below. The time for deciding an appeal shall commence upon receipt of a written appeal, identifying:

- (1) the date and identification of a request for records, together with a copy of such request;
- (2) the date of denial of access, together with a copy of such denial;
- (3) the records that were denied; and
- (4) the name and return address of the appellant.

(D) Decision on Appeal. The Agency Appeals Officer shall inform the appellant and the Committee on Public Access to Records of his determination, in writing, within ten (10) business days after receipt of an appeal. The appeals officer shall either:

- (1) fully explain the reasons for further denial and inform the person inquiring that the denial is subject to court review as provided for in Article 78 of the Civil Practice Law and Rules; or
- (2) provide access to the record sought.

SECTION 1307. TRADE SECRETS. (A) Requests for Exception from Disclosure. A person who submits any information to the Agency may, at the time of submission, request that the Agency except such information from disclosure under Section 87(2)(d) of the Freedom of Information Law. Where the request itself contains information which if disclosed would defeat the purpose for which the exception is sought, such information shall also be excepted from disclosure. The request for an exception shall be in writing and state the reasons why the information should be excepted from disclosure. The person requesting an exception from disclosure herein shall in all proceedings have the burden of proving that the record falls within the provisions of such exception.

(B) Treatment of Records Pending Decision. Information submitted pursuant to paragraph (A) of this section shall be excepted from disclosure and be maintained by the Agency's Chairman in a locked drawer, apart from all other records, until fifteen (15) days after the entitlement to such exception has been finally adversely determined or such further time as ordered by a court of competent jurisdiction.

(C) Determination on Request for Exception. On the initiative of the Agency at any time, or upon the request of any person for a record excepted from disclosure herein, the Agency shall:

- (1) inform the person who requested the exception of the Agency's intention to determine whether such exception should be granted or continued;
- (2) permit the person who requested the exception, within ten (10) business days after receipt of notification from the Agency, to submit a written statement of the necessity for the granting or continuation of such exception;

(3) within seven (7) business days after receipt of such written statement, or within seven (7) business days after the expiration of the period prescribed for submission of such statement, issue a written determination granting, continuing or terminating such exception and stating the reasons therefor. Copies of such determination shall be served upon the person, if any, requesting the record, the person who requested the exception, and the Committee on Public Access to Records.

(D) Appeal. A denial of an exception from disclosure under subsection (C) of this section may be appealed by the person submitting the information and a denial of access to the record may be appealed by the person requesting this record in accordance with the following:

(1) within seven (7) business days after receipt of written notice denying the request, the person may file with the Agency Appeals Officer a written appeal from the determination.

(2) The Agency Appeals Officer shall determine the appeal within ten (10) business days after receipt of the appeal. Written notice of the determination containing the reasons therefor shall be served upon the person, if any, requesting the record, the person who requested the exception and the Committee on Public Access to Records.

(E) Article 78. A proceeding to review an adverse determination pursuant to subsection (D) of this section may be commenced pursuant to Article 78 of the Civil Practice Law and Rules, and must be commenced within fifteen (15) days after the service of the written notice containing the adverse determination.

(F) Consent. Nothing in this section shall be construed to deny any person access, pursuant to this section or the Freedom of Information Law, to the record or part excepted from disclosure upon the written consent of the person who had requested the exception.

SECTION 1308. FEES. (A) Inspection. There shall be no fee charged for an inspection of records or a search for records pursuant to this section.

(B) Copies. The Chairman of the Agency may provide copies of records without charging a fee. However, as a general rule, the Agency will charge a fee of 25 cents per page for copies of records. In the case of records not capable of being copied on regular Agency facilities, the Agency may, at the option of the person inquiring:

(1) prepare a transcript, in which case there will be a charge for the clerical time involved, in addition to the fee set forth herein; or

(2) reproduce the records using available commercial facilities, in which case the fee will be the actual cost to the Agency.

All such fees must be paid in cash to the Records Access Officer prior to the preparation of any copies.

## APPENDIX 13A

### SAMPLE APPLICATION FOR REQUESTING ACCESS TO AGENCY RECORDS

#### APPLICATION FOR PUBLIC ACCESS TO RECORDS

Records Access Officer  
Albany County Industrial Development Agency  
111 Washington Ave Suite 100  
Albany, New York 12210

I hereby apply to inspect the following record:

---

---

---

signature

Date

representing

mailing address

---

---

---

#### For Agency Use Only

Approved

Denied (for the reason(s) checked below)

Confidential Disclosure  Part of Investigatory Files

Unwarranted Invasion of Personal Privacy

Record of Which This Agency is Legal Custodian Cannot Be Found

Exempted by Statute Other Than the Freedom of Information Act

Other (specify) \_\_\_\_\_

---

Signature

Title

Date

---

---

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NOTICE: You have a right to appeal a denial of this application to the Chairman of the Agency, Albany County Industrial Development Agency, 112 State Street, Room 740, Albany, New York 12207, who must fully explain the reasons for such denial in writing seven (7) days of receipt of an appeal.

I HEREBY APPEAL:

---

Signature

Date

## PART 14

### OPEN MEETINGS LAW

SECTION 1401. PURPOSE AND AUTHORITY. Pursuant to the Open Meetings Law, being Article 7 of the Public Officers Law (the “Open Meetings Law”), every meeting of a public body must be open to the general public, with certain limited exceptions. The purpose of this Part is to establish procedures for the implementation of the Open Meetings Law relating to the operations of Albany County Industrial Development Agency (the “Agency”).

SECTION 1402. DEFINITIONS. Except as otherwise provided herein, the definitions contained in Section 102 of the Open Meetings Law apply to this Part. As used in this Part:

(A) “Meeting” means the official convening of the Agency or any committee or other body consisting of Agency members (or consisting of members of the general public formally created by the Agency to advise the Agency or conduct business on behalf of the Agency) for the purpose of conducting public business.

(B) “Executive Session” means that portion of a meeting not open to the general public.

SECTION 1403. CONDUCT OF MEETINGS. (A) Open Meetings. In compliance with the Open Meetings Law, every meeting shall be open to the general public, except that an executive session may be called and business conducted thereat in accordance with subsection (B) hereof.

(B) Executive Sessions. Upon a majority vote of the Agency, or the members of the committee or other body thereof, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a meeting may be conducted as an executive session for the purposes specified in Section 105 of the Open Meetings Law. The Agency or the members of the subcommittee or other body may permit any person to attend an executive session.

(C) Public Participation. The Agency member or other person presiding over a meeting may permit public participation upon such terms as he shall deem just and proper.

(D) Recording Devices. Use of sonic recording devices at Agency meetings is permitted, subject to reasonable conditions.

SECTION 1404. PUBLIC NOTICE. (A) Notice. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given to the news media and shall be conspicuously posted in the main office of the Agency at least seventy-two (72) hours before such meeting. Public notice of the time and place of every other meeting shall be given in the same manner as soon as possible prior thereto. The foregoing notice provisions shall not be construed to require publication of a legal notice or any other notice. A sample notice of meeting is attached hereto as Appendix 14A.

(B) Proof of Notice. On the date when notice is given as aforesaid, the Chairman of the Agency shall cause a certificate or affidavit regarding the giving of such notice to be prepared, and shall cause a copy of said certificate and of the notice of such meeting to be placed in the minute books of the Agency. A sample certificate regarding the giving of notice is attached hereto as Appendix 14B.

SECTION 1405. WEB SITE. (A) Maintenance. The Agency shall maintain a web site.

(B) Materials to be Posted. The Agency shall post agendas, minutes, policies and other material required by applicable New York law on the web site of the Agency.

SECTION 1406. MINUTES. (A) Open Meetings. Minutes shall be taken at all open meetings, which shall consist, at a minimum, of a record or summary of all motions, proposal, resolutions and any other matters formally voted upon, and the votes thereon.

(B) Executive Sessions. Minutes shall be taken at executive sessions of any action taken by formal vote, which shall consist, at a minimum, of a record or summary of the final determination of such action, and the date and vote thereon. Such minutes need not include any matter not required to be made public by Article 6 of the Public Officers Law (the "Freedom of Information Law") and Part 13 (Access To Agency Records) of the rules and regulations of the Agency.

(C) Minute Books. A copy of the minutes for each meeting or executive session shall be kept by the Chairman of the Agency in the minute books of the Agency in the principal office of the Agency.

(D) Date of Availability. Minutes of meetings shall be available to the public in accordance with the Freedom of Information Law and Part 13 (Access to Agency Records) of the rules and regulations of the Agency within two weeks of the date of the meeting. Minutes taken at executive sessions shall be available to the public within one week from the date of the executive session.

SECTION 1407. EXEMPTIONS. No provision herein shall extend to any matter made confidential by federal or state law.

APPENDIX 14A  
SAMPLE NOTICE OF MEETING

[LETTERHEAD OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY]

M E M O R A N D U M

TO: AGENCY MEMBERS

FROM: [CHAIRMAN] [CHIEF EXECUTIVE OFFICER]

RE: MEETING ANNOUNCEMENT

DATE: \_\_\_\_\_, 20\_\_\_\_

The next regular meeting of the Albany County Industrial Development Agency will be held on \_\_\_\_\_, 20\_\_\_\_ o'clock \_\_\_.m., local time, at \_\_\_\_\_ located at \_\_\_\_\_ in the City of Albany, Albany County, New York.

I look forward to seeing you then.

AD:sec

cc: [newspapers]  
[radio stations]

APPENDIX 14B  
SAMPLE PROOF OF NOTICE

[LETTERHEAD OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY]

CERTIFICATE REGARDING MAILING AND POSTING  
OF NOTICE OF MEETING

The undersigned [Chairman] [Chief Executive Officer] of Albany County Industrial Development Agency (the "Agency") hereby certifies as follows:

1. That on \_\_\_\_\_, 20\_\_\_\_\_, I mailed a notice of a meeting of the Agency to be held on \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_.m., local time, at \_\_\_\_\_ located at \_\_\_\_\_ in the City of Albany, New York, to the following individuals and organizations.
  - A. Members of the Agency
  - B. [newspapers]
  - C. [radio stations]
2. That further, on \_\_\_\_\_, 20\_\_\_\_\_, I posted a copy of said notice of meeting on the bulletin board located in the main office of the Agency at 112 State Street, Suite 116, Albany, New York.

Dated: \_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART 15**

**CONDUCT AND NOTIFICATION OF PUBLIC HEARINGS**

**SECTION 1501. PURPOSE AND AUTHORITY.** The purpose of this Part is to implement Sections 859-a(2) and 859-a(3) of Title One of Article 18-A of the General Municipal Law (the "Act"), which sets forth certain requirements regarding the holding of public hearings and the notification of such hearings by Albany County Industrial Development Agency (the "Agency").

**SECTION 1502. 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.

**SECTION 1503. PUBLIC HEARINGS.** (A) General. Prior to the granting of any financial assistance of more than one hundred thousand dollars to any project, the Agency shall hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the Agency.

(B) Location. The public hearing shall be held in the town or village where the project is to be located.

(C) Publication of Notice. (1) The notice of such hearing shall be published in the Times Union, or equivalent newspaper having general circulation in Albany County, prior to the proposed hearing date in accordance with applicable state and federal laws.

(2) Except as hereinafter provided, Bond Counsel/Special Counsel to the Agency shall arrange for the publication of the notice of public hearing following the adoption by the Agency of a resolution authorizing the publication of such notice. Agency staff may direct Bond Counsel/Special Counsel to arrange for the publication of the notice of public hearing prior to adoption by the Agency of a resolution authorizing the publication of such notice upon the satisfaction of the following conditions: (a) Agency staff sends members of the Agency a copy of the proposed notice of public hearing at least three (3) business days prior to the proposed date of submission to the newspaper, and (b) Agency staff receives no objection to the submission of such notice from the members of the Agency at least one (1) business day prior to the proposed date of submission to the newspaper.

(3) Bond Counsel/Special Counsel shall be responsible for obtaining copies of the affidavit of publication and delivering same to the Agency at the public hearing.

(4) The notice of the hearing shall also be posted on the web site of the Agency.

(D) Responsibility for Preparation, Publication and Mailing. Bond Counsel/Special Counsel shall be responsible for preparing and forwarding the notice of the public hearing to the Albany Times Union, or equivalent newspaper having general circulation in the Albany County. Bond Counsel/Special Counsel shall be responsible for preparing the letter of notification to the affected taxing jurisdictions and causing such letter to be mailed to the affected taxing jurisdictions in accordance with the Act. A copy of the form of the letter to be prepared by Bond Counsel/Special Counsel is attached hereto as Appendix 15G. Bond Counsel/Special Counsel shall be responsible for reviewing the form of such letter with the staff of the Agency and then mailing the letter to the affected taxing jurisdictions. Bond Counsel/Special Counsel shall be responsible for delivering copies of the letter and affidavits of mailing to the Agency.

(E) Form of Notice. The form of notice for the following types of projects are attached hereto:

- (1) Appendix 15A: Taxable bonds;
- (2) Appendix 15B: Tax-Exempt 501(c)(3) bonds; and
- (3) Appendix 15C: Tax-Exempt manufacturing bonds.
- (4) Appendix 15D: Straight Lease Transactions.

(F) Transcript. A transcript of the public hearing will be prepared by a stenographer and made available to the members of the Agency and the County Executive of Albany County (in cases involving the issuance of bonds). Any written comments received by the Agency shall be made part of the transcript. The scheduling of a stenographer for the public hearing shall be the responsibility of Bond Counsel/Special Counsel. The cost of the stenographer and preparing the transcript shall be paid by the applicant and the applicant shall provide a copy of the transcript to the Agency.

**SECTION 1504. CONDUCT OF PUBLIC HEARINGS.** Any public hearing of the Agency held pursuant to this Part of the Rules and Regulations of the Agency shall be conducted as follows:

(A) The public hearing shall be opened by an officer or staff member of the Agency (hereinafter referred to as the "Hearing Officer"), and unless the Hearing Officer shall determine otherwise, the public hearing shall follow the form of public hearing script attached as Appendix 15E for a project involving tax exempt bonds and Appendix 15F for a project involving a straight lease transaction.

(B) The applicant and/or Bond Counsel/Special Counsel shall provide to the Hearing Officer a copy of the affidavit of publication of the public hearing notice.

(C) The Hearing Officer shall read the public notice and indicate the publication in which it was published and when it was published. At the discretion of the Hearing Officer, the Hearing Officer may waive reading of the complete public notice. In any event, the public notice shall be entered into the record of the public hearing.

(D) The Hearing Officer shall indicate that the purpose of the public hearing is to provide interested parties an opportunity to present their views with respect to the project, both in writing and orally.

(E) The Hearing Officer shall indicate for the public record whether the Agency had received any written comments regarding the project. If so, the Hearing Officer shall accept such written comments and enter such comments into public record.

(F) Any person wishing to make a public comment may sign-in on the appropriate sign-in sheet that will be distributed by Agency staff. The Hearing Officer will then call on the individuals listed on the sign-in sheet in the order in which they appear on the sheet. Please wait to be recognized, once recognized, please stand and state your name, address, and affiliation for the record.

(G) The Hearing Officer, in his discretion, may limit each interested party wishing to speak at the public hearing to five minutes in which to express his or her views.

(H) Comments must relate to the purpose of the public hearing.

(I) The public hearing will not be a question and answer period. However, any person who would like to have a question answered may ask the question at the public hearing in writing or orally and the Agency will post responses to the questions on its website within ten (10) business days of the hearing.

(J) Members of the Board, speakers, and audience members must observe proper decorum. Any statement made during the public hearing shall not involve personal, impertinent, or slanderous attacks on individuals.

(K) The use of profane, vulgar, inflammatory, threatening, abusive, or disparaging language or racial or ethnic slurs directed at any other individual shall not be tolerated.

(L) Banners, flyers, or other signs are not permitted in the public hearing.

(M) Distribution of flyers is not permitted in the public hearing.

(N) Any individual who disregards the directives of the Hearing Officer in enforcing the rules or who generally conducts himself or herself in a boisterous or inappropriate manner while addressing the Board and/or is disruptive will be barred from further participation and forfeit their opportunity to address the Board.

SECTION 1505. NOTIFICATION OF AFFECTED TAX JURISDICTIONS. (A) General. The Agency shall notify the County Executive of Albany County and the chief executive of each affected tax jurisdiction (as defined in Section 854(16) of the General Municipal Law) of any public hearing held pursuant to this part.

(B) Form of Notification. The form of the notification to such affected tax jurisdictions is attached hereto as Appendix 15G.

APPENDIX 15A

FORM OF NOTICE OF PUBLIC HEARING  
FOR PROJECT INVOLVING TAXABLE BONDS

NOTICE OF PUBLIC HEARING  
ON PROPOSED PROJECT  
AND FINANCIAL ASSISTANCE  
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”) will be held by Albany County Industrial Development Agency (the “Agency”) on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o’clock \_\_\_.m., local time, at \_\_\_\_\_ in the [City, Village, Town] of \_\_\_\_\_, Albany County, New York, in connection with the following matters:

**[THE COMPANY]** (the “Company”) has requested that the Agency consider undertaking a project (the “Project”) consisting of **[PROJECT DESCRIPTION]** (being collectively referred to as the “Project Facility”); (B) the financing of all or a portion of the costs of the foregoing by the issuance of its industrial development revenue bonds in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be approximately \$\_\_\_\_\_ (the “Bonds”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project, (B) to finance the Project by issuing, from time to time, the Bonds, (C) to use the proceeds of the Bonds to pay the cost of undertaking the Project, together with incidental costs in connection therewith, and (D) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, (2) exemption from sales taxes relating to the acquisition, construction and installation of the Project Facility, (3) exemption from deed transfer taxes and real estate transfer gains taxes on real estate transfers to and from the Agency with respect to the Project, and (4) exemption from real estate taxes (but not including special assessments and special ad valorem levies), subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility.

If the issuance of the Bonds is approved, (A) interest on the Bonds will not be excluded from gross income for federal income tax purposes, (B) the Project Facility will be acquired, constructed and installed by the Agency and will be sold by the Agency to the Company or its designee pursuant to a project agreement (the “Agreement”) requiring that the Company or its designee make payments equal to debt service on the Bonds and make certain other payments and (C) the Bonds will be a special obligation of the Agency payable solely out of certain of the proceeds of the Agreement and certain other assets of the Agency pledged to the repayment of the Bonds. **THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ALBANY COUNTY, NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR ALBANY COUNTY, NEW YORK SHALL BE LIABLE THEREON.**

The Agency, by resolution adopted on \_\_\_\_\_, 20\_\_\_\_, determined pursuant to Article 8 of the Environmental Conservation Law (the “SEQR Act”) that the Project is an “unlisted action” and will not have a “significant effect on the environment” pursuant to the SEQR Act and, therefore, that no environmental impact statement is required to be prepared with respect to the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project or the financial assistance being contemplated by the Agency in connection with the proposed Project.

Dated: \_\_\_\_\_, 20\_\_.

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

APPENDIX 15B

FORM OF NOTICE OF PUBLIC HEARING  
FOR PROJECT INVOLVING TAX-EXEMPT 501(c)(3) BONDS

NOTICE OF PUBLIC HEARING  
ON PROPOSED PROJECT  
AND FINANCIAL ASSISTANCE  
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”) and Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) will be held by Albany County Industrial Development Agency (the “Agency”) on \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ at \_\_\_:\_\_\_ o’clock \_\_\_a.m./p.m., local time, at \_\_\_\_\_ in the [City, Village, Town] of \_\_\_\_\_, Albany County, New York, in connection with the following matters:

**[THE COMPANY]** (the “Company”) has requested that the Agency consider undertaking a project (the “Project”) consisting of **[PROJECT DESCRIPTION]** (being collectively referred to as the “Project Facility”); (B) the financing of all or a portion of the costs of the foregoing by the issuance of its civic facility revenue bonds in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be approximately \$\_\_\_\_\_ (the “Bonds”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project, (B) to finance the Project by issuing, from time to time, the Bonds, (C) to use the proceeds of the Bonds to pay the costs of undertaking the Project, together with incidental costs in connection therewith, and (D) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, and (2) exemption from deed transfer taxes and real estate transfer gains taxes on any real estate transfers to and from the Agency with respect to the Project.

If the issuance of the Bonds is approved, (A) interest on the Bonds will be excluded from gross income for federal income tax purposes pursuant to Section 145 of the Internal Revenue Code of 1986, as amended, (B) the Project Facility will be acquired, constructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the “Agreement”) requiring that the Company or its designee make payments equal to debt service on the Bonds and make certain other payments and (C) the Bonds will be a special obligation of the Agency payable solely out of certain of the proceeds of the Agreement and certain other assets of the Agency pledged to the repayment of the Bonds. THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ALBANY COUNTY, NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR ALBANY COUNTY, NEW YORK SHALL BE LIABLE THEREON.

The Agency, by resolution adopted on \_\_\_\_\_, 20\_\_\_, determined pursuant to Article 8 of the Environmental Conservation Law (the “SEQR Act”) that the Project constitutes an “unlisted action” and will not have a “significant effect on the environment” pursuant to the SEQR Act and, therefore, that no environmental impact statement is required to be prepared with respect to the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project or the financial assistance being contemplated by the Agency in connection with the proposed Project.

Dated: \_\_\_\_\_, 20\_\_.

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

APPENDIX 15C

FORM OF NOTICE OF PUBLIC HEARING  
FOR PROJECT INVOLVING TAX-EXEMPT MANUFACTURING BONDS

NOTICE OF PUBLIC HEARING  
ON PROPOSED PROJECT  
AND FINANCIAL ASSISTANCE  
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the "Act") and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") will be held by Albany County Industrial Development Agency (the "Agency") on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_:\_\_ o'clock \_\_.m., local time, at \_\_\_\_\_ in the [City, Village or Town] of Albany County, New York, in connection with the following matters:

**[THE COMPANY]** (the "Company") has requested that the Agency consider undertaking a project (the "Project") consisting of **[PROJECT DESCRIPTION]** (being collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of its industrial development revenue bonds in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be approximately \$\_\_\_\_\_ (the "Bonds"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project, (B) to finance the Project by issuing, from time to time, the Bonds, (C) to use the proceeds of the Bonds to pay the cost of undertaking the Project, together with incidental costs in connection therewith, and (D) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, (2) exemption from sales taxes relating to the acquisition, construction and installation of the Project Facility, (3) exemption from deed transfer taxes and real estate transfer gains taxes on any real estate transfers to and from the Agency with respect to the Project, and (4) exemption from real estate taxes (but not including special assessments and special ad valorem levies), subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project.

If the issuance of the Bonds is approved, (A) interest on the Bonds will be excluded from gross income for federal income tax purposes pursuant to Section 144(a) of the Internal Revenue Code of 1986, as amended, (B) the Project Facility will be acquired, constructed and installed by the Agency and will be sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make payments equal to debt service on the Bonds and make certain other payments and (C) the Bonds will be a special obligation of the Agency payable solely out of certain of the proceeds of the Agreement and certain other assets of the Agency pledged to the repayment of the Bonds. THE BONDS SHALL NOT BE A DEBT OF THE STATE OF NEW YORK OR ALBANY COUNTY, NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR ALBANY COUNTY, NEW YORK SHALL BE LIABLE THEREON.

The Agency, by resolution adopted on \_\_\_\_\_, 20\_\_, determined pursuant to Article 8 of the Environmental Conservation Law (the "SEQR Act") that the Project is an "unlisted action" and will not have a "significant effect on the environment" pursuant to the SEQR Act and, therefore, that no environmental impact statement is required to be prepared with respect to the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project or the financial assistance being contemplated by the Agency in connection with the proposed Project.

Dated: \_\_\_\_\_, 20\_\_.

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

APPENDIX 15D

FORM OF NOTICE OF PUBLIC HEARING  
FOR PROJECT INVOLVING A STRAIGHT LEASE TRANSACTION

NOTICE OF PUBLIC HEARING  
ON PROPOSED PROJECT  
AND FINANCIAL ASSISTANCE  
RELATING THERETO

Notice is hereby given that a public hearing pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the "Act") will be held by Albany County Industrial Development Agency (the "Agency") on \_\_\_\_\_, the \_\_\_\_\_ day of, \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ o'clock \_\_.m., local time, at \_\_\_\_\_ in the [City, Village, Town] of \_\_\_\_\_, Albany County, New York, in connection with the following matters:

[The Company] (the "Company"), has presented an application (the "Application") to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project consisting of the following: (A) [ProjectDescription]; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The Agency is considering whether (A) to undertake the Project and (B) to provide certain exemptions from taxation with respect to the Project, including (1) exemption from mortgage recording taxes with respect to any documents, if any, recorded by the Agency with respect to the Project in the office of the County Clerk of Albany County, New York or elsewhere, (2) exemption from deed transfer taxes on any real estate transfers, if any, with respect to the Project, (3) exemption from sales taxes relating to the acquisition, construction, renovation and installation of the Project Facility, and (4) in the event that the Project Facility would be subject to real property taxation if owned by the Company but shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, exemption from real property taxes (but not including special assessments and special ad valorem levies), if any, with respect to the Project Facility, subject to the obligation of the Company to make payments in lieu of taxes with respect to the Project Facility. If any portion of the Financial Assistance to be granted by the Agency with respect to the Project is not consistent with the Agency's uniform tax exemption policy, the Agency will follow the procedures for deviation from such policy set forth in Section 874(4) of the Act prior to granting such portion of the Financial Assistance.

If the Agency determines to proceed with the Project, the Project Facility will be acquired, constructed, reconstructed and installed by the Agency and will be leased (with an obligation to purchase) or sold by the Agency to the Company or its designee pursuant to a project agreement (the "Agreement") requiring that the Company or its designee make certain payments to the Agency.

The Agency has not yet made a determination pursuant to Article 8 of the Environmental Conservation Law (the "SEQR Act") regarding the potential environmental impact of the Project.

The Agency will at said time and place hear all persons with views on either the location and nature of the proposed Project or the Financial Assistance being contemplated by the Agency in connection with the proposed Project. A copy of the Application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the offices of the Agency. A transcript or summary report of the hearing will be made available to the members of the Agency.

Additional information can be obtained from, and written comments may be addressed to:  
\_\_\_\_\_, \_\_\_\_\_, Albany County Industrial Development Agency, 111 Washington Ave  
Suite 100, Albany, New York 12210; Telephone: 518-447-5602.

Dated: \_\_\_\_\_, 20\_\_.

**CITY OF ALBANY INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
(Vice) Chairman

APPENDIX 15E

FORM OF PUBLIC HEARING SCRIPT FOR  
PROJECT INVOLVING TAX-EXEMPT BONDS

**PUBLIC HEARING PURSUANT TO  
SECTION 859-a OF  
THE GENERAL MUNICIPAL LAW  
AND  
SECTION 147(f) OF  
THE INTERNAL REVENUE CODE**

<b>Issuer</b>	Albany County Industrial Development Agency (the "Agency")
<b>Project Name:</b>	_____ Project
<b>Project Beneficiary:</b>	_____ (the "Company")
<b>Project Location:</b>	_____, Albany County, New York
<b>Hearing Date:</b>	_____, 20____
<b>Hearing Time:</b>	____:____ o'clock, _____.m.
<b>Hearing Location:</b>	_____

**Opening Remarks**

Good afternoon.

My name is \_\_\_\_\_, and I am the Chairman of the Albany County Industrial Development Agency (the "Issuer") in connection with the project which is the subject of this public hearing.

Today we are holding this Public Hearing to allow citizens to make a statement, for the record, relating to the involvement of the Agency with a project (the "Proposed Project") for the benefit of \_\_\_\_\_, a [state of incorporation] [type of entity] (the "Company").

I will now ask \_\_\_\_\_, the Chief Executive Officer of the Agency, to make certain preliminary remarks with respect to the Project and to then start the public hearing.

**Introductory Comments by Chief Executive Officer**

Good Afternoon.

The Proposed Project is located at [Project Address] and consists of [Summary Description].

Copies of the notice of this Public Hearing are available on the table.

Now, unless there is any objection, I am going to suggest waiving the full reading of the notice of this Public Hearing, and instead request that the full text of the notice of this Public Hearing be inserted into the record of this Public Hearing.

I will also note that general information on the Agency's general authority and public purpose are contained in a separate statement and it will be entered into the record.

**Remarks by the Company**

**[If a representative of the Company is present at the Public Hearing.]** I will now introduce \_\_\_\_\_, who is appearing on behalf of the Company, who will describe the Proposed Project in further detail.

## **Open Public Hearing to the Floor for Comments**

I will now open this Public Hearing for public comment at \_\_:\_\_ o'clock, \_\_.m.

By way of operating rules, if you wish to make a public comment, please sign-in on the appropriate sign-in sheet that has been distributed by Agency staff. I will then call on the individuals listed on the sign-in sheet in the order in which they appear on the sheet. Please wait to be recognized, once recognized, please stand and state your name, address, and affiliation for the record.

**[Unless there are a large number of citizens present who wish to comment, this paragraph may be skipped.]** Please keep your comments to five (5) minutes so that all those present today may have a chance to comment for the record. If your comments mirror those of someone who has already spoken, you may so indicate and then relinquish the podium to another speaker so that all views represented at this hearing may be heard.

When everyone has had the opportunity to speak, I will conclude this Public Hearing. As indicated above, a record of this Public Hearing will be prepared and reviewed by the members of the Issuer in connection with the Issuer's consideration of the Proposed Project. Also as indicated above, a copy of the record of this Public Hearing will be presented to the County Executive of Albany County, New York.

Again, the purpose of this Public Hearing is to solicit public comment. We are not here to answer questions. However, we will in the course of this Public Hearing consider questions if we have the information to answer the questions and there is sufficient time to consider such questions.

I will now refer to the sign-in sheet to identify individuals who wish to comment on either on the nature and location of the Project Facility or the proposed Financial Assistance being contemplated by the Issuer with respect to the Proposed Project, including but not limited to the issuance of the Obligations for the purpose of assisting in financing the Proposed Project.

For the record, please state your name and indicate your comments on either the Proposed Project or the Financial Assistance contemplated by the Issuer with respect to the Proposed Project.

### **Written Comments**

The notice of this Public Hearing indicated that written comments could be addressed to: \_\_\_\_\_, the Chief Executive Officer of the Issuer. [No] [W]ritten comments have been received by the Issuer prior to this Public Hearing.

### **Formal Closure of the Public Hearing**

**[After ascertaining that there is no one else present who wishes to comment and ascertaining that at least 15 minutes has passed after the scheduled time for the hearing].**

So, if there are no further comments, I will now close this Public Hearing at \_\_:\_\_ o'clock, \_\_.m.

Thank you all for attending.

## GENERAL INFORMATION

### **Legal Authorization and Powers of the Issuer**

The provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York as amended, and Chapter 178 of the Laws of 1975 of the State of New York, as amended, codified as Section 903-b of said General Municipal Law (collectively, the “Act”), authorize the Issuer to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining and equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others.

### **Purpose of this Public Hearing**

Pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”), prior to the Issuer providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Issuer, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project. Since the proposed “financial assistance” to be provided by the Issuer with respect to the Proposed Project may exceed \$100,000, then prior to providing any “financial assistance” (as defined in the Act) of more than \$100,000 to the Proposed Project, the Issuer must hold a public hearing on the nature and location of the Project Facility and the proposed “financial assistance” to be provided by the Issuer with respect to the Proposed Project.

Pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), if any portion of the Obligations is intended to be issued as federally tax-exempt obligations (the interest on which will be excludable from the gross income of the holders thereof for federal income tax purposes), then prior to issuing such portion of the Obligations, (A) the Issuer must hold a public hearing on the nature and location of the Project Facility and the issuance of the Obligations, and (B) thereafter the County Executive of Albany County, New York must approve the issuance of the Obligations.

After consideration of the Application received from the Company, the members of the Issuer adopted a resolution on \_\_\_\_\_, 20\_\_\_\_ (the “Preliminary Inducement Resolution”) authorizing, among other things, the \_\_\_\_\_ of the Issuer to conduct this Public Hearing with respect to the Proposed Project pursuant to Section 147(f) of the Code.

The Chief Executive Officer of the Agency caused notice of this Public Hearing to be (A) mailed on \_\_\_\_\_, 20\_\_\_\_ to the chief executive officers of Albany County, \_\_\_\_\_, and the \_\_\_\_\_ School District and (B) published on \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_, a newspaper of general circulation available to the residents of \_\_\_\_\_, New York. In addition, the Chief Executive Officer of the Agency caused notice of this Public Hearing to be posted on \_\_\_\_\_, 20\_\_\_\_ (A) on a public bulletin board located at the \_\_\_\_\_ located at \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, Albany County, New York, and (B) the Agency’s website.

The comments received today at this Public Hearing will be presented to the members of the Issuer at or prior to the meeting at which the members of the Issuer will consider whether to approve the undertaking of the Project by the Issuer, the granting by the Issuer of any “financial assistance” in excess of \$100,000 with respect to the Project, and the issuance of the Obligations by the Issuer.

The comments received today at this Public Hearing will also be presented to the County Executive of Albany County, New York.

APPENDIX 15F

FORM OF PUBLIC HEARING SCRIPT FOR  
PROJECT INVOLVING A STRAIGHT LEASE TRANSACTION

**PUBLIC HEARING PURSUANT TO  
SECTION 859-a OF  
THE GENERAL MUNICIPAL LAW**

<b>Agency</b>	Albany County Industrial Development Agency (the "Agency")
<b>Project Name:</b>	Project
<b>Project Beneficiary:</b>	(the "Company")
<b>Project Location:</b>	, Albany County, New York
<b>Hearing Date:</b>	, 20__
<b>Hearing Time:</b>	: o'clock, .m.
<b>Hearing Location:</b>	

**Opening Remarks**

Good afternoon.

My name is \_\_\_\_\_, and I am the Chairman of Albany County Industrial Development Agency (the "Agency") in connection with the project which is the subject of this public hearing.

Today we are holding this Public Hearing to allow citizens to make a statement, for the record, relating to the involvement of the Agency with a project (the "Proposed Project") for the benefit of \_\_\_\_\_, a [state of incorporation] [type of entity] (the "Company").

I will now ask \_\_\_\_\_, the Chief Executive Officer of the Agency, to make certain preliminary remarks with respect to the Project and to then start the public hearing.

**Introductory Comments by Chief Executive Officer**

Good Afternoon.

The Proposed Project is located at [Project Address] and consists of [Summary Description].

Copies of the notice of this Public Hearing are available on the table.

Now, unless there is any objection, I am going to suggest waiving the full reading of the notice of this Public Hearing, and instead request that the full text of the notice of this Public Hearing be inserted into the record of this Public Hearing.

I will also note that general information on the Agency's general authority and public purpose are contained in a separate statement and it will be entered into the record.

**Remarks by the Company**

Before we start the public hearing, I would first like to introduce the project applicant and ask him to make a brief presentation with respect to the proposed Project.

## **Open Public Hearing to the Floor for Comments**

I will now open this Public Hearing for public comment at \_\_:\_\_ o'clock, \_\_.m.

By way of operating rules, if you wish to make a public comment, please sign-in on the appropriate sign-in sheet that has been distributed by Agency staff. I will then call on the individuals listed on the sign-in sheet in the order in which they appear on the sheet. Please wait to be recognized, once recognized, please stand and state your name, address, and affiliation for the record.

**[Unless there are a large number of citizens present who wish to comment, this paragraph may be skipped.]** Please keep your comments to five (5) minutes so that all those present today may have a chance to comment for the record. If your comments mirror those of someone who has already spoken, you may so indicate and then relinquish the podium to another speaker so that all views represented at this hearing may be heard.

When everyone has had the opportunity to speak, I will conclude this Public Hearing. A record of this Public Hearing will be prepared and reviewed by the members of the Agency in connection with the Agency's consideration of the Proposed Project.

Again, the purpose of this Public Hearing is to solicit public comment. We are not here to answer questions. However, we will in the course of this Public Hearing consider questions if we have the information to answer the questions and there is sufficient time to consider such questions.

I will now refer to the sign-in sheet to identify individuals who wish to comment on either on the nature and location of the Project Facility or the proposed Financial Assistance being contemplated by the Issuer with respect to the Proposed Project, including but not limited to the issuance of the Obligations for the purpose of assisting in financing the Proposed Project.

For the record, please state your name and indicate your comments on either the Proposed Project or the proposed "financial assistance" being contemplated by the Agency with respect to the Proposed Project.

### **Written Comments**

The notice of this Public Hearing indicated that written comments could be addressed to: \_\_\_\_\_, the Chief Executive Officer of the Agency. [No] [W]ritten comments have been received by the Agency prior to this Public Hearing.

### **Formal closure of the public hearing**

**[After ascertaining that there is no one else present who wishes to comment and ascertaining that at least 15 minutes has passed after the scheduled time for the hearing].**

So, if there are no further comments, I will now close this Public Hearing at \_\_:\_\_ o'clock, \_\_.m.

Thank you for attending.

## GENERAL INFORMATION

### **Legal Authorization and Powers of the Agency**

The provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title I of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York as amended, and Chapter 178 of the Laws of 1975 of the State of New York, as amended, codified as Section 903-b of said General Municipal Law (collectively, the “Act”), authorize the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining and equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others.

### **Purpose of this Public Hearing**

Pursuant to Section 859-a(2) of the General Municipal Law of the State of New York (the “Act”), prior to the Agency providing any “financial assistance” (as defined in the Act) of more than \$100,000 to any project, the Agency, among other things, must hold a public hearing pursuant to Section 859-a of the Act with respect to said project. Since the proposed “financial assistance” to be provided by the Agency with respect to the Proposed Project may exceed \$100,000, then prior to providing any “financial assistance” (as defined in the Act) of more than \$100,000 to the Proposed Project, the Agency must hold a public hearing on the nature and location of the Project Facility and the proposed “financial assistance” to be provided by the Agency with respect to the Proposed Project.

After consideration of the Application received from the Company, the members of the Agency adopted a resolution on \_\_\_\_\_, 20\_\_\_\_ (the “Public Hearing Resolution”) authorizing the \_\_\_\_\_ of the Agency to conduct this Public Hearing with respect to the Proposed Project pursuant to Section 859-a(2) of the Act.

The Chief Executive Officer of the Agency caused notice of this Public Hearing to be (A) mailed on \_\_\_\_\_, 20\_\_\_\_ to the chief executive officers of Albany County, \_\_\_\_\_, and the \_\_\_\_\_ School District and (B) published on \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_, a newspaper of general circulation available to the residents of \_\_\_\_\_, New York. In addition, the Chief Executive Officer of the Agency caused notice of this Public Hearing to be posted on \_\_\_\_\_, 20\_\_\_\_ (A) on a public bulletin board located at the \_\_\_\_\_ located at \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, Albany County, New York, and (B) the Agency’s website.

The comments received today at this Public Hearing will be presented to the members of the Agency at or prior to the meeting at which the members of the Agency will consider whether to approve the undertaking of the Project by the Agency and the granting by the Agency of any “financial assistance” in excess of \$100,000 with respect to the Project.

APPENDIX 15G

FORM OF LETTER OF NOTIFICATION TO  
AFFECTED TAX JURISDICTIONS

[LETTERHEAD OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY]

\_\_\_\_\_, 20\_\_

\_\_\_\_\_, County Executive  
County Office Building  
112 State Street  
Albany, New York 12207

[TOWN]

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---

[VILLAGE]

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[SCHOOL DISTRICT]

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RE: ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
PROPOSED **[PROJECT NAME]** PROJECT

Gentlemen:

Pursuant to Section 859-a(3) of the New York General Municipal Law (the "Act"), Albany County Industrial Development Agency (the "Agency") hereby informs you that the Agency has received an application (the "Application") from **[THE COMPANY]** (the "Company") for financial assistance in connection with a project (the "Project") consisting of (A) (1) **[PROJECT DESCRIPTION]** (being collectively referred to as the "Project Facility"); (B) the financing of all or a portion of the costs of the foregoing by the issuance of its civic facility revenue bonds in one or more issues or series in an aggregate principal amount sufficient to pay the cost of undertaking the Project, together with necessary incidental costs in connection therewith, presently estimated to be approximately \$\_\_\_\_\_ (the "Bonds") and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

The financial assistance being contemplated includes exemptions from mortgage recording taxes, sales taxes, real property taxes, and real estate taxes. The amount of the exemptions from mortgage recording taxes, real property taxes, and sales taxes is being determined by the Agency. Pursuant to the Agency's Uniform Tax-Exemption Policy, the Company will be exempt from paying mortgage recording taxes and sales taxes with respect to the Project. The Company may receive an exemption from the payment of real property taxes with respect to the Project.

Enclosed is a notice of a public hearing to be held by the Agency relating to the proposed Project. The financial assistance being contemplated by the Agency in connection with the Project is described in said notice of hearing.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Very truly yours,

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

## PART 16

### PUBLIC AUTHORITIES ACCOUNTABILITY ACT POLICIES

**SECTION 1601. PURPOSE AND SCOPE.** The Public Authorities Accountability Act of 2005 (chapter 766 of the laws of 2005), as amended (the “PAA Act”) contains provisions imposing various requirements on industrial development agencies. The purpose of this Part is to set forth the policies and procedures adopted by the Albany County Industrial Development Agency (the “Agency”) to implement the PAA Act.

**SECTION 1602. ORGANIZATION.** This part is organized into two sections: administrative policies and administrative procedures.

**SECTION 1603. ADMINISTRATIVE POLICIES.** (A) List of Policies. The administrative policies adopted by the Agency to comply with the PAA Act are described as follows:

- (1) Code of Ethics Policy (A);
- (2) Compensation Policy (B);
- (3) Retaliatory Action Policy (C);
- (4) Policy for Travel of Agency Members (D);
- (5) Real Property Acquisition Policy (E);
- (6) Property Disposition Policy (F);
- (7) Indemnification of Officers and Trustees Policy (G);
- (8) Audit Committee Charter (H);
- (9) Finance Committee Charter (I);
- (10) Governance Committee Charter (J);
- (11) Mission Statement (K); and
- (12) Statement of Intent Regarding Debt (L).

(B) Review of Policies. The Governance Committee of the Agency shall, at least annually, review the administrative policies described in Section 1603(A) above and any other administrative policies of the Agency. The Governance Committee shall report to the members of the Agency on its review of such administrative policies and its recommendations on any modifications to such administrative policies at the annual meeting of the Agency.

(C) Copies of Policies. Copies of each of the administrative policies are attached as Schedule A –Schedule L.

(D) Existing Policies. The Agency has previously adopted the following policies that are also required under the PAA Act:

- (1) Investment Policy; and
- (2) Procurement Policy.

SECTION 1604. ADMINISTRATIVE PROCEDURES. (A) List of Administrative Procedures. The administrative procedures to be followed by the Agency to comply with the PAA Act are described as follows:

- (1) Create and maintain a web site;
- (2) Create, adopt and file an annual budget;
- (3) Prepare and file an annual report;
- (4) Review of annual independent audit by Audit Committee;
- (5) Review of Agency procedures by Governance Committee;
- (6) Board members must be independent and cannot hold certain positions;
- (7) Board members must attend training sessions;
- (8) Prepare and publish real property lists;
- (9) Create inventory controls;
- (10) Board members must file annual financial disclosure forms and acknowledgement of fiduciary duties and responsibilities forms; and
- (11) Prohibit insider loans.

(B) Review of Procedures. The Governance Committee of the Agency shall, at least annually, review the administrative procedures described in Section 1603(B) above and any other administrative procedures of the Agency. The Governance Committee shall report to the members of the Agency on its review of such administrative procedures and its recommendations on any modifications to such administrative procedures at the annual meeting of the Agency.

**SCHEDULE A**  
**CODE OF ETHICS POLICY**

1. Generally. This Code of Ethics applies to both the members and the employees of Albany County Industrial Development Agency (the "Agency"). The purpose of this Code of Ethics is to promote honest and ethical conduct and compliance with the law.

2. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

(a) "Agency" shall mean the Albany County Industrial Development Agency.

(b) "employee" shall mean any employee of the Albany County Industrial Development Agency.

3. Rule With Respect to Conflicts of Interest. No member or employee of the Agency should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

4. Standards.

(a) No member or employee of the Agency should accept other employment which will impair his independence of judgment in the exercise of his official duties.

(b) No member or employee of the Agency should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

(c) No member or employee of the Agency should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.

(d) No member or employee of the Agency should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

(e) No member or employee of the Agency should engage in any transaction as representative or agent of the Agency with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

(f) A member or employee of the Agency should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

(g) A member or employee of the Agency should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

(h) A member or employee of the Agency should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

(i) No member or employee of the Agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Agency.

(j) If any officer or employee of the Agency shall have a financial interest, direct or indirect, having a value of ten thousand dollars (\$10,000) or more in any activity which is subject to receiving benefits from the Agency, he should file with the members of the Agency a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.

5. Violations. In addition to any penalty contained in any other provision of law any such member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law.

**SCHEDULE B**  
**COMPENSATION POLICY**

1. **Generally**. Members of the Albany County Industrial Development Agency shall serve without compensation, except that members may be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 858 of the Act.

2. **Reimbursement**. Members may be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties as specified in Section 858 of the Act. Members may not be compensated for rendering services to the Agency in any capacity other than member unless such other compensation is reasonable and is allowable under the provisions of Section 858 of the Act.

3. **Loans**. The Agency shall not, directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, Member or employee (or equivalent thereof) of the Agency.

**SCHEDULE C**  
**RETALIATORY ACTION POLICY**

1. **Definitions**. For purposes of this section, unless the context specifically indicates otherwise:

(a) "Employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration.

(b) "Employer" means any person, firm, partnership, institution, corporation, or association that employs one or more employees.

(c) "Law, rule or regulation" includes any duly enacted statute or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

(d) "Public body" includes the following:

(i) the United States Congress, any state legislature, or any popularly-elected local governmental body, or any member or employee thereof;

(ii) any federal, state, or local judiciary, or any member or employee thereof; or any grand or petit jury;

(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof; or

(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer.

(e) "Retaliatory personnel action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

(f) "Supervisor" means any individual with an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.

2. **Prohibitions**. An employer shall not take any retaliatory personnel action against an employee because such employee does any of the following:

(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety;

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or

(c) objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

3. Application. The protection against retaliatory personnel action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has brought the activity, policy or practice in violation of law, rule or regulation to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.

4. Violation; Remedy.

(a) An employee who has been the subject of a retaliatory personnel action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within one (1) year after the alleged retaliatory personnel action was taken.

(b) Any action authorized by this section may be brought in the county in which the alleged retaliatory personnel action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business.

(c) It shall be a defense to any action brought pursuant to this section that the personnel action was predicated upon grounds other than the employee's exercise of any rights protected by this section. It shall also be a defense that the individual was an independent contractor.

5. Relief in any action brought pursuant to subdivision four of this section, the court may order relief as follows:

- (a) an injunction to restrain continued violation of this section;
- (b) the reinstatement of the employee to the same position held before the retaliatory personnel action, or to an equivalent position;
- (c) the reinstatement of full fringe benefits and seniority rights;
- (d) the compensation for lost wages, benefits and other remuneration; and
- (e) the payment by the employer of reasonable costs, disbursements, and attorney's fees.

6. Employer Relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.

7. Existing Rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract; except that the institution of an action in accordance with this section shall be deemed a waiver of the rights and remedies available under any other contract, collective bargaining agreement, law, rule or regulation or under the common law.

**SCHEDULE D**  
**POLICY FOR TRAVEL OF AGENCY MEMBERS**

1. **Generally.** It is the policy of the Agency that uniform procedures will be followed for the authorization and expenditure of funds for travel associated with Agency's business.

(a) Expenses incurred by the Agency Board members, to be reimbursed from the Agency's funds, must be approved in advance by the Board Chairman. The Chairman will advise the Chief Executive Officer of all requests received.

(b) All requests for reimbursement for the Chairman must be approved by the members of the Agency.

(c) The Chairman will inform the Chief Executive Officer or his/her designee of all Board Member pre-approved expenses.

(d) The Chief Executive Officer or his/her designee will assist the Board member, if desired, with arrangements for travel and the accompanying reimbursement procedures.

**SCHEDULE E**  
**REAL PROPERTY ACQUISITION POLICY**

**SECTION 1. DEFINITIONS.**

(A) "Acquire" or "acquisition" shall mean acquisition of title or any other beneficial interest in personal or real property in accordance with the applicable provisions of Article 18-A of the New York State General Municipal Law.

(B) "Contracting officer" shall mean the officer or employee of the Albany County Industrial Development Agency (hereinafter, the "Agency") who shall be appointed by resolution to be responsible for the acquisition of property.

(C) "Property" shall mean personal property in excess of five thousand dollars (\$5,000.00) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

**SECTION 2. DUTIES.**

(A) The Agency shall maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control.

(B) The Agency shall prepare, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall consist of a list and full description of all real and personal property acquired of during such period. The report shall contain the price paid by the Agency and the name of the seller for all such property acquired by the Agency during such period.

**SECTION 3. ACQUISITION OF PROPERTY.**

(A) Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the "Contracting Officer") shall have supervision and direction over the acquisition of property of the Agency. The Agency shall have the right to acquire its property for any valid corporate purpose.

(B) Appraisal Report. An independent appraiser shall be hired to provide an opinion of fair market value before the Agency shall make an offer with respect to the acquisition of the property. The appraiser should have a professional affiliation with a national appraisal organization and must not have an interest in the property (or be retained as an agent to sell the property). The appraisal report shall be in form and substance satisfactory to the Agency and shall be included in the record of the transaction.

Notwithstanding the foregoing, the preparation of an appraisal report shall not be required where the Agency is acquiring the property pursuant to a donation, or if the valuation of the property is uncomplicated and the fair market value is determined to be less than twenty-five thousand dollars (\$25,000).

(C) Method of Acquisition.

(1) Voluntary Acquisition: Unless otherwise permitted by applicable law, the Agency shall acquire property for not more than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the acquisition of title or other interest in property and take such other action as it deems necessary or proper to acquire such property under the provisions of this section. Provided, however, the Agency may acquire property for more than its fair market value, as described in an appraisal report reviewed by the Agency, upon a finding by the Agency pursuant to resolution of the Agency that the acquisition of such property at such price is necessary for the Agency to (x) further its corporate purpose, and/or (y) avoid the expense and delay of condemnation.

(2) Condemnation: Unless otherwise prohibited by applicable law, the Agency may acquire property by condemnation. The Agency shall initiate any condemnation proceedings by resolution of the Agency and such resolution shall include findings and determinations made by the Agency in connection with the decision by the Agency to initiate such condemnation proceeding. Such findings and determinations may include the following: that the owner of the property has not responded to a reasonable offer for the acquisition of the property, that the Agency has negotiated for a reasonable amount of time with the owner of the property, and that the property is necessary to further the corporate purposes of the Agency.

(D) Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the seller of the property and accepted by the Agency, purporting to transfer title or any other interest in property of the seller to the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantor or transferor who has received valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

(E) Insurance. The Agency must ensure that all insurable real and personal property under its control is insured against physical loss or damage.

This Policy is subject to modification and amendment at the discretion of the Agency and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the Agency is the Chief Executive Officer.

**SCHEDULE F**  
**PROPERTY DISPOSITION POLICY**

**SECTION 1. DEFINITIONS.**

(A) "Contracting officer" shall mean the officer or employee of the Albany County Industrial Development Agency (hereinafter, the "Agency") who shall be appointed by resolution to be responsible for the disposition of property.

(B) "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the New York State Public Authorities Law.

(C) "Property" shall mean personal property with a fair market value in excess of five thousand dollars (\$5,000.00) real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

**SECTION 2. DUTIES.**

(A) The Agency shall:

(i) maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;

(ii) periodically inventory such property to determine which property shall be disposed of;

(iii) produce a written report of such property in accordance with subsection B herewith; and

(iv) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 3 below.

(B) The Agency shall:

(i) publish, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period; and

(ii) shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature (via distribution to the Majority Leader of the Senate and the Speaker of the Assembly).

**SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY.**

(A) Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the "Contracting Officer") shall have supervision and direction over the disposition and

sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.

(B) Custody and Control. The custody and control of Agency property, pending its disposition, and the disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this section.

(C) Method of Disposition. Unless otherwise permitted, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or Contracting Officer deems proper. The Agency may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

(D) Sales by the Commissioner of General Services (the “Commissioner”). When the Agency shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner pursuant to which the Commissioner may dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the contracting officer shall be deemed to refer to such Commissioner.

(E) Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

(F) Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

(i) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Agency shall be made after publicly advertising for bids except as provided in subsection (iii).

(ii) Whenever public advertising for bids is required under subsection (i) of this Section F:

(a) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition;

(b) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(c) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most

advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected at the Agency's discretion.

(iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section F but subject to obtaining such competition as is feasible under the circumstances, if:

- (a) the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were disposed of by bid, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation
- (b) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000.00);
- (c) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- (d) the disposal will be to the state or any political subdivision or public benefit corporation, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or
- (e) such action is otherwise authorized by law.

(G) Transfer of Property for Less than Fair Market Value. (i) The Agency may dispose of its property for less than fair market value under the following circumstances:

- (1) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
- (2) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or
- (3) in the event the Agency seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Agency's mission, purpose or governing statutes, such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly.

(ii) In the event that the Agency intends to carry out a disposition of its property at a price that is less than the property's fair market value, the following steps must be taken prior to the disposition:

- (1) the Agency's members must be provided with the following:
  - (a) a full description of the asset;
  - (b) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the members;

(c) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

(d) a statement of the value to be received compared to the fair market value;

(e) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (d) of this paragraph, a statement of the value to the private party; and

(f) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

(2) Before approving the disposal of any property for less than fair market value, the members shall consider the information described in the immediately preceding paragraph (1) above and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

H. Explanatory Statement. (i) If the Agency disposes of its property through a method other than competitive bidding, and any of the statements that follow in subsection (ii) of this Section H apply to the disposition, the Agency must prepare and deliver an explanatory statement that complies with the notice requirements set forth in Section 2897 of the New York State Public Authorities Law.

(ii) (a) the disposal involves any personal property which has an estimated fair market value in excess of fifteen thousand dollars (\$15,000.00);

(b) the disposal involves any real property that has an estimated fair market value in excess of one hundred thousand dollars (\$100,000.00), except that any real property disposed of by lease or exchange shall only be subject to clauses (c) through (d) of this subparagraph;

(c) the disposal involves any real property disposed of by lease if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars (\$15,000).

(d) the disposal involves any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(iii) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal and a copy thereof shall be preserved in the files of the Agency making such disposal.

This Policy is subject to modification and amendment at the discretion of the Agency and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the Agency is the Chief Executive Officer.

**SCHEDULE G**  
**INDEMNIFICATION OF OFFICERS AND TRUSTEES**

The Agency shall indemnify every Agency member and officer against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her as a consequence of his or her being made a party to or being threatened to be made a party to any threatened, pending or contemplated civil or administrative action, suit or proceeding, by reason of his or her being or having been a member or officer of the Agency, except in such cases where he or she is adjudged guilty of willful and wanton misconduct or gross negligence in the performance of his or her duties or adjudged to have not acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Agency and its members. If a member or officer claims reimbursement or indemnification hereunder based upon settlement of a matter, he or she shall be indemnified only if the Board (with any member seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interests of the Agency and, if a majority of the members request it, such approval is based on an opinion of independent counsel supporting the propriety of such indemnification and reimbursement. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights such member or officer may have. The Board shall notify all members that it has approved an indemnification payment at least ten (10) days prior to making such payment.

**SCHEDULE H**  
**AUDIT COMMITTEE CHARTER**

**Purpose**

Pursuant to the Agency's by-laws, the purpose of the Audit Committee shall be to (1) assure that the Agency's board fulfills its responsibilities for the Agency's internal and external audit process, the financial reporting process and the system of risk assessment and internal controls over financial reporting; and (2) provide an avenue of communication between management, the independent auditors, the internal auditors, and the board of directors.

**Powers of the Audit Committee**

It shall be the responsibility of the Audit Committee to:

Appoint, compensate, and oversee the work of any public accounting firm employed by the Agency.

Conduct or authorize investigations into any matters within its scope of responsibility.

Seek any information it requires from Agency employees, all of whom should be directed by the board to cooperate with committee requests.

Meet with Agency staff, independent auditors or outside counsel, as necessary.

Retain, at the Agency's expense, such outside counsel, experts and other advisors as the Audit Committee may deem appropriate.

The Agency board will ensure that the Audit Committee has sufficient resources to carry out its duties.

**Composition of Committee and Selection of Members**

The Audit Committee shall be established as set forth in and pursuant to the Agency's by-laws. The Audit Committee shall consist of at least three members of the board of directors who are independent of Agency operations. The Agency's board will appoint the Audit Committee members and the Audit Committee chair.

Audit committee members shall be prohibited from being an employee of the Agency or an immediate family member of an employee of the Agency. In addition, Audit Committee members shall not engage in any private business transactions with the Agency or receive compensation from any private entity that has material business relationships with the Agency, or be an immediate family member of an individual that engages in private business transactions with the Agency or receives compensation from an entity that has material business relationships with the Agency.

Ideally, all members on the Audit Committee shall possess or obtain a basic understanding of governmental financial reporting and auditing.

The Audit Committee shall have access to the services of at least *one financial expert*; whose name shall be disclosed in the annual report of the Agency.

The Audit Committee's financial expert should have (1) an understanding of generally accepted accounting principles and financial statements; (2) experience in preparing or auditing financial statements of comparable entities; (3) experience in applying such principles in connection with the accounting for estimates, accruals and reserves; (4) experience with internal accounting controls and, (5) an understanding of Audit Committee functions.

## **Meetings**

The Audit Committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in the charter.

Members of the Audit Committee are expected to attend each committee meeting, in person or via videoconference. The Audit Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary. A majority of the committee members present or participating through videoconference shall constitute a quorum.

Meeting agendas will be prepared for every meeting and provided to the Audit Committee members along with briefing materials five (5) calendar days before the scheduled Audit Committee meeting. The Audit Committee will act only on the affirmative vote of a majority of the members at a meeting. Minutes of these meetings will be recorded.

The Audit Committee will meet with the Agency's independent auditor at least annually to discuss the financial statements of the Agency.

Minutes of the committee's meeting shall be prepared and filed in the records of the Agency and posted to the Agency's webpage.

Meetings of the committee are open to the public, and the committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice and the conduct of executive session.

## **Responsibilities**

The Audit Committee shall have responsibilities related to: (a) the independent auditor and annual financial statements; (b) the Agency's internal auditors; (c) oversight of management's internal controls, compliance and risk assessment practices; (d) special investigations and whistleblower policies; and (e) miscellaneous issues related to the financial practices of the Agency.

### **A. Independent Auditors and Financial Statements**

The Audit Committee shall:

Appoint, compensate and oversee independent auditors retained by the Agency and pre-approve all audit services provided by the independent auditor.

Establish procedures for the engagement of the independent auditor to provide permitted audit services. The Agency's independent auditor shall be prohibited from providing non-audit services unless having received previous written approval from the Audit Committee. Non-audit services include tasks that directly support the Agency's operations, such as bookkeeping or other

services related to the accounting records or financial statements of the Agency, financial information systems design and implementation, appraisal or valuation services, actuarial services, investment banking services, and other tasks that may involve performing management functions or making management decisions.

Review and approve the Agency's audited financial statements, associated management letter, report on internal controls and all other auditor communications.

Review significant accounting and reporting issues, including complex or unusual transactions and management decisions, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.

Meet with the independent audit firm on a regular basis to discuss any significant issues that may have surfaced during the course of the audit.

Review and discuss any significant risks reported in the independent audit findings and recommendations and assess the responsiveness and timeliness of management's follow-up activities pertaining to the same.

## **B. Internal Auditors**

The Agency may, in its absolute discretion and by resolution of the members, create and establish an internal audit procedure. In the event such an internal audit procedure is created, the Audit Committee shall:

Review with management and the internal audit director, the charter, activities, staffing and organizational structure of the internal audit function. The Audit Committee shall have authority over the appointment, dismissal, compensation and performance reviews of the internal audit director.

Ensure that the internal audit function is organizationally independent from Agency operations.

Review the reports of internal auditors, and have authority to review and approve the annual internal audit plan.

Review the results of internal audits and approve procedures for implementing accepted recommendations of the internal auditor.

## **C. Internal Controls, Compliance and Risk Assessment**

The Audit Committee shall:

Review management's assessment of the effectiveness of the Agency's internal controls and review the report on internal controls by the independent auditor as a part of the financial audit engagement.

#### **D. Special Investigations**

The Audit Committee shall:

Ensure that the Agency has an appropriate confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the directors, officers, or employees of the Agency or any persons having business dealings with the Agency or breaches of internal control.

Develop procedures for the receipt, retention, investigation and/or referral of complaints concerning accounting, internal controls and auditing to the appropriate body.

Request and oversee special investigations as needed and/or refer specific issues to the appropriate body for further investigation (for example, issues may be referred to the State Inspector General or, other investigatory organization.)

Review all reports delivered to it by the Inspector General and serve as a point of contact with the Inspector General.

#### **E. Other Responsibilities of the Audit Committee**

The Audit Committee shall:

Present annually to the Agency's board a report of how it has discharged its duties and met its responsibilities as outlined in the charter.

Obtain any information and training needed to enhance the committee members' understanding of the role of internal audits and the independent auditor, the risk management process, internal controls and a certain level of familiarity in financial reporting standards and processes.

Review the committee's charter annually, reassess its adequacy, and recommend any proposed changes to the board of the Agency. The Audit Committee charter will be updated as applicable laws, regulations, accounting and auditing standards change.

Conduct an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the board approval for proposed changes.

**SCHEDULE I**  
**FINANCE COMMITTEE CHARTER**

**Purpose**

Pursuant to the Agency's bylaws, the purpose of the Finance Committee is to oversee the Agency's debt and debt practices and to recommend policies concerning the Agency's issuance and management of debt.

**Duties of the Finance Committee**

It shall be the responsibility of the Finance Committee to:

- Review proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations concerning those proposals to the board.
- Make recommendations to the board concerning the level of debt and nature of debt issued by the Agency.
- Reviewing and filing the annual budget of the Agency.
- Make recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency.
- Meet with and request information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.
- Retain, at the Agency's expense, such outside counsel, experts and other advisors as the Finance Committee may deem appropriate. The Agency board will ensure that the Finance Committee has the sufficient resources to carry out its duties.
- Review proposals relating to the repayment of debt or other long-term financing arrangements by the Agency and its subsidiaries.
- Annually review the Agency's financing guidelines contained in Schedule L of the Agency's Policy Manual and make recommendations to the board concerning criteria that should govern its financings. These should include security provisions required for a bond financing undertaking, specific requirements of credit enhancements or additional guarantees used, such as a pledge of revenues, financial covenants or debt service reserves.
- Report annually to the Agency's board how it has discharged its duties and met its responsibilities as outlined in the charter.
- Conduct an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the board approval for proposed changes.

## **Composition of Committee and Selection of Members**

The Finance Committee shall consist of not less than three independent members of the board of directors, who shall constitute a majority on the committee. If the board has less than three independent members, non-independent members may be appointed to the committee provided that the independent members constitute a majority of the committee. The Agency's board shall appoint the Finance Committee members and the Finance Committee chair. Members shall serve on the committee at the discretion of the board. Members appointed to the committee shall have the background necessary to perform its duties.

### **Meetings**

The Finance Committee shall meet at such times as deemed advisable by the Chairman, but not less than twice a year. The committee must meet prior to any debt issuance planned to be undertaken by the Agency.

Members of the Finance Committee are expected to attend each committee meeting, in person or via videoconference. The Finance Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary. A majority of the committee members present or participating through videoconference shall constitute a quorum.

Meeting agendas shall be prepared prior to every meeting and provided to Finance Committee members along with briefing materials five (5) calendar days before the scheduled Finance Committee meeting. The Finance Committee may act only on the affirmative vote of a majority of the members. Minutes of these meetings shall be recorded.

Minutes of the committee's meeting shall be prepared and filed in the records of the Agency and posted to the Agency's webpage.

Meetings of the committee are open to the public, and the committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice and the conduct of executive session.

### **Review the Agency's Annual Budget**

The Finance Committee shall:

- Review the Agency's proposed annual operating budget as presented by Agency management for the upcoming fiscal year.
- Recommend the annual budget to the board for approval after incorporating necessary amendments.
- Monitor and report to the board on the Agency's compliance with its adopted budget during the fiscal year (actual versus estimated budget) on a monthly/quarterly basis.

### **Oversee the Agency's Investments**

The Finance Committee shall:

- Annually review the Agency's investment policy and evaluate allocation of assets.

- Review and recommend to the board approval of the Agency's annual investment report.
- Annually review the Agency's audit of investments as provided by independent auditors.
- Recommend to the board the selection of investment advisors.

### **Assess the Agency's Capital Requirements and Capital Plan**

The Finance Committee shall:

- Assess the financial requirements of the Agency's capital plans. The assessment is to include current and future capital needs, a justification of why such capital expenditure is required and an explanation of funding sources for capital projects such as grants, issuance of debt or specified pay-as-you-go resources.
- Review the financial aspects of major proposed transactions, significant expenditures, new programs and services, as well as proposals to discontinue programs or services and making action recommendations to the board.

### **Review Financial and Procurement Thresholds**

The Finance Committee shall:

- Review and make recommendations to the board regarding any proposed procurements submitted to the committee by the Agency's procurement officer.
- Review and recommend changes to the thresholds for procuring goods and services in the Agency's procurement policy.
- Review and recommend changes to the Agency's uniform tax exemption policy that includes general provisions for entering into payment-in-lieu-of-taxes (PILOT) agreements and allowing tax exemptions.
- Review and recommend changes to the Agency's fee schedules.
- Review the scope and terms of the Agency's insurance policies and liability coverage on an annual basis.

**SCHEDULE J**  
**GOVERNANCE COMMITTEE CHARTER**

**Purpose**

Pursuant to the Agency's by-laws, the purpose of the Governance Committee is to assist the Board by:

- Keeping the Board informed of current best practices in corporate governance;
- Reviewing corporate governance trends for their applicability to the Agency.
- Updating the Agency's corporate governance principles and governance practices; and
- Advising those responsible for appointing directors to the Board on the skills, qualities and professional or educational experiences necessary to be effective Board members.

**Powers of the Governance Committee**

The Board of Directors has delegated to the Governance Committee the power and authority necessary to discharge its duties, including the right to:

- Meet with and obtain any information it may require from Agency staff.
  - Obtain advice and assistance from in-house or outside counsel, accounting and other advisors as the committee deems necessary.
  - Retain, at the Agency's expense, such outside counsel, experts and other advisors as the Governance Committee may deem appropriate.
- The Agency board will ensure that the Governance Committee has the sufficient resources to carry out its duties.

**Composition and Selection**

The membership of the committee shall be as set forth in accordance with and pursuant to the Agency's by-laws. The members shall serve until their resignation, retirement, removal by the Board or until their successors shall be appointed and qualified. When feasible, the immediate past Governance Committee Chair will continue serving as a member of the Committee for at least one year to ensure an orderly transition.

Governance committee members shall be prohibited from being an employee of the Agency or an immediate family member of an employee of the Agency. In addition, Governance Committee members shall not engage in any private business transactions with the Agency or receive compensation from any private entity that has material business relationships with the authority, or be an immediate family member of an individual that engages in private business transactions with the Agency or receives compensation from an entity that has material business relationships with the Agency.

The Governance Committee members should be knowledgeable or become knowledgeable in matters pertaining to governance.

## **Meetings**

The Governance Committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in the charter.

Members of the Governance Committee are expected to attend each committee meeting, in person or via videoconference. The Governance Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary. A majority of the committee members present or participating through videoconference shall constitute a quorum.

Meeting agendas shall be prepared prior to every meeting and provided to Governance Committee members along with briefing materials five (5) calendar days before the scheduled Governance Committee meeting. The Governance Committee may act only on the affirmative vote of a majority of the members. Minutes of these meetings shall be recorded.

Minutes of the committee's meeting shall be prepared and filed in the records of the Agency and posted to the Agency's webpage.

Meetings of the committee are open to the public, and the committee shall be governed by the rules regarding public meetings set forth in the applicable provisions of the Public Authorities Law and Article 7 of the Public Officers Law that relate to public notice and the conduct of executive session.

## **Reports**

The Governance Committee shall:

Report its actions and recommendations to the Board at the next regular meeting of the Board.

Report to the Board, at least annually, regarding any proposed changes to the governance charter or the governance guidelines.

Provide a self-evaluation of the Governance Committee's functions on an annual basis.

## **Responsibilities**

To accomplish the objectives of good governance and accountability, the Governance Committee has responsibilities related to: (a) the Agency's Board; (b) evaluation of the Agency's policies; and (c) other miscellaneous issues.

### **Relationship to the Agency's Board**

The Board of Directors has delegated to the Governance Committee the responsibility to review, develop, draft, revise or oversee policies and practices for which the Governance Committee has specific expertise, as follows:

Develop the Agency's governance practices. These practices should address transparency, independence, accountability, fiduciary responsibilities, and management oversight.

Develop the competencies and personal attributes required of Directors to assist those authorized to appoint members to the Board in identifying qualified individuals.  
In addition, the Governance Committee shall:

Develop and recommend to the Board the number and structure of committees to be created by the Board.

Develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled board member training to be obtained from state-approved trainers.

Develop and provide recommendations to the Board on performance evaluations, including coordination and oversight of such evaluations of the board, its committees and senior management in the Agency's governance process.

### **Evaluation of the Agency's Policies**

The Governance Committee shall:

Develop, review on a regular basis, and update as necessary the Agency's code of ethics and written policies regarding conflicts of interest. Such code of ethics and policies shall be at least as stringent as the laws, rules, regulations and policies applicable to state officers and employees.

Develop and recommend to the Board any required revisions to the Agency's written policies regarding the protection of whistleblowers from retaliation.

Develop and recommend to the Board any required revisions to the Agency's equal opportunity and affirmative action policies.

Develop and recommend to the Board any required updates on the Agency's written policies regarding procurement of goods and services, including policies relating to the disclosure of persons who attempt to influence the Agency's procurement process.

Develop and recommend to the Board any required updates on the authority's written policies regarding the disposition of real and personal property.

Develop and recommend to the Board any other policies or documents relating to the governance of the Agency, including rules and procedures for conducting the business of the Agency's Board, such as the Agency's by-laws. The Governance Committee will oversee the implementation and effectiveness of the by-laws and other governance documents and recommend modifications as needed.

### **Other Responsibilities**

The Governance Committee shall:

Annually review, assess and make necessary changes to the Governance Committee charter and provide a self-evaluation of the Governance Committee.

## SCHEDULE K

### MISSION STATEMENT

**Name of Public Authority:** Albany County Industrial Development Agency (the “Agency”).

**Agency’s Mission Statement:**

[The Agency's primary goal is to encourage economic growth and expansion through financial incentives, thus advancing the job opportunities, health, general prosperity, and economic welfare of the people of Albany County and the State of New York. The Agency works closely with its economic development partners to attract, promote, and encourage economic development in Albany County.]

**Date Adopted:** [\_\_\_\_\_ \_\_, 20\_\_.]

**Agency Stakeholders:**

Agency Stakeholders include the following: (A) The County Executive of Albany County, (B) The members of the Albany County Legislatures, (C) The residents of the County, (D) The businesses located or intending to locate in the County, (E) The school districts in the County, (F) the State of New York, and (G) local trade unions.

At a minimum, Agency Stakeholders expect the Agency’s members to carry out the business of the Agency in a manner that accomplishes its mission while strengthening the local economy.

**List of Proposed Performance Measurements:**

- A. Number of firms assisted (with cash, loans, technical assistance, problem-solving) by the Agency.
- B. Number of jobs created with help from Agency assistance.
- C. Number of jobs retained with help from Agency assistance.
- D. Capital investment made in the County (both total and private funds leveraged with public assistance).
- E. Number and dimension of efforts to support local efforts that support continued job growth and economic gains for the County.
- F. Number and dimension of efforts to support regional efforts that support continued job growth and economic gains in the region.

**SCHEDULE L**

**STATEMENT OF INTENT AND FINANCING**  
**GUIDELINES REGARDING DEBT**

The Albany County Industrial Development Agency (the “Agency”) is committed to supporting projects in the Albany County, New York that create and/or retain jobs and/or promote private sector investment. It is the general policy of the Agency to support projects that it is permitted to support under applicable NYS law, through the issuance of debt, that meet the job and investment criteria of the preceding sentence after a comprehensive review of the applicable financing application and a finding that the project will provide a substantial benefit to the residents of Albany County.

Debt issued by the Agency is issued for the benefit of a conduit borrower and is a special obligation of the Agency, payable solely from the credit of the conduit borrower or revenues derived from the project for which the debt was issued. Regarding debt issued by the Agency to benefit conduit borrowers and which constitute special obligations of the Agency (i.e., limited obligations payable solely from the revenues derived from the project for which the debt was issued), the Agency shall permit the issuance of such debt, subject to the requirements of federal and state law.

Any debt to be issued by the Agency to finance the actions and operations of the Agency and that will be general obligations of the Agency will be subject to financing guidelines established and adopted by the Finance Committee at that time.

In any case, debt issued by the Agency shall not be an obligation of Albany County, New York or the State of New York.

## PART 17

### IMPLEMENTATION OF STATE ENVIRONMENTAL QUALITY REVIEW ACT

**SECTION 1701. PURPOSE AND AUTHORITY.** Pursuant to the New York State Environmental Quality Review Act, being Article 8 of the Environmental Conservation Law (the “SEQR Act”), and the statewide regulations adopted thereunder by the New York State Department of Environmental Conservation, being 6 NYCRR Part 617 (the “SEQR Regulations”), Albany County Industrial Development Agency (the “Agency”) must examine any action proposed to be carried out, funded or approved by the Agency pursuant to Article 18-A of the General Municipal Law (the “Act”) or otherwise to determine the potential environmental significance of such proposed action. Pursuant to the SEQR Act and the SEQR Regulations, if a proposed action may have a significant effect on the environment, the Agency may not issue a decision on such action until a final environmental impact statement (“EIS”) and finding statement have been prepared with respect to such action, with certain limited exceptions. The purpose of this Part is to implement the SEQR Act and the SEQR Regulations and establish criteria for determining whether actions under consideration by the Agency may have a significant effect on the environment.

**SECTION 1702. DEFINITIONS.** The definitions contained in Section 8-0105 of the SEQR Act and 6 NYCRR 617.2 apply to this Part.

**SECTION 1703. GENERAL RULE.** The Agency will not carry out, fund, approve or issue a final decision on any action until there has been full compliance with the SEQR Act, the SEQR Regulations and this Part.

**SECTION 1704. LISTS OF ACTIONS.** (A) Type I. In addition to the Type I Actions listed in 6 NYCRR 617.12, the following actions are likely to require preparation of environmental impact statements (EIS’s) because they are likely to have a significant effect on the environment:

(1) The actions identified as Type I actions in 6 NYCRR 617.12.

(B) Type II. The following actions do not have a significant effect on the environment and do not require preparation of an EIS:

(1) Contracting, including the contracting for or acceptance of professional and technical assistance or advice, or any funding or planning activities not in respect to Type I actions listed in 6 NYCRR 617.12 or in subsection (A) of this section.

(2) The adoption, amendment or repeal of the rules and regulations of the Agency.

(3) Routine or continuing administration and management of projects, not including new programs or major recording of priorities.

(4) Refinancings of existing debt and changes in existing financing documents and other documents not involving new capital construction.

(5) The actions identified as Type II actions in 6 NYCRR 617.13.

(C) Review. Pursuant to 6 NYCRR 617.4(i), any person may request the Commissioner of Environmental Conservation to review any action appearing on the Type II list in subdivision (b) of this section to determine whether it meets the criteria for Type II actions in 6 NYCRR 617.13.

SECTION 1705. INFORMATION REQUIRED OF APPLICANTS. (A) Applications. Each application shall include as a part of such application such reasonable information, including a completed environmental assessment form, as is deemed necessary by the Agency to assist the Agency in:

- (1) determining whether an action is exempt or excluded;
- (2) determining whether an action may have a significant effect on the environment;
- (3) determining whether other agencies, including Federal agencies, have jurisdiction over the action or any portion of it; or
- (4) preparation of an EIS, if required, and if prepared by the Agency.

(B) Form of Environmental Assessment Form. To assist the Agency in gathering the information deemed necessary by the Agency to assist the Agency in complying with the SEQR Act, the Agency has prepared an environmental assessment form (the "Agency EAF"), a copy of which is attached hereto as Appendix 17A. The Agency EAF shall be supplied to each applicant and, unless such requirement is waived by resolution of the members of the Agency, shall be required as part of any application to the Agency.

(C) Failure to Supply Information. No application or submission pursuant to the Act, or any other statute or regulation, shall be considered complete by the Agency until such information is submitted.

SECTION 1706. THRESHOLD DETERMINATION. As early as possible in its formulation of any action that the Agency proposes to undertake, or upon receipt of any application, notice or filing which involves an action, the Agency will determine whether the action:

- (A) is subject to the SEQR Act pursuant to the SEQR Act and the SEQR Regulations;
- (B) is an exempt or Type II action, in which case it shall have no further obligation under the SEQR Act or the SEQR Regulations;
- (C) is an excluded action; provided that, if the action is excluded because it was undertaken or approved prior to September 1, 1976, the Agency will determine whether the Commissioner of Environmental Conservation will require that an EIS be prepared pursuant to Section 8-0111(5)(a)(i);
- (D) involves a Federal agency, in which case it shall act pursuant to Section 8-0111(1) or (2) of the SEQR Act and 6 NYCRR 617.16; or
- (E) involves one or more other agencies, in which case it shall act pursuant to Section 8-0111(6) of the SEQR Act and 6 NYCRR 617.6.

SECTION 1707. NEGATIVE DECLARATIONS. (A) Preparation. If the Agency determines that an action is a Type I action or unlisted action subject to SEQR and will not have a significant effect upon the environment, it shall prepare and file a notice of determination that an EIS will not be prepared ("negative declaration") and maintain written analysis and findings supporting such determination in accordance with 6 NYCRR 617.10(a) in the file referred to in subsection (B) of this section.

(B) Environmental File. In order to afford the opportunity for public notice and response, the Agency will keep a separate file, updated monthly, containing a brief description of determinations made

pursuant to this section, and will incorporate reference to the negative declaration in any other notices required by law in connection with the action.

SECTION 1708. POSITIVE DECLARATIONS. (A) Preparation. If the Agency determines that a Type I or unlisted action is subject to SEQR and may have a significant effect on the environment, it shall prepare and file in the file concerning the action a notice of determination that an EIS will be prepared ("positive declaration") and maintain written analyses and findings supporting such determination in accordance with 6 NYCRR 617.10(b) in the file referred to in section 1707(B) of this part.

(B) Environmental File. In order to provide an opportunity for public notice and response, the Agency will file positive declarations monthly in the file referred to in section 1707(B) of this part, and will incorporate reference to the positive declaration in any other notices required by law in connection with the action.

SECTION 1709. FORM AND CONTENTS OF DRAFT AND FINAL ENVIRONMENTAL IMPACT STATEMENTS. Environmental impact statements shall conform to the requirements of 6 NYCRR 617.14 as to form and content.

SECTION 1710. NOTICE OF COMPLETION OF DRAFT ENVIRONMENTAL IMPACT STATEMENT. (A) Preparation. Upon completion of a draft EIS, or upon acceptance of a draft EIS from an applicant pursuant to 6 NYCRR 617.8, the Agency shall prepare and file a notice of completion in accordance with 6 NYCRR 617.10(c).

(B) Environmental File. In order to provide an opportunity for public response, the Agency shall, in addition to the filing required by 6 NYCRR 617.10(e), file its notices of completion and draft EIS's in the file referred to in section 1708(B) of this part and will incorporate reference to them in notices required by law in connection with the action.

SECTION 1711. PUBLIC HEARING. (A) SEQR Hearings. Upon completion of the draft EIS, or upon acceptance of a draft EIS from an applicant pursuant to 6 NYCRR 617.8, the Agency shall determine whether to conduct a public hearing thereon, based upon:

- (1) the degree of interest shown by other persons in the action;
- (2) the extent to which a public hearing can aid its decision-making process by providing a forum for, or an efficient method for the collection of, public comment; and
- (3) the criteria set forth in 6 NYCRR 617.8(d).

(B) Notice of Hearing. Unless a different time period is provided by statute or regulation for the holding of a public hearing:

- (1) the notice of hearing shall be published at least 14 calendar days in advance thereof, in a newspaper of general circulation in the area of potential impacts and effects of the action; and
- (2) the hearing shall commence not less than 15 nor more than 60 calendar days after the filing of the draft EIS.

(C) If the public hearing is one for which the Agency otherwise has authority to conduct, the public hearing shall be conducted according to the procedures governing such hearing. If the public hearing

is not otherwise authorized, it may be conducted in the manner provided in Part 15 of these rules and regulations, or in such other manner as the Agency shall direct.

SECTION 1712. FINAL ENVIRONMENTAL IMPACT STATEMENT. (A) Time for Preparation. The final EIS shall be prepared and filed within 45 calendar days after the close of any hearing, or within 60 calendar days after the filing of the draft EIS, whichever occurs last, unless the last date for preparation and filing of the final EIS is extended by the Agency pursuant to 6 NYCRR 617.8(e)(2).

(B) Notice of Completion. The notice of completion shall conform to 6 NYCRR 617.10(g) in form and content.

(C) Notice of Withdrawal; Negative Declaration. If the action has been withdrawn, or if, on the basis of the draft EIS or hearing, the Agency determines that the action will not have a significant effect on the environment, it will not prepare a final EIS but will prepare and file a notice of withdrawal or a negative declaration, as the case may be, in accordance with 6 NYCRR 617.8(e)(1).

(D) Manner of Filing. The filing of a notice of completion of a final EIS and the filing of the final EIS itself shall take place in the same manner as a draft EIS in accordance with 6 NYCRR 617.10(g) and (h). Final EIS's and notices of completion shall also be filed in the file referred to in section 1707(B) of this part.

(E) Required Findings. Subsequent to the preparation and filing of a final EIS, the Agency shall allow agencies and the public a reasonable time period, not less than 10 calendar days, in which to consider the final EIS. A decision on an action involving an applicant shall be made after the period described in the preceding sentence, but in any event within 30 calendar days following the filing of a final federal or SEQR EIS, unless such time period for decision shall be extended by the Agency for good cause.

(F) Final Decision. No final decision whether to commence, engage in, fund or approve an action shall be made until the specific written findings and statement required by 6 NYCRR 617.9(c) or (d) are prepared and filed in accordance with 6 NYCRR 617.10 and in the file referred to in section 1707(B) of this part.

SECTION 1713. APPLICABILITY OF REGULATIONS OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION. The provisions of 6 NYCRR Part 617 shall govern any matters not specifically addressed in this Part.

APPENDIX 17A  
FORM OF ENVIRONMENTAL ASSESSMENT FORM

**ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**ENVIRONMENTAL ASSESSMENT FORM**

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**IMPORTANT NOTICE:** The answers to the questions contained in this environmental assessment form are necessary to aid ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY in making the environmental decisions required in connection with your proposed project. Accordingly, all questions should be answered accurately and completely by an officer or employee of your firm who is thoroughly familiar with the proposed project, the site of the proposed project and all information available locally concerning said project and said site. This environmental assessment form is subject to acceptance by the Agency.

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**TO:** ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
111 Washington Ave Suite 100  
Albany, New York 12210

This Environmental Assessment Form by applicant respectfully states:

**APPLICANT:** \_\_\_\_\_

**APPLICANT'S STREET ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **PHONE NO.:** \_\_\_\_\_

**NAME OF PERSON(S) AUTHORIZED TO SPEAK FOR APPLICANT WITH RESPECT TO THIS ENVIRONMENTAL ASSESSMENT FORM:** \_\_\_\_\_

**IF APPLICANT IS REPRESENTED BY AN ATTORNEY, COMPLETE THE FOLLOWING:**

**NAME OF FIRM:** \_\_\_\_\_

**NAME OF ATTORNEY:** \_\_\_\_\_

**ATTORNEY'S STREET ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **PHONE NO.:** \_\_\_\_\_

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**NOTE: PLEASE READ THE INSTRUCTIONS ON PAGE 2 BEFORE FILLING OUT THIS FORM.**

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## INSTRUCTIONS

1. The Agency will not consider an environmental assessment form complete unless in the judgment of the Agency said environmental assessment form contains sufficient information upon which to base a decision as to whether the action which is the subject of this environmental assessment form (the "Action") may or will not have a significant effect upon the environment.
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 this environmental assessment form (the "Project").
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.
5. This environmental assessment form is designed to assist in determining whether the proposed Action may have a significant effect on the environment. Please complete the entire environmental assessment form. Answer to these questions will be considered as part of the application for approval and may be subject to further verification and public review.
6. It is expected that completion of this environmental assessment form will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.
7. When completed, return one (1) hard copy and one (1) electronic copy of this environmental assessment form to the Agency at the address indicated on the first page of this environmental assessment form.
8. Please note that Article 6 of the Public Officers Law declares 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 or information, the nature of which is such that 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.

### FOR AGENCY USE ONLY

1. Project Number	_____
2. Date environmental assessment form ("EAF") received	_____, 20____
3. Date copy of EAF mailed to members	_____, 20____
4. Date notice of Agency meeting on EAF posted	_____, 20____
5. Date notice of Agency meeting on EAF published	_____, 20____
6. Date of Agency meeting to determine significance	_____, 20____
7. Date Notice of No Significance mailed	_____, 20____
8. Date Notice of Significance mailed	_____, 20____
9. Date draft environmental impact statement received	_____, 20____

10. Date of hearing on draft environmental impact statement	_____ , 20____
11. Date final environmental impact statement mailed	_____ , 20____

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PART 1 PROJECT INFORMATION

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This document is designed to assist in determining whether the Action proposed may have a significant effect on the environment. Please complete the entire Data Sheet. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review.

It is expected that completion of this document will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

(PLEASE COMPLETE EACH QUESTION - indicate N.A. if not applicable)

NAME OF PROJECT:

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NAME AND ADDRESS OF OWNER  
(If Different from Applicant)

---

(Name)

---

---

(Street)

---

(P.O.)

(State)

(Zip)

DESCRIPTION OF PROJECT: (Briefly describe the Project or the Action)

A. SITE DESCRIPTION (Physical setting of overall project, both developed and undeveloped areas)

1. Present land use:

Urban \_\_\_, Industrial \_\_\_, Commercial \_\_\_, Suburban \_\_\_, Rural \_\_\_, Forest \_\_\_, Agriculture \_\_\_, Other \_\_\_\_\_.

2. Total acreage of project area: \_\_\_\_\_ acres.

<u>Approximate acreage:</u>	<u>Presently</u>	<u>After Completion</u>
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24, 25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (indicate type)	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? \_\_\_\_\_.

- a. Soil drainage:      Well drained: \_\_\_\_\_ % of site  
Moderately well drained: \_\_\_\_\_ % of site  
Poorly drained: \_\_\_\_\_ % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? \_\_\_\_\_ acres [See 1 NYCRR 370].

4. a. Are there bedrock outcroppings on project site? \_\_\_\_\_ Yes \_\_\_\_\_ No.

b. What is depth to bedrock? \_\_\_\_\_ (in feet).

5. Approximate percentage of proposed project site with slopes:

0-10%: \_\_\_\_\_ %  
10-15%: \_\_\_\_\_ %  
15% or greater: \_\_\_\_\_ %

6. Is the Project contiguous to, or does it contain, a building, site or district listed on the National Register of Historic Places? \_\_\_\_\_ Yes \_\_\_\_\_ No

7. Is the project substantially contiguous to a site listed on the Register of National Natural Landmarks? \_\_\_\_\_ Yes \_\_\_\_\_ No.

8. What is the depth to the water table? \_\_\_\_\_ (in feet).

9. Is the project site located over a primary, principal or sole source aquifer? \_\_\_\_\_ Yes \_\_\_\_\_ No.

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? \_\_\_\_\_ Yes \_\_\_\_\_ No.
11. Does the project site contain any species of plant or animal life that is identified as threatened or endangered? \_\_\_\_\_ Yes \_\_\_\_\_ No. According to \_\_\_\_\_  
If yes, identify each species: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
12. Are there any unique or unusual land forms on the project site? (i.e. cliffs, dunes, other geological formations) \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
13. Is the project site presently used by the community or neighborhood as an open space or recreation area? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
14. Does the present site offer or include scenic views or vistas known to be important to the community? \_\_\_\_\_ Yes \_\_\_\_\_ No.
15. Streams within or contiguous to project area:  
a. Name of stream and name of river to which it is tributary: \_\_\_\_\_  
\_\_\_\_\_
16. Lakes, ponds, wetlands area within or contiguous to project area:  
a. Name \_\_\_\_\_  
b. Size (in acres) \_\_\_\_\_
17. Is the project site served by existing public utilities? \_\_\_\_\_ Yes \_\_\_\_\_ No.  
a. If Yes, does sufficient capacity exist to allow connection?  
\_\_\_\_\_ Yes \_\_\_\_\_ No.
- b. If Yes, will improvements be necessary to allow connection?  
\_\_\_\_\_ Yes \_\_\_\_\_ No.
18. Is the project site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? \_\_\_\_\_ Yes \_\_\_\_\_ No.
19. Is the project site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR Part 617?  
\_\_\_\_\_ Yes \_\_\_\_\_ No.

20. Has the project site ever been used for the disposal of solid or hazardous wastes?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No.

B. PROJECT DESCRIPTION

1. Physical dimensions and scale of project (fill in dimensions as appropriate):
- a. Total contiguous acreage owned by project sponsor: \_\_\_\_\_ acres.
  - b. Project acreage developed: \_\_\_\_\_ acres initially;  
 \_\_\_\_\_ acres ultimately. Already developed
  - c. Project acreage to remain undeveloped: \_\_\_\_\_ acres.
  - d. Length of project, in miles: \_\_\_\_\_ (if appropriate).
  - e. If project is an expansion, indicate percent of expansion proposed: \_\_\_\_\_ %.
  - f. Number of off-street parking spaces existing: \_\_\_\_\_; proposed \_\_\_\_\_.
  - g. Maximum vehicular trips generated per hour: \_\_\_\_\_ (upon completion of project).
  - h. If residential: Number and type of housing units:

	<u>One Family</u>	<u>Two Family</u>	<u>Multiple Family</u>	<u>Condominium</u>
Initial	_____	_____	_____	_____
Ultimate	_____	_____	_____	_____

- i. If other:

Orientation	Neighborhood-City-Regional	Estimated Employment

j. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width;  
 \_\_\_\_\_ length. Existing multi-story office building.

k. Linear feet of frontage along a public thoroughfare project will occupy is: \_\_\_\_\_ ft.

2. How much natural material (i.e. rock, earth, etc.) will be removed from the project site? \_\_\_\_\_ tons; \_\_\_\_\_ cubic yards.
3. Will disturbed areas be reclaimed? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

- a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
- b. Will topsoil be stockpiled for reclamation? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- c. Will upper subsoil be stockpiled for reclamation? \_\_\_\_\_ Yes \_\_\_\_\_ No.
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from the project site? \_\_\_\_\_ acres.
5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project? \_\_\_\_\_ Yes \_\_\_\_\_ No.
6. If single phase project: Anticipated period of construction \_\_\_\_\_ months, (including demolition). No demolition. Renovation period still under consideration.
7. If multi-phased project:
- Total number of phases anticipated: \_\_\_\_\_.
  - Anticipated date of commencement of phase one \_\_\_\_\_ month \_\_\_\_\_ year (including demolition).
  - Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.
  - Is phase one financially dependent on subsequent phases? \_\_\_\_\_ Yes \_\_\_\_\_ No.
8. Will blasting occur during construction? \_\_\_\_\_ Yes \_\_\_\_\_ No.
9. Number of jobs generated: during construction \_\_\_\_\_; after project is complete \_\_\_\_\_.
10. Number of jobs eliminated by this project: \_\_\_\_\_.
11. Will project require relocation of any projects or facilities? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
12. a. Is surface liquid waste disposal involved? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- b. If yes, indicate type of waste (sewage, industrial, etc.) and amount: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
- c. Name of water body into which effluent will be discharged: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

13. Is subsurface liquid waste disposal involved? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, indicate type of waste (sewage, industrial, etc.) and amount: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
14. Will surface area of existing lakes, ponds, streams, bays or other surface waterways be increased or decreased by proposal? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
15. Is the project or any portion of the project located in the 100-year flood plain? \_\_\_\_\_ Yes \_\_\_\_\_ No.
16. Will the project generate solid waste? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- If yes, what is the amount per month? \_\_\_\_\_ tons.
  - If yes, will an existing solid waste facility be used? \_\_\_\_\_ Yes \_\_\_\_\_ No.
  - If yes, give name: \_\_\_\_\_; location: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
  - Will any wastes not go into a sewage disposal system or into a sanitary landfill? \_\_\_\_\_ Yes \_\_\_\_\_ No.
  - If yes, explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
17. Will the project involve the disposal of solid waste? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- If yes, what is anticipated rate of disposal? \_\_\_\_\_ tons/month.
  - If yes, what is the anticipated site life: \_\_\_\_\_ years.
  - Will any wastes not go into a sewage disposal system or into a sanitary landfill? \_\_\_\_\_ Yes \_\_\_\_\_ No.
18. Will the project use herbicides or pesticides? \_\_\_\_\_ Yes \_\_\_\_\_ No.
19. Will the project routinely produce odors (more than one hour per day)? \_\_\_\_\_ Yes \_\_\_\_\_ No.
20. Will the project produce operating noise exceeding the local ambient noise levels? \_\_\_\_\_ Yes \_\_\_\_\_ No.
21. Will the project result in an increase in energy use? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, indicate type(s) \_\_\_\_\_  
\_\_\_\_\_.

22. If water supply is from wells, indicate pumping capacity: \_\_\_\_\_ gals/minute.
23. Total anticipated water use per day: \_\_\_\_\_ gals/day.
24. Does the project involve local, state or federal funding? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, explain:  
\_\_\_\_\_  
\_\_\_\_\_

#### C. ZONING AND PLANNING INFORMATION

1. Does proposed action involve a planning or zoning decision? \_\_\_\_\_ Yes \_\_\_\_\_ No.  
If yes, indicate decision required: \_\_\_\_\_ zoning amendment; \_\_\_\_\_ zoning variance; \_\_\_\_\_ special use permit; \_\_\_\_\_ subdivision; \_\_\_\_\_ site plan; \_\_\_\_\_ new/revision of master plan; \_\_\_\_\_ resource management plan; other \_\_\_\_\_.  
\_\_\_\_\_.
2. What is the zoning classification(s) of the site? \_\_\_\_\_  
\_\_\_\_\_.
3. What is the maximum potential development of the site if developed as permitted by the present zoning? \_\_\_\_\_  
\_\_\_\_\_.
4. What is the proposed zoning of the site? \_\_\_\_\_  
\_\_\_\_\_.
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning? \_\_\_\_\_  
\_\_\_\_\_.
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? \_\_\_\_\_ Yes \_\_\_\_\_ No.
7. What are the predominant land use(s) and zoning classification(s) within a 1/4 mile radius of proposed action? \_\_\_\_\_  
\_\_\_\_\_.
8. Is the proposed action compatible with adjoining/surrounding land uses within a 1/4 mile? \_\_\_\_\_  
Yes \_\_\_\_\_ No.
9. If the proposed action is the subdivision of land, how many lots are proposed?  
\_\_\_\_\_.
- a. What is the minimum lot size proposed? \_\_\_\_\_.
10. Will the proposed action require any authorization(s) for the formation of sewer or water districts? \_\_\_\_\_ Yes \_\_\_\_\_ No.

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- a. If yes, is existing capacity sufficient to handle projected demand?  
\_\_\_\_\_ Yes \_\_\_\_\_ No.
12. Will the proposed action result in the generation of traffic significantly above present levels?  
\_\_\_\_\_ Yes \_\_\_\_\_ No.
- a. If yes, is the existing road network adequate to handle the additional traffic? \_\_\_\_\_ Yes  
\_\_\_\_\_ No.

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## PART 2 OTHER INVOLVED AGENCIES

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Please indicate in the space below all other local agencies, boards, authorities, districts, commissions or governing bodies (including any city, county and other political subdivision of the State of New York and all state departments, agencies, boards, public benefit corporations, public authorities or commissions) involved in approving or funding or directly undertaking action with respect to the Project. For example, do you need a municipal building permit to undertake the Project? Do you need a zoning approval to undertake the Project? If so, you would list the appropriate municipal building department or planning or zoning commission which would give said approvals. Since only those agencies notified of an environmental determination are bound thereby, it is to the applicant's advantage to ascertain, exercising all due diligence, all other agencies involved with the Project.

1. Federal action required:

- a. Is any federal permit required in connection with the Project?  
 Yes  No.
- b. Does the Project involve any federal funding?  
 Yes  No.
- c. Does the Project involve any district action by any federal agency?  
 Yes  No.

If the answer to any of the foregoing is yes, please describe briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. State or local action required:

- a. Is any state or local permit required in connection with the Project? \_\_\_\_\_ Yes \_\_\_\_\_  
No. Building Permit
- b. Does the Project involve any state or local funding?  
 Yes  No. Bonds issued by Albany County Industrial Development Agency
- c. Does the Project involve any district action by any state or local agency? \_\_\_\_\_ Yes \_\_\_\_\_  
No.

If the answer to any of the foregoing is yes, please describe briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. List of governmental action required:

	<u>Action (Yes, No)</u>	<u>Required If yes, Type</u>	<u>Submittal Date</u>	<u>Approval Date</u>
City, Town, Village Board	_____	_____	_____	_____
City, Town, Village Planning Board	_____	_____	_____	_____
City, Town, Zoning Board	_____	_____	_____	_____
City, County Health Department	_____	_____	_____	_____
Other local agencies	_____	_____	_____	_____
Other regional agencies	_____	_____	_____	_____
State Agencies	_____	_____	_____	_____
Federal Agencies	_____	_____	_____	_____

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### PART 3

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The following items describe various actions which may be involved with a project. Please indicate which items describe action which may be undertaken with respect to the Project for which you are seeking assistance from the Agency by writing the word "Yes" in the blank provided preceding each item which describes action which may be taken with respect to the Project. Note that most capital projects consist of a set of activities or steps (i.e. planning, design, contracting, construction and operation). For purposes of answering this part, answer YES if the listed activity will probably occur with respect to the Project, even if such activity will be undertaken by someone else other than the Agency. ANSWER ALL QUESTIONS.

a. Will the project involve action which takes place wholly or partially within or substantially contiguous to any of the following:

- \_\_\_\_\_ (1) Publicly owned or operated park land, recreation area or designated open space, including any site on the Register of National Natural Landmarks.
- \_\_\_\_\_ (2) Any critical environmental area designated by any local or state agency pursuant to 6NYCRR 617.4.
- \_\_\_\_\_ (3) Any facility or site listed on the National Register of Historic Places or any historic building, structure, facility or site or district or prehistoric site that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in said National Register, or that is listed on the State Register of Historic Places.
- \_\_\_\_\_ (4) An agricultural district certified pursuant to Article 25 of the Agricultural and Markets Law of the State of New York.

b. Does the project include any of the following types of actions?

- \_\_\_\_\_ (1) Adoption of municipal land use plan or initial adoption of comprehensive zoning regulations.
- \_\_\_\_\_ (2) Adoption by any agency of a comprehensive resource management plan.
- \_\_\_\_\_ (3) Adoption of changes in the allowable uses within any zoning district.
- \_\_\_\_\_ (4) The granting of a zoning change.
- \_\_\_\_\_ (5) Acquisition, sale, lease, annexation or other transfer of one hundred (100) or more contiguous acres of land by a state or local government or agency thereof.
- \_\_\_\_\_ (6) Any structure exceeding one hundred (100) feet above original ground level.

c. Does the project or action meet or exceed any of the following thresholds:

- \_\_\_\_\_ (1) A project or action which involves the physical alteration of ten (10) acres.

\_\_\_\_\_ (2) A project or action which would use ground or surface water in excess of two million (2,000,000) gallons per day.

\_\_\_\_\_ (3) Parking for one thousand (1,000) vehicles.

\_\_\_\_\_ (4) A facility with more than one hundred thousand (100,000) square feet of gross floor area.

d. Does the project involve the expansion of existing non-residential facilities by more than fifty (50) percent of any of the following thresholds and, if so, do the expansion and the existing facilities, when combined, meet or exceed any of the following thresholds:

\_\_\_\_\_ (1) A project or action which involves the physical alteration of ten (10) acres.

\_\_\_\_\_ (2) A project or action which would use ground or surface water in excess of two million (2,000,000) gallons per day.

\_\_\_\_\_ (3) Parking for one thousand (1,000) vehicles.

\_\_\_\_\_ (4) A facility with more than one hundred thousand (100,000) square feet of gross floor area.

e. Does the project involve the construction of new residential facilities which meet or exceed the following thresholds:

\_\_\_\_\_ (1) Ten (10) units in a municipality which has not adopted zoning or subdivision regulations.

\_\_\_\_\_ (2) Fifty (50) units not to be connected (at commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works.

\_\_\_\_\_ (3) Two hundred fifty (250) units to be connected (at commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works.

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#### PART 4 ACTION CHECKLIST

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Please indicate whether any of the following impacts may be reasonably expected to result from the project. Please indicate which items describe action which may be undertaken with respect to the project for which you are seeking assistance from the Agency by writing the word "Yes" in the blank provided preceding each item which describes action which may be taken with respect to the project and by writing the word "No" in the blank provided preceding each item which does not describe action which may be taken with respect to the project.

1. Will the proposed project result in a significant adverse change in the existing:

- (a) air quality.
- (b) water quality.
- (c) noise levels.

If so, please explain very briefly: \_\_\_\_\_

\_\_\_\_\_

2. Will the proposed project create a significant increase in:

- (a) solid waste production.
- (b) potential for drainage problems.
- (c) potential for erosion problems.
- (d) potential for flooding problems.

If so, please explain very briefly: \_\_\_\_\_

\_\_\_\_\_

3. Will the project result in:

- (a) the removal or destruction of large quantities of vegetation or fauna.
- (b) an interference with the movement of any resident or migratory fish or wildlife species.
- (c) impacts on critical habitat areas.
- (d) substantial adverse effects on a threatened or endangered species of animal or plant or the habitat of such a species.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. Will the project encourage or attract a large number of people to a place or places for more than a few days compared to the number of people who would come to such place if the project was not in existence? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. Will the project create a conflict with a community's existing plans or goals as officially approved or adopted? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

6. Will the project impair the character or quality of important historical, archaeological, architectural or aesthetic resources? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. Will your project impair the existing community or neighborhood character? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

REGARDLESS OF YOUR ANSWER, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

8. Will your project result in a major change in either the quantity or type of energy you currently use? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

9. Will the project create or produce anything which is or can be a hazard to human health or safety? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

10. Will your project result in a change in the use, or intensity of use of land or other natural resources, or in their capacity to support existing use? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

11. Will your project create a demand for other governmental actions or projects which will result in one of the above consequences? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

12. Will your project result in changes in two or more elements of the environment, such as those listed above, no one of which is substantial but when taken together result in a material change in the environment? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If so, please explain very briefly: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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## PART 5 PROJECT IMPACTS AND THEIR MAGNITUDE

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1. Identifying that an effect will be potentially large (column 2) does not mean that it is also necessarily significant. Any large effect must be evaluated in PART 6 to determine significance. By identifying an effect in column 2 simply asks that it be looked at further.
2. The Examples provided are to assist the reviewer by showing types of effects and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site, other examples and/or lower thresholds may be more appropriate for a Potential Large Impact rating.
3. The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
4. The number of examples per question does not indicate the importance of each question.
5. In identifying impacts, consider long-term, short-term and cumulative effects.
6. Answer each of the 19 questions in this part. Answer Yes if there will be any effect.
7. Maybe answers should be considered as Yes answers.
8. If answering Yes to a question, then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
9. If reviewer has doubt about the size of the impact, consider the impact as potentially large and proceed to PART 6.
10. If a potentially large impact or effect can be reduced by change(s) in the project to a small to moderate magnitude, place a Yes in column 3. A No response indicates that such a reduction is not possible. This must be explained in PART 6.

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<b>IMPACT ON LAND</b>		
1. Will the Project result in a physical change to the site of the Project? Yes____; No_____	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Examples</b> that would apply to column 2		
* Any construction on slopes of 15% or greater (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction on land where the depth to the water table is less than 3 feet.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction of paved parking area for 1,000 or more vehicles.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction that will continue for more than 1 year or involve more than one phase or stage.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e. rock or soil) per year.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts _____	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
2. Will there be an effect to any unique or unusual land forms found on the site? (i.e. cliffs, dunes, geological formations, etc.) Yes____; No_____		
* Specific land forms: _____	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON WATER</b>		

	<b>1</b> Small to Moderate Impact	<b>2</b> Potential Large Impact	<b>3</b> Can Impact Be Mitigated By Project Change
3. Will the Project affect any water body designated as protected (Under Articles 15, 24, 25 or the Environmental Conservation Law, ECL)? Yes____; No____.			
<b>Examples</b> that would apply to column 2			
* Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
4. Will the Project affect any non-protected existing or new body of water? Yes____; No____.			
<b>Examples</b> that would apply to column 2			
* A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Will the Project affect surface or groundwater quality or quantity? Yes____; No____.			
<b>Examples</b> that would apply to column 2			
* Project will require a discharge permit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project requires use of a source of water that does not have approval to serve the Project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
* Project requires water supply from wells with greater than 45 gallons per minute pumping capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction or operation causing any contamination of a public water supply system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will adversely affect groundwater.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project would use water in excess of 20,000 gallons per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will require the storage of petroleum or chemical products greater than 1,100 gallons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will allow residential uses in areas without water and/or sewer services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
6. Will Project alter drainage flow, patterns or surface water runoff? Yes____; No____.			
<b>Examples</b> that would apply to column 2			
* Project would change flood water flows	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project may cause substantial erosion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project is incompatible with existing drainage patterns.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will allow development in a	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	<b>1</b> Small to Moderate Impact	<b>2</b> Potential Large Impact	<b>3</b> Can Impact Be Mitigated By Project Change
designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON AIR</b>			
7. Will project affect air quality? Yes____; No_____.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Examples that would apply to column 2</b>			
* Project will induce 1,000 or more vehicle trips in any given hours.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will result in the incineration of more than 1 ton of refuse per hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hr.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will allow an increase in the amount of land committed to industrial use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will allow an increase in the density of industrial development within existing industrial areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON PLANTS AND ANIMALS</b>			
8. Will the Project affect any threatened or endangered species? Yes____; No_____.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Examples that would apply to column 2</b>			
* Reduction in one or more species listed on the New York or Federal list, using the site, over or near site or found on the site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	<b>1</b> Small to Moderate Impact	<b>2</b> Potential Large Impact	<b>3</b> Can Impact Be Mitigated By Project Change
* Application of pesticide or herbicide more than twice a year other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
9. Will the project substantially affect non-threatened or non-endangered species? Yes ____; No ____.			
<b>Examples</b> that would apply to column 2			
* Project would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project requires the removal of more than 10 acres of mature forest (over 100 years in age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON AGRICULTURAL LAND RESOURCES</b>			
10. Will the Project affect agricultural land resources? Yes ____; No ____.			
<b>Examples</b> that would apply to column 2			
* Project would sever, cross or limit access to agricultural land (includes cropland, hayfields, pastures, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
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### IMPACT ON AESTHETIC RESOURCES

11. Will the Project affect aesthetic resources?  
Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* Proposed land uses, or project components, obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.
- \* Proposed land uses, or project components, visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.
- \* Project components that will result in the elimination or significant screening of scenic views or vistas known to be important to the area.
- \* Other impacts: \_\_\_\_\_

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

### IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will the Project impact any site or structure of historic, pre-historic or paleontological importance? Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* Project occurring wholly or partially within or contiguous to any facility or site listed on the State or National Register of historic places.
- \* Any impact to an archaeological site or fossil bed located within the Project site.
- \* Project will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.
- \* Other Impacts: \_\_\_\_\_

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change

### **IMPACT ON OPEN SPACE AND RECREATION**

13. Will the Project affect the quantity or quality of existing or future open spaces or recreational opportunities? Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* The permanent foreclosure of a future recreational opportunity.
- \* A major reduction of an open space important to the community.
- \* Other impacts: \_\_\_\_\_

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

### **IMPACT ON TRANSPORTATION**

14. Will there be an effect to existing transportation systems? Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* Alteration of present patterns of movement of people and/or goods.
- \* Project will result in major traffic problems.
- \* Other impacts: \_\_\_\_\_

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

### **IMPACT ON ENERGY**

15. Will the Project affect the community's sources of fuel or energy supply? Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* Project will cause a greater than 5% increase in the use of any form of energy in the municipality.
- \* Project will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	<b>1</b> Small to Moderate Impact	<b>2</b> Potential Large Impact	<b>3</b> Can Impact Be Mitigated By Project Change
residences or to serve a major commercial or industrial use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>NOISE AND ODOR IMPACTS</b>			
16. Will there be objectionable odors, noise or vibration as a result of the Project? Yes ____; No ____.			
<b>Examples</b> that would apply to column 2			
* Blasting within 1,500 feet of a hospital, school or other sensitive facility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Odors will occur routinely (more than one hour per day).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will produce operating noise exceeding the local ambient noise levels for noise outside of structures.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will remove natural barriers that would act as a noise screen.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON PUBLIC HEALTH</b>			
17. Will the Project affect public health and safety? Yes ____; No ____.			
<b>Examples</b> that would apply to column 2			
* Project may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project may result in the burial of "hazardous wastes" (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
* Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD</b>			
18. Will the Project affect the character of the existing community? Yes ____; No ____.			
<b>Examples that would apply to column 2</b>			
* The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* The municipal budgets for capital expenditures or operating services will increase by more than 5% per year as a result of this project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will conflict with officially adopted plans or goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will cause a change in the density of land use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will replace or eliminate existing facilities, structures or areas of historic importance to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Development will create a demand for additional community services (e.g. schools, police, fire, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Project will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
* Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

19. Is there, or is there likely to be, public controversy concerning the Project?  
 Yes\_\_\_\_; No\_\_\_\_.

**Examples** that would apply to column 2

- \* Either government or citizens of adjacent communities have expressed opposition or rejected the Project or have not been contacted.
- \* Objections to the Project from within the community.

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> YES <input type="checkbox"/> NO

## PART 6. DISCUSSION OF ENVIRONMENTAL IMPACTS

**GENERAL INFORMATION:** If there are or may be any environmental impacts associated with this proposed Project, please discuss such impacts and the measures which may be taken to mitigate or avoid any adverse impacts associated with this Project. ALL IMPACTS OR EFFECTS IDENTIFIED AS POTENTIALLY LARGE IN COLUMN 2 OF PART 5 OF THIS ENVIRONMENTAL ASSESSMENT FORM MUST BE DESCRIBED IN THIS PART, EVEN IF THE IMPACT(S) MAY BE MITIGATED. Please answer the following questions briefly but fully. Use additional paper if needed.

1. **What is the primary purpose of the proposed legislation?**

controlled; (e) the regional consequences of the impact; (f) the potential divergence of the impact from local needs and goals; and (g) whether known objections to the Project apply to this impact:

5. Describe alternatives, if any, to the Project:

6. Describe any irreversible and irretrievable commitments of resources which would be included should the Project be implemented:

7. Describe the mitigation measures, if any, proposed to minimize the potential environmental impact:

8. Describe the growth inducing aspects of the Project:

9. Describe the effects of the Project on the use and conservation of energy resources:

10. List any studies, reports or other information upon which the answers to the above questions are based:

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(Applicant)

By: \_\_\_\_\_  
Secretary

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NOTE: APPLICANT MUST COMPLETE THE APPROPRIATE VERIFICATION APPEARING ON PAGES 32 THROUGH 34 HEREOF BEFORE A NOTARY PUBLIC

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## VERIFICATION

(if Applicant is a corporation)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_ deposes and says that he is the  
(Name of chief executive officer of applicant)

\_\_\_\_ of \_\_\_\_\_,  
(Title) (Company name)

the corporation named in the attached environmental assessment form; that he has read the foregoing environmental assessment form and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. Deponent further says that the reason this verification is made by the deponent and not by said company is because the said company is a corporation.

The grounds of deponent's belief relative to all matters in the said environmental assessment form which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this environmental assessment form as well as information acquired by deponent in the course of his duties as an officer of and from the books and papers of said corporation.

(chief officer of applicant)

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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## Notary Public

## VERIFICATION

(If applicant is partnership)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, deposes and says that he is one of the members  
(Name of Individual)  
of the firm of \_\_\_\_\_,  
(partnership name)

the partnership named in the attached environmental assessment form; that he has read the foregoing environmental assessment form and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said environmental assessment form which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this environmental assessment form as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said partnership.

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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## Notary Public

## VERIFICATION

(if applicant is sole proprietor)

STATE OF \_\_\_\_\_ )  
 ) SS.:  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, deposes and says that  
(Name of individual)

he has read the following environmental assessment form and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said environmental assessment form which are not stated upon his own personal knowledge, are investigations which deponent has caused to be made concerning the subject matter of this environmental assessment form.

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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## Notary Public

**PART 18**  
**UNIFORM TAX EXEMPTION POLICY**

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

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

- (A) “Administrative fee” shall mean a charge imposed by the Agency to an applicant or project occupant for the administration of project.
- (B) “Agency fee” shall mean the normal charges imposed by the Agency on an applicant or a project occupant to compensate the Agency for the Agency’s participation in a project. The term “Agency fee” shall include not only the Agency’s normal Administrative fee, but also may include (1) reimbursement of the Agency’s expenses, (2) rent imposed by the Agency for use of the property of the Agency, and (3) other similar charges imposed by the Agency.
- (C) “Applicant” shall mean an applicant for financial assistance.
- (D) “City” shall mean any city located in the County.
- (E) “County” shall mean the County of Albany.
- (F) “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.
- (G) “School District” shall mean any school district located in the County.
- (H) “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.
- (I) “Town” shall mean any town located in the County.
- (J) “Village” shall mean any village located in the County.

**SECTION 1803. GENERAL PROVISIONS.** (A) General Policy. The general policy of the Agency is to grant tax exemption as hereinafter set forth to any project which has been or will be (1) financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto or (2) otherwise assisted by the Agency pursuant to a straight lease transaction (as defined under Section 854(15) of the Act).

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

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

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

(B) Period of Exemption. Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the "tax exemption period") shall be determined as follows:

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

(2) Early Commencement. The tax exemption period may, at the discretion of the Agency, commence earlier than (i) the date of issuance by the Agency of the Agency's debt relating to the project or (ii) the execution and delivery of the straight lease transaction, 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, said resolution to be substantially in the form of Appendix 18A attached hereto, (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 Chairman of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.

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

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

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

(1) items incorporated into the real property;

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

(3) the rental of tools and other items necessary for the construction, reconstruction 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, reconstructing and/or equipping the project, if purchased as agent of the Agency.

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

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

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

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

(E) Percentage of Exemption. Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of the Agency's involvement in the project. If an exemption of less than one hundred percent (100%) is determined by the Agency, then the applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax

liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the affected tax jurisdictions in accordance with Section 874(3) of the Act.

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

(G) Required Filings. (1) 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.

(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.

(H) Required Reports and Records. 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 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.

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

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

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

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

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

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

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

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

(F) PILOT Payments. If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a "non-exempt 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 non-exempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in accordance with Section 874(3) of the Act.

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

(B) 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 are timely filed with the appropriate officials.

SECTION 1807. REAL ESTATE TAX EXEMPTION. (A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes (but not exempt from special assessments and special ad valorem levies). However, it is the general policy of the Agency that, notwithstanding the

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

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

(1) Amount of Abatement: (A) The general policy of the Agency is not to provide the applicant and/or project occupant with any abatement other than abatements allowed under Section 485-b of the Real Property Tax Law and applicable ordinances and local laws of the City, Town or Village in which the project is located. Accordingly, the amount of any PILOT payment would equal the amount of taxes that would be levied on the project by the affected taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. If an applicant or project occupant desires to obtain an exemption under Section 485-b or any other abatement provided by State and/or local law, it is the responsibility of the applicant and/or project occupant to apply for same.

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

(3) 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 same officials which assess, bill and collect normal taxes levied by such affected tax jurisdiction. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each affected tax jurisdiction within thirty (30) days of receipt.

(4) 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.

(5) Local Approval. Prior to entering into any proposed PILOT Agreement, the Agency shall, in its sole and absolute discretion, attempt to obtain written consent of the PILOT Agreement from all of the affected tax jurisdictions. Any such approval shall be evidenced by a resolution of the governing boards of each town, village and school district in which the Project is

located, and the County Executive with respect to the County, in each case, in form and substance satisfactory to the Agency. In the event that the Agency is not able to obtain the consents of all the affected tax jurisdictions to the proposed PILOT Agreement, the Agency may enter into such PILOT Agreement without the consents of such affected tax jurisdictions.

(D) 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.

(E) 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 applicable Taxing Jurisdiction, 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.

(F) PILOT Expiration. Pursuant to Section 858(15) of the Act, as amended, the Agency shall deliver a notification to the affected tax jurisdictions regarding the termination of each PILOT Agreement (1) two (2) years prior to the schedule expiration of the PILOT Agreement or (2) immediately upon any early termination of the PILOT Agreement.

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

(1) the amount of the tax exemption, the amount and nature of the PILOT, the duration of the exemption and of the PILOT and whether or not an exemption of any kind shall be granted and shall impose such terms and conditions as shall be just and proper; and

(2) the Agency shall give written notice of the proposed deviation from the policy set forth herein to each affected Taxing Jurisdiction setting forth the terms and conditions of the deviation and the reasons therefor. Such notice to the affected tax jurisdictions shall be given to the chief executive officer of each affected tax jurisdiction via certified mail, return receipt requested, or via an electronic correspondence with a read-receipt. With respect to any school districts, the chief executive officer shall include (a) the president of the board of education of the school district (b) the superintendent of the school district, and (c) the district clerk of the school district. Prior to taking any final action on a proposed deviation, the Agency shall review and respond to any correspondence received from any affected tax jurisdiction regarding the proposed deviation and allow any representative of an affected tax jurisdiction present at such meeting to address the Agency regarding the proposed deviation.

(B) Troubled Projects. Where a project is owned and operated by the Agency or has been acquired by the Agency for its own account after a failure of a project occupant, the project shall at the option of the Agency be exempt from all taxes in accordance with law.

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

SECTION 1809. ANNUAL REVIEW OF POLICIES. (A) General. At least annually, the Agency shall review its tax exemption policies to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate. Unless otherwise provided by resolution, such annual review shall take place at the regular June meeting of the Agency, notice for comments on such policies shall be circulated as provided by law for input from Albany County and all the other affected tax jurisdictions, and adoption of any changes shall take effect upon approval by the Agency. The Chairman shall be responsible for conducting an annual review of the tax exemption policy and for an evaluation of the internal control structure established to ensure compliance with the tax exemption policy which shall be submitted to the Agency for approval.

APPENDIX 18A

SAMPLE INTERIM SALES TAX EXEMPTION RESOLUTION

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

RESOLUTION TEMPORARILY APPOINTING \_\_\_\_\_ (THE "COMPANY") AS AGENT OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY FOR THE PURPOSE OF UNDERTAKING AND COMPLETING A PROJECT TO BE LOCATED AT \_\_\_\_\_ IN THE \_\_\_\_\_ OF \_\_\_\_\_, ALBANY COUNTY, NEW YORK.

WHEREAS, Albany County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act"), and Chapter 178 of the 1975 Laws of New York, as amended, constituting Section 903-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its industrial development revenue bonds to finance the cost of acquisition, construction and installation of one or more "projects" (as defined in the Act), to acquire, construct and install said projects or to cause said projects to be acquired, constructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, \_\_\_\_\_ (the "Company") has presented an application (the "Application") to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project (the "Project") consisting of: [insert project description]; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the "SEQR Act"), by resolution adopted on \_\_\_\_\_ (the "SEQR Resolution"), the Agency has determined that the Project will not have a significant effect on the environment and therefore that an environmental impact statement is not required to be prepared with respect to the Project; and

WHEREAS, by further resolution adopted on \_\_\_\_\_ (the "Inducement Resolution"), the Agency has (A) determined that the procedural requirements of Section 859-a of the Act have been fulfilled and therefore has decided to proceed with the granting of the financial assistance described in Section 2 of the Inducement Resolution (the "Financial Assistance"), and (B) approved the execution of a lease agreement or an installment sale agreement (the "Project Agreement") and related documentation between the Agency and the Company with respect to the Project; and

WHEREAS, although the Project Agreement and the related documentation have not yet been prepared, the Company has indicated to the Agency that the Company desires to commence the Project prior to completion of said Project Agreement and related documentation; and

WHEREAS, in order to preserve the sales tax exemption which forms a major portion of the Financial Assistance, the Agency now desires to temporarily formalize its understandings with the Company regarding the undertaking and completion of the Project by the Company as agent of the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. In order to preserve the sales tax exemption which forms a major part of the Financial Assistance, and in order to facilitate the commencement of the Project, the Company is hereby temporarily appointed the true and lawful agent of the Agency (A) to undertake and complete the Project, as the stated agent for the Agency, (B) to make, execute, acknowledge and deliver all contracts, orders, receipts, writings and instruments necessary in connection therewith, and in general to do all things as may be requisite or proper for completing the Project with the same powers and the same validity as the Agency could do if acting in its own behalf and (C) to pay all fees, costs and expenses incurred in the undertaking and completion of the Project from its own funds, subject to reimbursement from the proceeds of the Bonds, if and when the Bonds shall be issued, said temporary appointment to last until earlier to occur of (1) the execution and delivery of the Project Agreement or (2) \_\_\_\_\_, and said temporary appointment to be subject to the following conditions:

(1) The Company will, on behalf of the Agency, undertake and complete the Project in accordance with the plans (the "Plans") of the Company described in the Inducement Resolution and the application of the Company to the Agency referred to therein (the "Application").

(2) The Company will not revise the Plans in any material respect without the prior written consent of the Agency, which consent may not be unreasonably withheld or delayed but may be subject to such reasonable conditions as the Agency may deem appropriate.

(3) Title to all materials, equipment, machinery and other items of property intended to be incorporated in or installed as part of the Project shall vest in the Agency immediately upon delivery to the Project site, at which time such materials, machinery and other items of property shall become the sole property of the Agency. The Company shall execute, deliver and record or file all instruments necessary or appropriate to so vest title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third persons. Title to the Project shall be conveyed by the Agency to the Company pursuant to the provisions of the Project Agreement.

(4) All materials, equipment, machinery and other items of personal property intended to be incorporated in or installed as part of the Project shall be ordered and purchased by the Company, as agent of the Agency, and invoices therefore shall be directed to the Company, as agent of the Agency. The Agency hereby appoints the Company as agent of the Agency to make such purchases of said materials, equipment, machinery and other items of personal property; provided, however, that NO SUCH CONTRACT SHALL RESULT IN THE ASSUMPTION BY THE AGENCY OF ANY OBLIGATION TO PAY ANY COSTS AND EXPENSES, EXCEPT OUT OF THE PROCEDURES OF THE BONDS (IF AND WHEN ISSUED, AND THEN ONLY TO THE EXTENT PROVIDED IN THE INITIAL RESOLUTION), and the Company shall agree to pay all funds necessary to make all payments required under such contracts, subject to reimbursement from the proceeds of the Bonds if the Bonds are issued. It is understood that if the Bonds shall be issued and the proceeds of the Bonds are not sufficient to pay in full all costs of the acquisition, construction and installation of the Project Facility, the Company shall pay such excess costs and shall not be entitled to any reimbursement therefor from the Agency or otherwise.

(5) The Company shall indemnify, defend and hold the Agency (and its members, officers, agents, employees and servants) harmless from all claims and liabilities for labor, services, materials and supplies, including equipment, ordered or used in connection with the undertaking and completion of the Project (including any expenses incurred by the Agency and its members, officers, agents, employees and servants, in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether or not such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to the authority conferred upon it by this Resolution.

(6) The Company shall indemnify, defend and hold the Agency (and its members, officers, agents, employees and servants) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency (and its members, officer, agents, employees and servants) in defending any claims, suits or actions which may result as a result of the foregoing.

(7) The Company shall give or cause to be given all notices and comply or cause compliance with all laws, ordinances, rules, regulations and requirements of all governmental agencies and public authorities applying to or affecting the undertaking and completion of the Project (the applicability of all such laws, ordinances, rules, regulations and requirements shall be determined both as if the Agency were deemed to be the owner of the Project and as if the Company and not the Agency were deemed to be the owner of the Project), and the Company will defend and save the Agency and its officers, members, agents, employees and servants harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the undertaking and completion of the Project shall be procured promptly by the Company.

(8) The Company shall agree, and by executing this Resolution does agree, that as agent for the Agency the Company will comply with all laws applicable to the Agency in connection with the undertaking and completion of the Project by the Agency (the applicability of all such laws, ordinances, rules, regulations and requirements shall be determined both as if the Agency were deemed to be the owner of the Project and as if the Company and not the Agency were deemed to be the owner of the Project). Such laws shall include, if applicable, Article 8 of the Labor Law of the State of New York, as amended from time to time.

(9) Any costs or expenses incurred by the Agency or by the Company as agent of the Agency with respect to the Project shall, to the extent permitted by law and the Initial Resolution, be paid or reimbursed out of the proceeds of the Bonds, or if the Bonds are not issued by the Agency, shall be paid by the Company.

(10) The Company shall supply the Chairman of the Agency with a general liability insurance policy naming the Company and the Agency as insureds and providing coverage in minimum amounts reasonably acceptable to the Chairman and Counsel of the Agency, including coverage for accidents or occurrences on account of personal injury, including death resulting therefrom, and damage to the property of others, excluding liability imposed upon the Company by any applicable workers' compensation law, which insurance policies shall (a) also name the members, officers, agents, employees and servants of the Agency as additional insureds, as their interests shall appear, and (b) also provide contractual liability insurance coverage insuring the Company's obligations pursuant to paragraphs (5) and (6) hereof to indemnify, defend and save harmless the Agency and its members, officers, agents, employees and servants, as their interests shall appear.

(11) The Company shall supply the Chairman of the Agency with policies, or certificates evidencing such policies, of workmen's compensation insurance, disability benefits insurance and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or the Agency who are located at or assigned to work on the Project.

(12) The obligations and agreements of the Agency contained herein shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent (other than the Company), employee or servant of the Agency in his individual capacity, and the members, officers, agents (other than the Company), employees and servants of the Agency shall not be liable personally hereon or be subject to any personal liability of accountability based upon or in respect hereof or of any transaction contemplated hereby.

(13) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Albany County, New York, and neither the State of New York nor Albany County, New York shall be liable thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project (excepting funds payable pursuant to paragraphs (5), (6) and (14) hereof).

(14) Notwithstanding any provision of this resolution to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (a) the Agency shall have been requested to do so in writing by the Company and (b) if compliance with such request is reasonable expected to result in the incurrence by the Agency (or any member, officer, agent (other than the Company), employee or servant of the Agency) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability and for the reimbursement of all such fees, expenses and other costs.

(15) Payment by the Company of the Agency's administrative fee with respect to the Project.

(16) The Company acknowledges receipt of notice of Section 874(8) of the Act, which requires that the Company as agent of the Agency must annually file a statement with the New York State Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, of the value of all sales tax exemptions claimed by the Company under the authority granted by the Agency.

(17) The foregoing appointment of the Company as agent of the Agency is subject to the condition that, in the event that the Bonds are not sold and delivered on or before \_\_\_\_\_ (or such later date as may be agreed to in writing by the Agency), the foregoing appointment of the Company as agent of the Agency may be revoked by the Agency, retroactive to the date of this resolution, and thereupon the Agency shall notify the New York State Department of Taxation and Finance of such revocation.

(18) The Company acknowledges receipt of notice of Section 858-b of the Act, which requires that the Company list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (a) the New York State Department of Labor Community Services Division and (b) the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located.

The Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(19) The following additional conditions: None.

Section 2. This Resolution shall take effect upon the date that all of the following shall have occurred: (a) the Company shall have accepted the provisions of this Resolution; (b) the Company shall have delivered two copies of this Resolution, with the acceptance clauses thereof fully executed by the Company, to the Chairman of the Agency; (c) the Company shall have obtained the insurance policies required by paragraphs (10) and (11) of Section 1 hereof and shall have delivered evidence thereof to the Chairman of the Agency, such evidence to be in such form as the Chairman of the Agency shall deem appropriate, (d) the Company shall have paid the Agency's administrative fee with respect to the Project and (e) the Agency shall deliver to the Company a copy of this Resolution with the receipt and acknowledgment executed by the Agency.

## ACCEPTANCE

The Company hereby accepts the appointment to act as agent of the Agency in connection with the Project and the Company accepts the provisions of this Resolution, including the conditions contained in Section 2 of this Resolution, and agrees to comply with such provisions and conditions.

IN WITNESS WHEREOF, the Company has caused this Acceptance to be executed in its name as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

---

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

RECEIPT

The undersigned hereby acknowledges receipt of the items called for in Section 2 of this Resolution and acknowledges that therefore this Resolution is in full force and effect.

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
(Vice) Chairman

## APPENDIX 18B

### SAMPLE SALES TAX CONFIRMATION LETTER WHERE EXEMPTION IS PERMANENT

\_\_\_\_\_, \_\_\_\_\_

To Whom It May Concern:

Re: New York State Sales or Use Tax Exemption  
Albany County Industrial Development Agency  
\_\_\_\_\_  
Project

Pursuant to TSB-M-87(7) issued by the New York State Department of Taxation and Finance on April 1, 1987 (the "Policy Statement"), you have requested a letter from Albany County Industrial Development Agency (the "Agency") containing the information required by the Policy Statement regarding the temporary appointment by the Agency of \_\_\_\_\_ (the "Company") as agent of the Agency for purposes of affording the Company a sales tax exemption with respect to supplies, materials, fixtures and equipment intended to be incorporated in or installed as part of the following described project (the "Project"), as well as a sales tax exemption for all labor and other services used in connection with the acquisition and installation of said Project, to wit: [insert project description].

Please be advised that on \_\_\_\_\_, \_\_\_, the Agency, a public benefit corporation and a governmental agency of the State of New York, adopted a resolution whereby the Issuer appointed the Company as its agent to undertake and complete the Project.

This is to certify that, under the Policy Statement, purchases by the Agency, through its agent, the Company, of materials and equipment to be incorporated into the Project, as well as purchases of supplies, tools, equipment, or services necessary to undertake and/or complete the Project, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

It is hereby further certified that, under the Policy Statement, since the Agency is a public benefit corporation, neither the Agency, nor the Company as its agent, is required to furnish an "Exempt Organization Certificate" in order to secure exemption from any sales or use tax for such items or services.

Under the Policy Statement, a copy of this letter retained by any vendor or seller to the Company, as agent for the Agency, may be accepted by such vendor or seller as a "statement and additional documentary evidence of such exemption" as provided by New York State Tax Law 1132(c)(2), thereby relieving such vendor or seller from the obligation to collect any sales or use tax upon purchases or rentals of such materials, supplies, tools, equipment, or services by the Issuer through its agent, the Company.

THIS LETTER SHALL BE IN EFFECT UNTIL \_\_\_\_\_.

In the event you have any questions with respect to the above, please do not hesitate to call me.

Very truly yours,

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

## APPENDIX 18C

### SAMPLE SALES TAX CONFIRMATION LETTER WHERE EXEMPTION IS TENTATIVE

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
To Whom It May Concern:

Re: Tentative New York State Sales or Use Tax Exemption  
Albany County Industrial Development Agency  
Project

Pursuant to TSB-M-87(7) issued by the New York State Department of Taxation and Finance on April 1, 1987 (the "Policy Statement"), you have requested a letter from Albany County Industrial Development Agency (the "Agency") containing the information required by the Policy Statement regarding the temporary appointment by the Agency of \_\_\_\_\_ (the "Company") as agent of the Agency for purposes of affording the Company a sales tax exemption with respect to supplies, materials, fixtures and equipment intended to be incorporated in or installed as part of the following described project (the "Project"), as well as a sales tax exemption for all labor and other services used in connection with the acquisition and installation of said Project, to wit: [insert project description].

Please be advised that on \_\_\_\_\_, \_\_\_, the Agency, a public benefit corporation and a governmental agency of the State of New York, adopted a resolution whereby the Issuer appointed the Company as its agent to undertake and complete the Project, SUBJECT TO THE CONDITION THAT IN THE EVENT THAT THE BONDS ARE NOT SOLD AND DELIVERED ON OR BEFORE \_\_\_\_\_ (OR SUCH LATER DATE AS MAY BE AGREED TO IN WRITING BY THE AGENCY), THE FOREGOING APPOINTMENT OF THE COMPANY AS AGENT OF THE AGENCY MAY BE REVOKED BY THE AGENCY, RETROACTIVE TO THE DATE OF THIS RESOLUTION, AND THEREUPON THE AGENCY SHALL NOTIFY THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE OF SUCH REVOCATION.

This is to certify that, under the Policy Statement, purchases by the Agency, through its agent, the Company, of materials and equipment to be incorporated into the Project, as well as purchases of supplies, tools, equipment, or services necessary to undertake and/or complete the Project, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

It is hereby further certified that, under the Policy Statement, since the Agency is a public benefit corporation, neither the Agency, nor the Company as its agent, is required to furnish an "Exempt Organization Certificate" in order to secure exemption from any sales or use tax for such items or services.

Under the Policy Statement, a copy of this letter retained by any vendor or seller to the Company, as agent for the Agency, may be accepted by such vendor or seller as a "statement and additional documentary evidence of such exemption" as provided by New York State Tax Law 1132(c)(2), thereby relieving such

vendor or seller from the obligation to collect any sales or use tax upon purchases or rentals of such materials, supplies, tools, equipment, or services by the Issuer through its agent, the Company.

THIS LETTER SHALL BE IN EFFECT UNTIL \_\_\_\_\_.

In the event you have any questions with respect to the above, please do not hesitate to call me.

Very truly yours,

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

APPENDIX 18D  
SAMPLE MORTGAGE TAX EXEMPTION AFFIDAVIT

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IN THE MATTER OF TAXATION

OF

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

---

STATE OF NEW YORK )  
                          ) SS.:  
COUNTY OF ALBANY    )

The undersigned, being duly sworn, deposes and says:

1. That he resides at \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_, Albany County, New York, and is the (Vice) Chairman of Albany County Industrial Development Agency (the "Agency"), a public benefit corporation of the State of New York, established by Title 1 of Article 18-A of the General Municipal Law of the State of New York and Chapter \_\_\_ of the Laws of \_\_\_ of the State of New York, (collectively, the "Act").

2. That, on or about \_\_\_\_\_, \_\_\_\_, the Agency will acquire certain real property (for convenience hereinafter referred to as the "Land") situate in the \_\_\_ of \_\_\_\_\_, Albany County, New York, as more particularly described in Exhibit A attached hereto.

3. That, pursuant to Section 874 of the Act and Section 1405(b)(1) of the Tax Law of the State of New York, no real estate transfer tax is due upon the instruments conveying the Land to the Agency.

4. That, on or about \_\_\_\_\_, \_\_\_\_, the Agency will issue its Industrial Development Revenue Bond(s) (\_\_\_\_\_ Project), Series \_\_\_ in the principal amount of \$\_\_\_\_\_ (the "Bond(s)") in order to assist in providing financing with which the Agency can undertake a project (the "Project") consisting of [insert project description].

5. That, contemporaneously with the acquisition of the Land, the Agency will enter into an installment sale agreement dated as of \_\_\_\_\_ (the "Installment Sale Agreement") with \_\_\_\_\_ (the "Company") whereby the Company will agree to purchase the Project Facility and will covenant to pay basic installment purchase payments, in the amount required by the Installment Sale Agreement, which basic installment purchase payments are to be paid directly to \_\_\_\_\_, as [holder (the "Holder")] [trustee for the holders (the "Trustee")] of the Bond(s).

6. That, contemporaneously with the issuance of the Bond(s), the Agency will deliver to the [Holder] [Trustee] (A) a mortgage from the Agency and the Company to the [Holder] [Trustee] dated as of \_\_\_\_\_ (the "Mortgage") whereby the Agency grants to the [Holder] [Trustee] a Lien on and security interest in the Project Facility to secure the payment of the Bond(s) and the Company joins in said Mortgage to subject its interest in the Project Facility to the lien thereof, (B) a pledge and assignment from the Agency to the [Holder] [Trustee] dated as of \_\_\_\_\_ (the "Pledge and Assignment")

whereby the Agency assigns to the [Holder] [Trustee] certain of its rights in the Installment Sale Agreement and certain moneys due the Agency thereunder to further secure the payment of the principal of, premium, if any, and interest on the Bond(s), and (C) an assignment of leases and rents from the Agency and the Company to the [Holder] [Trustee] dated as of \_\_\_\_\_ (the "Assignment of Rents") which assigns to the [Holder] [Trustee] all leases affecting the Project Facility (the "Leases") and the rents payable thereunder.

7. Pursuant to Article 18-A of the General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction or control or supervision or upon its activities, and any bonds or notes issued by the Agency, together with the income therefrom, as well as the property of the Agency, together with the income therefrom, as well as the property of the Agency, pursuant to such legislation, are exempt from taxation, except for transfer and estate taxes.

8. Deponent submits that no mortgage tax should be imposed upon the Installment Sale Agreement (or a memorandum thereof), the Pledge and Assignment, the Leases (or memoranda thereof), the Assignment of Rents, or the Mortgage (collectively, the "Recording Documents") because (A) said Recording Documents are being executed and delivered under the state authority creating the Agency, (B) the use by the Agency of its powers to additionally secure the payment of principal, premium, if any, and interest on the Bond(s) and to assist in the acquisition of the Project Facility is deemed by Article 18-A of the General Municipal Law to be a public purpose essential to the public interest, and (C) both the New York State Department of Taxation and Finance and the Counsel have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

BY: \_\_\_\_\_  
(Vice) Chairman

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary Public

EXHIBIT A  
DESCRIPTION OF LAND  
(TO BE PROVIDED BY THE COMPANY)

## PART 19

### PROCEDURES FOR PROCESSING OF PROJECTS

**SECTION 1901. PURPOSE AND AUTHORITY.** The purpose of this Part is to outline the procedures utilized by Albany County Industrial Development Agency (the “Agency”) pursuant to Section 903-b of the General Municipal Law and Title One of Article 18-A of the General Municipal Law (collectively, the “Act”) to process applications for financial assistance (within the meaning of Section 854(14) of the Act).

#### SECTION 1902. APPLICATIONS.

(A) General. The Agency shall not entertain a request for financial assistance unless the applicant shall first have filed an application with the Agency and paid the application fee of the Agency.

(B) Form. Each application shall be submitted on the official application form of the Agency. The official application form of the Agency is attached to this Part as Appendix 19A.

(C) Execution. Both the application and the indemnification agreement attached thereto must be signed by (1) an authorized officer of the applicant (if the applicant is a corporation), or (2) an authorized general partner of the applicant (if the applicant is a partnership), or (3) an authorized member of the applicant (if the applicant is a limited liability company), or (4) the applicant (if the applicant is an individual).

(D) Application Information. Each application must include:

(1) the name, address and telephone number of the applicant and, if applicable, the name of applicant’s chief executive officer or other official to whom inquiries should be addressed;

(2) the name, address and telephone number of applicant’s attorney, if any;

(3) a general, functional description of the type and use of the project for which financial assistance is sought (the “Project”);

(4) the prospective location of the Project;

(5) the initial owner, operator or manager of the Project, and whether any of same is a not-for-profit corporation;

(6) the name and address of each owner of the Project;

(7) a general description of the type of financial assistance being sought with respect to the Project;

(8) the estimated value of each type of tax exemption being sought with respect to the Project;

(9) whether any tax exemption sought is not consistent with the Agency’s tax exemption policy contained in Part 18 of these Rules and Regulations;

(10) an estimate of the total number of jobs to be created and/or retained by the Project;

(11) an analysis of the costs and benefits of undertaking the project in a form made available to the applicant by the Agency;

(12) if a sales tax exemption is sought with respect to the Project, the Agreement of the applicant to file or cause to be filed with the New York State Department of Taxation and Finance the annual statements required by Section 874(8) of the Act;

(13) the agreement of the applicant that, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOC") and with the administrative entity (the "Local Labor Office") of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)), such programs collectively with the DOC, hereinafter referred to as the "Workforce Investment Program";

(14) the agreement by the applicant that, except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in the Workforce Investment Program who shall be referred by DOC and the Local Labor Office for new employment opportunities created as a result of the Project;

(15) whether the Project includes facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities, and if so, sufficient additional information to permit the Agency to ascertain whether the Project is potentially eligible for financial assistance pursuant to Section 862(2) of the Act;

(16) verification that the applicant has obtained a list of the members, officers and employees of the Agency;

(17) a statement describing the interest of any member, officer or employee of the Agency and their immediate family members, if any, whether direct or indirect, in any of the transactions contemplated by the application; and

(18) any other information requested by the Agency.

(E) Bond Counsel. Bond Counsel of the Agency will meet with the staff of the Agency and the Agency's Counsel to discuss the proposed project and the proposed financial assistance.

(F) SEQR Documents. Each application shall be accompanied (1) by the documents required pursuant to Part 17 of these Rules and Regulations, (2) by written explanation as to why such documents are not readily available, and/or (3) by a discussion describing what role the Agency will take in the SEQR review process.

(G) Place for Filing. Applications shall be filed by mailing or delivering one (1) copy of the application, together with an equal number of copies of each accompanying document, to the attention of the Chairman of the Agency at the principal office of the Agency, presently located at 112 State Street, Room 740, Albany, New York 12207.

(H) Form of Transmission. All materials submitted to the Agency must be submitted in “hard” copy form. The Agency will not accept e-mail transmissions unless expressly authorized by the Agency or expressly requested by the Agency. The Agency reserves the right to request e-mail transmissions of documents and communications.

## SECTION 1903. PROCEDURES FOR PROCESSING PROJECTS.

(A) Distribution. In advance of the meeting where the application will be considered, the Chief Executive Officer of the Agency shall examine same to determine compliance with the requirements of Section 1902 of this Part. If the application appears to substantially comply with such requirements, the Chief Executive Officer of the Agency shall distribute one copy of the summary of the application and the documentation accompanying same (together with a memorandum describing any deviations from the requirements of Section 1902 of this Part, if any) to each of the following:

- (1) the Chairman of the Agency;
- (2) counsel to the Agency;
- (3) each of the members of the Agency; and
- (4) the parties described in Section 1102 of Part 11.

(B) Preliminary Agency Action. (1) Once the application has been distributed pursuant to Section 1903(A) hereof, Bond Counsel/Special Counsel to the Agency shall contact counsel to the applicant (or Agency staff will contact the applicant) to discuss, subject to approval by the members of the Agency, to a time schedule whereby the Agency will consider the application, entertain resolutions and provide the financial assistance requested in the application. Except as otherwise determined by the Agency, prior to the Agency taking any preliminary action with respect to an application, the Agency staff shall first submit the application to the Finance Committee of the Agency for preliminary review and consideration. Once the Finance Committee has reviewed the application and has made a recommendation to the full board of the Agency that the Agency take preliminary action with respect to the application, the Agency staff will then submit the application for consideration by the full board of the Agency. Preliminary action by the Agency shall consist of the adoption by the Agency of (a) a preliminary official action resolution (the “Preliminary Inducement Resolution”) approving the execution and delivery of a preliminary agreement describing the financial assistance to be granted by the Agency for projects involving the issuance of bonds, and (b) a public hearing resolution for projects involving “straight lease” transactions (the “Public Hearing Resolution,” and, collectively with the Preliminary Inducement Resolution, the “Preliminary Resolution”). Bond Counsel/Special Counsel shall be responsible for preparing the preliminary official action resolution or the public hearing resolution, as the case may be, and filing same with the Agency in conformance with the deadlines described in (E) below.

(2) Pursuant to Section 859-a(1-a) of the Act, the Agency shall deliver a copy of the Preliminary Resolution via certified mail, return receipt requested or an electronic correspondence with a read-receipt, to the chief executive officer of each affected tax jurisdiction. For purposes of this section, the chief executive officer of each school district shall include (a) the president of the board of education of the school district (b) the superintendent of the school district, and (c) the district clerk of the school district.

(C) Subsequent Agency Action. Any subsequent action by the Agency with respect to an Agency Project shall typically consist of SEQR resolutions and final approval/bond resolutions. Bond

Counsel/Special Counsel shall be responsible for preparing such resolutions, and filing same with the Agency in conformance with the deadlines described in (E) below.

(D) Term of Preliminary Resolution. Any preliminary agreement authorized by a preliminary official action resolution shall have a term of twelve (12) months. If the Project has not closed within the twelve (12) month period provided in the preliminary agreement, the applicant must provide a written report to the Agency regarding the status of the Project. The term of the preliminary agreement may be renewed for one additional twelve (12) month period. If the Project has not closed within the second twelve (12) month period, the preliminary agreement will terminate and the applicant must re-apply to the Agency for any financial assistance.

(E) Filing Deadline. Except as otherwise determined by the Agency and except as otherwise provided in Section 1903(B) hereof, an application will not be considered at a meeting of the Agency unless it is filed and meets the requirements of Section 1902 of this Part at least fifteen (15) calendar days before the next scheduled meeting of the Agency. Any and all resolutions must also be filed with the Agency at least six (6) calendar days before the next scheduled meeting of the Agency. The applicant or Bond Counsel/Special Counsel must submit at least one (1) copy of all resolutions to the Agency. The applicant and Bond Counsel/Special Counsel are responsible for conferring with the Agency staff to ensure that all applications and resolutions are delivered timely to the Agency. The regular meeting schedule of the Agency is the first Wednesday of each month. The regular meeting schedule of the Finance Committee of the Agency is the [\_\_\_\_\_] of each month.

## APPENDIX 19A

### ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

#### APPLICATION

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**IMPORTANT NOTICE:** The answers to the questions contained in this application are necessary to determine your firm's eligibility for financing and other assistance from Albany County Industrial Development Agency (the "Agency"). These answers will also be used in the preparation of papers in this transaction. Accordingly, all questions should be answered accurately and completely by an officer or other employee of your firm who is thoroughly familiar with the business and affairs of your firm and who is also thoroughly familiar with the proposed project. This application is subject to acceptance by the Agency.

---

TO: ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
111 Washington Ave Suite 100  
Albany, New York 12210

This application by applicant respectfully states:

APPLICANT: \_\_\_\_\_

APPLICANT'S ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

NAME OF PERSON(S) AUTHORIZED TO SPEAK FOR APPLICANT WITH RESPECT TO THIS APPLICATION: \_\_\_\_\_

IF APPLICANT IS REPRESENTED BY AN ATTORNEY, COMPLETE THE FOLLOWING:

NAME OF ATTORNEY: \_\_\_\_\_

ATTORNEY'S ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

---

NOTE: PLEASE READ THE INSTRUCTIONS ON PAGE 2 HEREOF BEFORE FILLING OUT THIS FORM.

---

## 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 an action.
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 this application (the “Project”).
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.
5. When completed, return one (1) original copy and one (1) electronic copy of this application to the Agency at the address indicated on the first page of this application.
6. The Agency will not give final approval to this application until the Agency receives a completed environmental assessment form concerning the Project which is the subject of this application.
7. Please note that Article 6 of the Public Officers Law declares 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 or information, the nature of which is such that 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. The applicant will be required to pay to the Agency all actual costs incurred in connection with this application and the Project contemplated herein. The applicant will also be expected to pay all costs incurred by general counsel and bond counsel/special counsel to the Agency. The costs incurred by the Agency, including the Agency’s general counsel and bond counsel/special counsel, may be considered as a part of the project and included as a part of the resultant bond issue.
9. The Agency has established an application fee of One-Thousand Five-Hundred Dollars (\$1,500) to cover the anticipated costs of the Agency in processing this application. A check or money order made payable to the Agency must accompany each application. **THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS ACCOMPANIED BY THE APPLICATION FEE.**
10. The Agency has also established an administrative fee equal to (A) one percent (1%) of the cost of the Project in the case of an Agency Straight Lease Transaction, and (B) one percent (1%) of the bonds to be issued by the Agency in the case of an Agency Bond Transaction (collectively, the “Closing Fee”). The Agency has also established an administrative fee for the issuance of refunding bonds for Agency Bond transactions. **THESE FEES ARE PAYABLE ON THE CLOSING DATE.**

**FOR AGENCY USE ONLY**

1. Project Number	_____
2. Date application received by the Agency	_____, 20____
3. Date application referred to attorney for review	_____, 20____
4. Date copy of application mailed to members	_____, 20____
5. Date notice of Agency meeting at which the Agency shall consider the application was posted	_____, 20____
6. Date notice of Agency meeting at which the Agency shall consider the application was mailed	_____, 20____
7. Date of Agency meeting at which the Agency shall consider the application	_____, 20____
8. Date Agency adopts the Preliminary Inducement Resolution (if Bond Project)	_____, 20____
9. Date Agency adopts the Public Hearing Resolution (if Straight Lease Project)	_____, 20____
10. Date Preliminary Resolution Mailed	_____, 20____
11. Date Public Hearing Notice Mailed	_____, 20____
12. Resolution authorizing mailing of PILOT Deviation Notice Letter (if applicable)	_____, 20____
13. Date PILOT Deviation Notice Letter mailed (if applicable)	_____, 20____
14. Date scheduled for public hearing	_____, 20____
15. Date Environmental Assessment Form (“EAF”) received	_____, 20____
16. Date Agency completed environmental review	_____, 20____
17. SEQR Resolution adopted	_____, 20____
18. PILOT Deviation Approval Resolution adopted (if applicable)	_____, 20____
19. Approving Resolution adopted	_____, 20____
20. Final Project Agreement Posted to Website	_____, 20____

## SUMMARY OF PROJECT

Applicant: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Occupant: \_\_\_\_\_

Project Street Address: \_\_\_\_\_

Approximate Size of Project Site: \_\_\_\_\_

Description of Project: \_\_\_\_\_

\_\_\_\_\_

Type of Project:       Manufacturing       Warehouse/Distribution  
                             Commercial       Other – Specify

Employment Impact: Existing Jobs: Full Time: \_\_\_\_\_ Part-Time: \_\_\_\_\_

                            New Jobs Full Time: \_\_\_\_\_ Part-Time: \_\_\_\_\_

Project Cost: \$ \_\_\_\_\_

Type of Financing:       Tax-Exempt       Taxable       Straight Lease

Amount of Bonds Requested: \$ \_\_\_\_\_

Estimated Value of Tax-Exemptions:

N.Y.S. Sales and Compensating Use Tax:	\$ _____
Mortgage Recording Taxes:	\$ _____
Real Property Tax Exemptions:	\$ _____
Other (please specify):	\$ _____

Provide estimates for the following:

Number of Full Time Employees at the Project Site before IDA Status: \_\_\_\_\_

Estimate of Jobs to be Created: \_\_\_\_\_

Estimate of Jobs to be Retained: \_\_\_\_\_

Average Estimated Annual Salary of Jobs to be Created: \_\_\_\_\_

Annualized Salary Range of Jobs to be Created: \_\_\_\_\_

Estimated Average Annual Salary of Jobs to be Retained: \_\_\_\_\_

I. Proposed occupant of Project (hereinafter, the “Company”).

A. Company Name: \_\_\_\_\_

Present Address: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Employer's ID No.: \_\_\_\_\_

B. If the Company differs from the Applicant, give details of relationship: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

C. Indicate type of business organization of Company:

1. \_\_\_\_\_ Corporation (If so, incorporated in what country? \_\_\_\_\_; What State? \_\_\_\_\_; Date Incorporated? \_\_\_\_\_; Type of Corporation? \_\_\_\_\_; Authorized to do business in New York? \_\_\_\_\_ yes \_\_\_\_\_ no).
2. \_\_\_\_\_ Partnership (If so, indicate type of partnership \_\_\_\_\_, Number of general partners \_\_\_\_\_, Number of limited partners \_\_\_\_\_).
3. \_\_\_\_\_ Limited liability company (If so, formed in what State? \_\_\_\_\_, Date formed? \_\_\_\_\_, Authorized to do business in New York? \_\_\_\_\_).
4. \_\_\_\_\_ Sole proprietorship.

D. Is the Company a subsidiary or direct or indirect affiliate of any other organization(s)? If so, indicate name of related organization(s) and relationship:  
\_\_\_\_\_  
\_\_\_\_\_.

E. Management of Company:

1. List all owners, officers, members, directors and partners (complete all columns for each person):

NAME (First, Middle, Last) HOME ADDRESS	OFFICE HELD	OTHER PRINCIPAL BUSINESS

2. Is the Company or management of the Company now a plaintiff or a defendant in any civil or criminal litigation? \_\_\_\_\_ yes \_\_\_\_\_ no.

3. Has any person listed above ever been convicted of a criminal offense (other than a minor traffic violation)?  yes  no.
4. Has any person listed above or any concern with whom such person has been connected ever been in receivership or been adjudicated a bankrupt?  yes  no. If yes to any of the foregoing, furnish details in a separate attachment.
- F. Principal owners of Company: Is Company publicly held?  yes  no. If yes, list exchanges where stock traded: \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

If no, list all stockholders having a 5% or more interest in the Company:

NAME	ADDRESS	PERCENTAGE OF HOLDING

G. Company's Principal Bank(s) of account: \_\_\_\_\_  
\_\_\_\_\_.

II. Information concerning lease or sublease of the project. (Please complete the following section if the Company intends to lease or sublease the Project).

- A. Does the Company intend to lease or sublease more than 10% (by area or fair market value) of the Project?  yes  no. If yes, please provide detail.
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

- B. What percentage of the space intended to be leased or subleased is now subject to a binding written lease or sublease? \_\_\_\_\_.

C. 1. Sublessee name: \_\_\_\_\_

Present Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Employer's ID No.: \_\_\_\_\_

Sublessee is: \_\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship

Relationship to Company: \_\_\_\_\_

Percentage of Project to be leased or subleased: \_\_\_\_\_

Use of Project intended by Sublessee: \_\_\_\_\_

Date of lease or sublease to Sublessee: \_\_\_\_\_

Term of lease or sublease to Sublessee: \_\_\_\_\_

2. Sublessee name: \_\_\_\_\_

Present Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Employer's ID No.: \_\_\_\_\_

Sublessee is: \_\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship

Relationship to Company: \_\_\_\_\_

Percentage of Project to be leased or subleased: \_\_\_\_\_

Use of Project intended by Sublessee: \_\_\_\_\_

Date of lease or sublease to Sublessee: \_\_\_\_\_

Term of lease or sublease to Sublessee: \_\_\_\_\_

3. Sublessee name: \_\_\_\_\_

Present Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Employer's ID No.: \_\_\_\_\_

Sublessee is: \_\_\_\_\_ Corporation: \_\_\_\_\_ Partnership: \_\_\_\_\_ Sole Proprietorship

Relationship to Company: \_\_\_\_\_

Percentage of Project to be leased or subleased: \_\_\_\_\_

Use of Project intended by Sublessee: \_\_\_\_\_

Date of lease or sublease to Sublessee: \_\_\_\_\_

Term of lease or sublease to Sublessee: \_\_\_\_\_

III. Data regarding Proposed Project

A. Summary: (Please provide a brief narrative description of the Project.)

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B. Location of Proposed Project:

1. Street Address: \_\_\_\_\_
2. City of \_\_\_\_\_
3. Town of \_\_\_\_\_
4. Village of \_\_\_\_\_
5. County of \_\_\_\_\_

C. Project Site:

1. Approximate size (in acres or square feet) of Project site: \_\_\_\_\_. Is a map, survey, or sketch of the project site attached? \_\_\_\_ yes \_\_\_\_ no.
2. Are there existing buildings on project site? \_\_\_\_ yes \_\_\_\_ no. If yes, indicate number and approximate size (in square feet) of each existing building:

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3. Are existing buildings in operation? \_\_\_\_ yes \_\_\_\_ no.  
If yes, describe present use of present buildings: \_\_\_\_\_

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Are existing buildings abandoned? \_\_\_\_ yes \_\_\_\_ no. About to be abandoned? \_\_\_\_ yes \_\_\_\_ no. Attach photograph of present buildings.

4. Utilities serving project site:

- Water-Municipal: \_\_\_\_\_  
Other (describe) \_\_\_\_\_
- Sewer-Municipal: \_\_\_\_\_  
Other (describe) \_\_\_\_\_
- Electric-Utility: \_\_\_\_\_  
Other (describe) \_\_\_\_\_
- Heat-Utility: \_\_\_\_\_  
Other (describe) \_\_\_\_\_

5. Present legal owner of project site: \_\_\_\_\_.

If the Company owns project site, indicate date of purchase: \_\_\_\_\_, 20\_\_\_\_; Purchase price: \$\_\_\_\_\_.

If Company not owner, does Company have option signed with owner to purchase the project site? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, indicate date option signed with owner: \_\_\_\_\_, 20\_\_\_\_.

Date option expires: \_\_\_\_\_, 20\_\_\_\_. If the Company does not own the project site, is there a relationship legally or by common control between the Company and the present owners of the project site? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, describe in detail on separate attachment.

6. Zoning District in which the project site is located: \_\_\_\_\_

Are there any variances or special permits affecting the site? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, list below and attach copies of all such variances or special permits:

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D. Buildings:

1. Does part of the project consist of a new building or buildings? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, indicate number and size of new buildings:

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2. Does part of the project consist of additions and/or renovations to the existing buildings? \_\_\_\_\_ yes \_\_\_\_\_ no. If yes, indicate nature of expansion and/or renovation:

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3. Describe the principal uses to be made by the Company of the building or buildings to be acquired, constructed, or expanded:

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E. Project Use:

1. What are the principal products to be produced at the Project? \_\_\_\_\_

\_\_\_\_\_

2. What are the principal activities to be conducted at the Project? \_\_\_\_\_

\_\_\_\_\_

3. Will any portion of the Project be used for any of the following purposes:

retail food and beverage services:  Yes  No

automobile sales or service:  Yes  No

recreation or entertainment:  Yes  No

golf course:  Yes  No

country club:  Yes  No

massage parlor:  Yes  No

tennis club:  Yes  No

skating facility (including roller skating, skateboard and ice skating):

Yes  No

racquet sports facility (including handball and racquetball court):

Yes  No

hot tub facility:  Yes  No

suntan facility:  Yes  No

racetrack:  Yes  No

If the answer to any of the above questions is yes, please furnish details on a separate attachment.

4. Does the Project include facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities?

Yes  No. If yes, please provide detail: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. If the answer to question 4 is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? \_\_\_\_\_ %

6. If the answer to question 4 is yes, and the answer to question 5 is more than 33.33%, indicate whether any of the following apply to the Project:

a. Will the Project be operated by a not-for-profit corporation? Yes  
 No \_\_\_\_\_.

- b. Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes \_\_\_\_; No \_\_\_\_.
- c. Would the project occupant, but for the contemplated financial assistance from the Agency, locate the related jobs outside the State of New York? Yes \_\_\_\_; No \_\_\_\_.
- d. Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonable accessible to the residents of the city, town or village within which the Project will be located, because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

- e. Will the Project be located in one of the following: (a) an area designed as an economic development zone pursuant to Article 18-B of the General Municipal Law or (b) a census tract or block numbering area (or census tract or block numbering area contiguous thereto) which, according to the most recent census data, has (i) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of households receiving public assistance, and (ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates? Yes \_\_\_\_; No \_\_\_\_\_.  
\_\_\_\_\_.

7. If the answers to any of subdivisions c. through e. of question 6 is yes, will the Project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York? Yes \_\_\_\_ No \_\_\_\_\_. If yes, please provide detail.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

8. Will the completion of the Project result in the removal of a plant or facility of the Company or another proposed occupant of the Project (a "Project Occupant") from one area of the State of New York to another area of the State of New York? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

9. Will the completion of the Project result in the abandonment of one or more plants or facilities of the Company located in the State of New York? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_ .  
10. If the answer to either question 8 or question 9 is yes, indicate whether any of the following apply to the Project:

a. Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

b. Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

11. Will the Project be owned by a not-for-profit corporation? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

12. If the answer to question 11 is yes, indicate whether any of the following apply to the Project:

a. Is the Project a housing facility primarily designed to be occupied by individuals 60 years of age or older? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

b. Is the Project a dormitory for an educational institution? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

c. Is the Project a facility as defined in Article 28 of the Public Health Law? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

13. If the answer to any of the questions contained in question 12 is yes, indicate whether the cost of the Project will exceed \$15 million. Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

14. Will the Project be sold or leased to a municipality? Yes \_\_\_\_; No \_\_\_\_\_. If yes, please provide detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

F. Construction Status:

1. Has construction work on this project begun? \_\_\_\_ Yes; \_\_\_\_ No. If yes, please discuss in detail the approximate extent of construction and the extent of completion. Indicate in your answer whether such specific steps have been completed as site clearance and preparation; completion of foundations; installation of footings; etc.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. Please indicate amount of funds expended on this project by the Company in the past three (3) years and the purposes of such expenditures: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3. Please indicate the date the applicant estimates the Project will be completed: \_\_\_\_\_.

G. Method of Construction after Agency Approval:

1. If the Agency approves the project which is the subject of this application, there are two methods that may be used to construct the project. The applicant can construct the project privately and sell the project to the Agency upon completion. Alternatively, the applicant can request to be appointed as "agent" of the Agency, in which case certain laws applicable to public construction may apply to the project. Does the applicant wish to be designated as "agent" of the Agency for purposes of constructing the project? \_\_\_\_ Yes; \_\_\_\_ No.

H. Other Involved Agencies:

1. Please indicate all other local agencies, boards, authorities, districts, commissions or governing bodies (including any city, county and other political subdivision of the State of New York and all state departments, agencies, boards, public benefit corporations, public authorities or commissions) involved in approving or funding or directly undertaking action with respect to the Project. For example, do you

need a municipal building permit to undertake the Project? Do you need a zoning approval to undertake the Project? If so, you would list the appropriate municipal building department or planning or zoning commission which would give said approvals. \_\_\_\_\_

\_\_\_\_\_.

2. Describe the nature of the involvement of the federal, state, or local agencies described above: \_\_\_\_\_
- \_\_\_\_\_.

IV. Employment Impact

- A. Indicate the number of people presently employed at the Project site and the **additional** number that will be employed at the Project site at the end of the first and second years after the Project has been completed, using the tables below for (1) employees of the Applicant, (2) independent contractors, and (3) employees of independent contractors. (Do not include construction workers). Also indicate below the number of workers employed at the Project site representing newly created positions as opposed to positions relocated from other project sites of the applicant. Such information regarding relocated positions should also indicate whether such positions are relocated from other project sites financed by obligations previously issued by the Agency.

<b>TYPE OF EMPLOYMENT</b> <b>Employees of Applicant</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals
Present Full Time					
Present Part Time					
Present Seasonal					
First Year Full Time					
First Year Part Time					
First Year Seasonal					
Second Year Full Time					
Second Year Part Time					
Second Year Seasonal					

<b>TYPE OF EMPLOYMENT</b> <b>Independent Contractors</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals
Present Full Time					
Present Part Time					
Present Seasonal					
First Year Full Time					
First Year Part Time					
First Year Seasonal					
Second Year Full Time					
Second Year Part Time					
Second Year Seasonal					

<b>TYPE OF EMPLOYMENT</b> <b>Employees of Independent Contractors</b>					
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled	Totals
Present Full Time					
Present Part Time					
Present Seasonal					

First Year Full Time					
First Year Part Time					
First Year Seasonal					
Second Year Full Time					
Second Year Part Time					
Second Year Seasonal					

B. Indicate below (1) the estimated salary and fringe benefit averages or ranges and (2) the estimated number of employees residing in the Capital Region Economic Development Region for all the jobs at the Project site, both retained and created, listed in the tables described in subsection A above for each of the categories of positions listed in the chart below.

<b><u>RELATED EMPLOYMENT INFORMATION</u></b>				
	Professional or Managerial	Skilled	Semi-Skilled	Un-Skilled
Estimated Salary and Fringe Benefit Averages or Ranges				
Estimated Number of Employees Residing in the Capital Region Economic Development Region <sup>1</sup>				

C. Please describe the projected timeframe for the creation of any new jobs with respect to the undertaking of the Project:

<sup>1</sup> The Capital Region Economic Development Region consists of the following counties: Albany, Schenectady, Rensselaer, Greene, Columbia, Saratoga, Warren, and Washington.

- D. Please prepare a separate attachment describing in detail the types of employment at the Project site. Such attachment should describe the activities or work performed for each type of employment.

V. Project Cost

- A. Anticipated Project Costs. State the costs reasonably necessary for the acquisition of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

<u>Description of Cost</u>	<u>Amount</u>
Land	\$ _____
Buildings	\$ _____
Machinery and equipment costs	\$ _____
Utilities, roads and appurtenant costs	\$ _____
Architects and engineering fees	\$ _____
Costs of Bond Issue (legal, financial and printing)	\$ _____
Construction loan fees and interest (if applicable)	\$ _____
Other (specify)	\$ _____ _____
	\$ _____ _____
	\$ _____ _____
<b>TOTAL PROJECT COSTS</b>	<b>\$ _____</b>

- B. Anticipated Project Financing Sources. State the sources reasonably necessary for the financing of the Project site, the construction of the proposed buildings and the acquisition and installation of any machinery and equipment necessary or convenient in connection therewith, and including any utilities, access roads or appurtenant facilities, using the following categories:

<u>Description of Sources</u>	<u>Amount</u>
Private Sector Financing	\$ _____
Public Sector	\$ _____
Federal Programs	\$ _____
State Programs	\$ _____
Local Programs	\$ _____
Applicant Equity	\$ _____
Other (specify, e.g., tax credits)	\$ _____ _____
	\$ _____ _____
	\$ _____ _____
<b>TOTAL AMOUNT OF PROJECT FINANCING SOURCES</b>	<b>\$ _____</b>

C. Have any of the above expenditures already been made by the applicant?  
Yes \_\_\_\_; No \_\_\_\_\_. If yes, indicate particulars.

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D. Amount of loan requested: \$ \_\_\_\_\_;

Maturity requested: \_\_\_\_\_ years.

E. Has a commitment for financing been received as of this application date, and if so, from whom?

Yes \_\_\_\_; No \_\_\_\_\_. Institution Name: \_\_\_\_\_

Provide name and telephone number of the person we may contact.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

F. The percentage of Project costs to be financed from public sector sources is estimated to equal the following: \_\_\_\_\_ %

G. The total amount estimated to be borrowed to finance the Project is equal to the following:  
\$ \_\_\_\_\_

VI. Benefits expected from the Agency

- A. Is the applicant requesting that the Agency issue bonds to assist in financing the project? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- B. Is the interest on such bonds intended to be exempt from federal income taxation? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- C. Is the applicant requesting any real property tax exemption that would not be available to a project that did not involve the Agency? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, is the real property tax exemption being sought consistent with the Agency's Uniform Tax Exemption Policy? Yes \_\_\_\_\_; No \_\_\_\_\_.
- D. Is the applicant expecting that the financing of the Project will be secured by one or more mortgages? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, what is the approximate amount of financing to be secured by mortgages? \$ \_\_\_\_\_.
- E. Is the applicant expecting to be appointed agent of the Agency for purposes of avoiding payment of N.Y.S. Sales Tax or Compensating Use Tax? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, what is the approximate amount of purchases which the applicant expects to be exempt from the N.Y.S. Sales and Compensating Use Taxes? \$ \_\_\_\_\_.
- F. What is the estimated value of each type of tax-exemption being sought in connection with the Project? Please detail the type of tax-exemption and value of the exemption.

1. N.Y.S. Sales and Compensating Use Taxes: \_\_\_\_\_
2. Mortgage Recording Taxes: \_\_\_\_\_
3. Real Property Tax Exemptions: \_\_\_\_\_
4. Other (please specify): \_\_\_\_\_

G. Please list the affected taxing jurisdictions for the Project.

1. Village (if any): \_\_\_\_\_
2. Town: \_\_\_\_\_
3. City (if any): \_\_\_\_\_
4. School District: \_\_\_\_\_

H. Are any of the tax-exemptions being sought in connection with the Project inconsistent with the Agency's Uniform Tax Exemption Policy?  
\_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I. Project Benefit Information. Complete the attached Cost/Benefit Analysis so that the Agency can perform a cost/benefit analysis of undertaking the Project. Such information should consist of a list and detailed description of the benefits of the Agency undertaking the Project (e.g., number of jobs created, types of jobs created, economic development in

the area, etc.). Such information should also consist of a list and detailed description of the costs of the Agency undertaking the Project (e.g., tax revenues lost, buildings abandoned, etc.).

VII. Representations by the Applicant: The applicant understands and agrees with the Agency as follows:

A. Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOC”) and with the administrative entity (collectively with the DOC, the “JTPA Entities”) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (“JTPA”), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), in which the Project is located.

B. First Consideration for Employment. In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

C. Annual Sales Tax Filings. In accordance with Section 874(8) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the applicant and all consultants or subcontractors retained by the applicant.

D. Annual Employment Reports. The applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the applicant agrees 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, including (1) the NYS-45 – Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return – for the quarter ending December 31 (the “NYS-45”), and (2) the US Dept. of Labor BLS 3020 Multiple Worksite report if applicable. The applicant also agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified, such information concerning the participation of individuals from minority groups as employees or applicants for employment with regard to the project.

E. Uniform Agency Project Agreement. The applicant agrees to enter into a project benefits agreement with the Agency where the applicant agrees that (1) the amount of Financial Assistance to be received shall be contingent upon, and shall bear a direct relationship to the success or lack of success of such project in delivering certain described public benefits (the “Public Benefits”) and (2) the Agency will be entitled to recapture some or all of the Financial Assistance granted to the applicant if the project is unsuccessful in whole or in part in delivering the promised Public Benefits.

F. Assignment of Agency Abatements. In connection with any Agency Straight Lease Transaction or Agency Bond Transaction, the Agency may grant to the applicant certain

exemptions from mortgage recording taxes, sales and use taxes and real property taxes. The applicant understands that the grant of such exemptions by the Agency is intended to benefit the applicant. Subsequently, if the applicant determines to convey the Project and, in connection with such conveyance to assign such exemptions to the purchaser, the applicant understands that any such assignment is subject to review and consent by the Agency, together with the satisfaction of any conditions that may be imposed by the Agency.

G. Post-Closing Cost Verification. The applicant agrees (1) the scope of the Project will not vary significantly from the description in the public hearing notice for the project and (2) to deliver to the Agency within sixty (60) days following the completion date of a project an affidavit providing the total costs of the project. In the event that the amount of the total project costs described in the affidavit at the completion date exceeds the amount described in an affidavit provided by the applicant on the closing date of the project, the applicant agrees to adjust the amounts payable by the applicant to the Agency by such larger amount to pay to the Agency such additional amounts. In the event the amount described is less, there shall not be any adjustment to the Agency fees.

H. Representation of Financial Information. Neither this Application nor any other agreement, document, certificate, project financials, or written statement furnished to the Agency or by or on behalf of the applicant in connection with the project contemplated by this Application contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading. There is no fact within the special knowledge of any of the officers of the applicant which has not been disclosed herein or in writing by them to the Agency and which materially adversely affects or in the future in their opinion may, insofar as they can now reasonably foresee, materially adversely affect the business, properties, assets or condition, financial or otherwise, of the applicant.

I. Agency Financial Assistance Required for Project. The Project **would not** be undertaken but for the Financial Assistance provided by the Agency. If the Project could be undertaken without the Financial Assistance provided by the Agency, then the Project should be undertaken by the Agency for the following reasons:

J. Compliance with Article 18-A of the General Municipal Law: The Project, as of the date of this Application, is in substantial compliance with all provisions of article 18-A of the General Municipal including, but not limited to, the provisions of Section 859-a and subdivision one of Section 862; and the provisions of subdivision one of Section 862 of the General Municipal Law will not be violated if Financial Assistance is provided for the Project.

K. Compliance with Federal, State, and Local Laws. The applicant is in substantial compliance with applicable local, state, and federal tax, worker protection, and environmental laws, rules, and regulations.

L. False or Misleading Information. The applicant understands that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of

any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of Agency involvement in the Project.

M. Absence of Conflicts of Interest. The applicant acknowledges that the members, officers, and employees of the Agency are listed on the Agency's website. No member, officer or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as hereinafter described:

N. Additional Information. Additional information regarding the requirements noted in this Application and other requirements of the Agency are included in the Agency's Additional Documents which can be accessed at:

<http://www.albanycounty.com/Businesses/ACIDA/ACIDA-Documents.aspx> .

I affirm under penalty of perjury that all statements made on this application are true, accurate, and complete to the best of my knowledge.

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

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NOTE: APPLICANT MUST COMPLETE THE APPROPRIATE VERIFICATION APPEARING ON PAGES 24 THROUGH 27 HEREOF BEFORE A NOTARY PUBLIC AND MUST SIGN AND ACKNOWLEDGE THE HOLD HARMLESS AGREEMENT APPEARING ON PAGE 28.

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## VERIFICATION

(If Applicant is a corporation)

\_\_\_\_ deposes and says that he is the  
(Name of chief executive of applicant)

\_\_\_\_\_  
(Title) of \_\_\_\_\_, \_\_\_\_\_  
(Company Name)

the corporation named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. Deponent further says that the reason this verification is made by the deponent and not by said company is because the said company is a corporation. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as an officer of and from the books and papers of said corporation.

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Notary Public)

## VERIFICATION

(If applicant is a limited liability company)

the limited liability company named in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said limited liability company.

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Notary Public)

## VERIFICATION

(If applicant is sole proprietor)

\_\_\_\_\_, deposes and says that he has read  
(Name of Individual)

the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application.

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Notary Public)

## VERIFICATION

(If applicant is partnership)

\_\_\_\_\_, deposes and says that he is one of  
(Name of Individual)  
the members of the firm of \_\_\_\_\_, the partnership named  
(Partnership Name)

(Partnership Name)  
in the attached application; that he has read the foregoing application and knows the contents thereof; and that the same is true and complete and accurate to the best of his knowledge. The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as information acquired by deponent in the course of his duties as a member of and from the books and papers of said partnership.

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Notary Public)

NOTE: THIS APPLICATION WILL NOT BE ACCEPTED BY THE AGENCY UNLESS THE HOLD HARMLESS AGREEMENT APPEARING ON PAGE 28 IS SIGNED BY THE APPLICANT.

## HOLD HARMLESS AGREEMENT

Applicant hereby releases Albany County Industrial Development Agency and the members, officers, servants, agents and employees thereof (hereinafter collectively referred to as the "Agency") from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (i) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the application or the project described therein or the issuance of bonds requested therein are favorably acted upon by the Agency, (ii) the Agency's financing of the Project described therein; and (iii) any further action taken by the Agency with respect to the Project, including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to find buyers willing to purchase the total bond issue requested, then, and in that event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

---

(Applicant)

BY: \_\_\_\_\_

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

(Notary Public)

TO: Project Applicants  
FROM: Albany County Industrial Development Agency  
RE: Cost/Benefit Analysis

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In order for the Albany County Industrial Development Agency (the "Agency") to prepare a Cost/Benefit Analysis for a proposed project (the "Project"), the Applicant must answer the questions contained in this Project Questionnaire (the "Questionnaire") and complete the attached Schedules. This Questionnaire and the attached Schedule will provide information regarding various aspects of the Project, and the costs and benefits associated therewith.

This Questionnaire must be completed before we can finalize the Cost/Benefit Analysis, please complete this Questionnaire and forward it to us at your earliest convenience.

### **PROJECT QUESTIONNAIRE**

1. Name of Project Beneficiary ("Company"):	
2. Brief Identification of the Project:	
3. Estimated Amount of Project Benefits Sought: A. Amount of Bonds Sought:	\$_____
B. Value of Sales Tax Exemption Sought	\$_____
C. Value of Real Property Tax Exemption Sought	\$_____
D. Value of Mortgage Recording Tax Exemption Sought	\$_____
4. Likelihood of accomplishing the Project in a timely fashion:	

### **PROJECTED PROJECT INVESTMENT**

A. Land-Related Costs	
1. Land acquisition	\$_____
2. Site preparation	\$_____
3. Landscaping	\$_____
4. Utilities and infrastructure development	\$_____
5. Access roads and parking development	\$_____
6. Other land-related costs (describe)	\$_____
B. Building-Related Costs	
1. Acquisition of existing structures	\$_____
2. Renovation of existing structures	\$_____
3. New construction costs	\$_____
4. Electrical systems	\$_____
5. Heating, ventilation and air conditioning	\$_____
6. Plumbing	\$_____
7. Other building-related costs (describe)	\$_____

C.	Machinery and Equipment Costs	
1.	Production and process equipment	\$ _____
2.	Packaging equipment	\$ _____
3.	Warehousing equipment	\$ _____
4.	Installation costs for various equipment	\$ _____
5.	Other equipment-related costs (describe)	\$ _____
D.	Furniture and Fixture Costs	
1.	Office furniture	\$ _____
2.	Office equipment	\$ _____
3.	Computers	\$ _____
4.	Other furniture-related costs (describe)	\$ _____
E.	Working Capital Costs	
1.	Operation costs	\$ _____
2.	Production costs	\$ _____
3.	Raw materials	\$ _____
4.	Debt service	\$ _____
5.	Relocation costs	\$ _____
6.	Skills training	\$ _____
7.	Other working capital-related costs (describe)	\$ _____
F.	Professional Service Costs	
1.	Architecture and engineering	\$ _____
2.	Accounting/legal	\$ _____
3.	Other service-related costs (describe)	\$ _____
G.	Other Costs	
1.	_____	\$ _____
2.	_____	\$ _____
H.	Summary of Expenditures	
1.	Total Land-Related Costs	\$ _____
2.	Total Building-Related Costs	\$ _____
3.	Total Machinery and Equipment Costs	\$ _____
4.	Total Furniture and Fixture Costs	\$ _____
5.	Total Working Capital Costs	\$ _____
6.	Total Professional Service Costs	\$ _____
7.	Total Other Costs	\$ _____

### **PROJECTED CONSTRUCTION EMPLOYMENT IMPACT**

- I. Please provide estimates of total construction jobs and the total annual wages and benefits of construction jobs at the Project:

Year	Number of Construction Jobs	Total Annual Wages and Benefits	Estimated Additional NYS Income Tax
Current Year		\$ _____	\$ _____
Year 1		\$ _____	\$ _____
Year 2		\$ _____	\$ _____
Year 3		\$ _____	\$ _____
Year 4		\$ _____	\$ _____
Year 5		\$ _____	\$ _____

### **PROJECTED PERMANENT EMPLOYMENT IMPACT**

- I. Estimates of the total number of existing permanent jobs to be preserved or retained as a result of the Project are described in the tables in Section IV of the Application.
- II. Estimates of the total new permanent jobs to be created at the Project are described in the tables in Section IV of the Application.
- III. Please provide estimates for the following:
- A. Creation of New Job Skills relating to permanent jobs. Please complete Schedule A.
- IV. Provide the projected percentage of employment that would be filled by Albany County residents:
- 

- A. Provide a brief description of how the project expects to meet this percentage:

### **PROJECTED OPERATING IMPACT**

- I. Please provide estimates for the impact of Project operating purchases and sales:

Additional Purchases (1 <sup>st</sup> year following project completion)	\$ _____
Additional Sales Tax Paid on Additional Purchases	\$ _____
Estimated Additional Sales (1 <sup>st</sup> full year following project completion)	\$ _____
Estimated Additional Sales Tax to be collected on additional sales (1 <sup>st</sup> full year following project completion)	\$ _____

II. Please provide estimates for the impact of Project on existing real property taxes and new payments in lieu of taxes (“Pilot Payments”):

Year	Existing Real Property Taxes (Without IDA involvement)	New Pilot Payments (With IDA)	Total (Difference)
Current Year			
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			
Year 6			
Year 7			
Year 8			
Year 9			
Year 10			

III. Please provide a detailed description for the impact of other economic benefits and all anticipated community benefits expected to be produced as a result of the Project (attach additional pages as needed for a complete and detailed response):

### **CERTIFICATION**

I certify that I have prepared the responses provided in this Questionnaire and that, to the best of my knowledge; such responses are true, correct, and complete.

I understand that the foregoing information and attached documentation will be relied upon, and constitute inducement for, the Agency in providing financial assistance to the Project. I certify that I am familiar with the Project and am authorized by the Company to provide the foregoing information, and such information is true and complete to the best of my knowledge. I further agree that I will advise the Agency of any changes in such information, and will answer any further questions regarding the Project prior to the closing.

I affirm under penalty of perjury that all statements made on this application are true, accurate, and complete to the best of my knowledge.

<b>Date Signed:</b> _____, 20__.	<b>Name of Person Completing Project Questionnaire on behalf of the Company.</b>  Name: _____ Title: _____ Address: _____ Phone Number: _____  <b>Signature:</b> _____
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# SCHEDULE A

## CREATION OF NEW JOB SKILLS

Please list the projected new job skills for the new permanent jobs to be created at the Project as a result of the undertaking of the Project by the Company.

Should you need additional space, please attach a separate sheet.

**PART 20**  
**BOND-VOLUME ALLOCATION**

**SECTION 2001. PURPOSE AND AUTHORITY.** The purpose of this Part is to describe the requirements of the Albany County Industrial Development Agency (the “Agency”) pursuant to Title One of Article 18-A of General Municipal Law (collectively, the “Act”).

**SECTION 2002. DEFINITIONS.** All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

“Code” means the Internal Revenue Code of 1986, as amended.

“Volume Cap” means the amount of tax-exempt private activity bonds that may be issued pursuant to Section 146 of the Code.

**SECTION 2003. BACKGROUND.** Section 146 of the Code imposes a volume cap limit on the issuance of certain types of bonds by the Agency. Customarily, New York State enacts each year a private activity bond allocation act (the “Volume Cap Act”) governing the allocation of bond volume that is reserved to the State of New York. The Volume Cap Act generally describes the procedures and requirements for the Agency to obtain portions of the New York State Volume Cap.

**SECTION 2004. REQUIREMENTS.** The Agency, after a determination to move forward with a project, will cooperate with the project applicant in obtaining the necessary New York State Volume Cap to undertake its project.

**SECTION 2005. PROCEDURE.** The Agency will allocate, in its absolute discretion, to projects any volume cap that is held by the Agency.

## PART 21

### AGENCY ADMINISTRATIVE AND OTHER FEES

**SECTION 2101. PURPOSE AND AUTHORITY.** The purpose of this Part is to establish such procedures relating to the imposition of fees of the Albany County Industrial Development Agency (the “Agency”) in connection with Agency Projects. An Agency Project is defined as any “project” (as defined in Section 854(4) of the Act) that is provided “financial assistance” (as defined in Section 854(14) of the Act) by the Agency.

**SECTION 2102. TYPES OF FEES.** The types of fees imposed by the Agency in connection with Agency Projects shall consist of (A) application fees, (B) administrative fees, and (C) other Agency administrative fees.

**SECTION 2103. APPLICATION FEES.** (A) Finance Transactions. The Agency will charge a nonrefundable application fee for finance transactions equal to \$1,500 upon the submission of the Agency’s Application For Financial Assistance. Finance Transactions shall include projects involving the issuance of tax-exempt obligations, taxable obligations and refunding obligations and the execution and delivery of straight lease transactions. The application fee will be in addition to the administrative fee of the Agency.

(B) Modification/Amendment Transactions. The Agency will charge a nonrefundable application fee for modification/amendment transactions equal to \$500 upon the submission of a letter to the Agency explaining in detail the requested action. Such letter may be accompanied by the Agency’s Application For Financial Assistance, if required by the Agency. Modification/Amendment Transactions shall include actions to modify or amend existing documents previously executed by the Agency. The application fee will be in addition to any administrative fee of the Agency.

### SECTION 2104. ADMINISTRATIVE FEES.

(A) Timing. The Agency will charge an administrative fee in connection with an Agency Project. In the case of an Agency Project involving the issuance of bonds, notes or other obligations issued by the Agency, such administrative fee shall be payable upon the successful conclusion of the sale of the obligations. In the case of an Agency Project involving a straight-lease transaction or other transaction not involving the sale of obligations of the Agency, the fee shall be payable upon the execution and delivery of the documents providing the financial assistance.

(B) Amount: Bond Transactions. The amount of the administrative fee for an Agency Project involving the sale of obligations issued by the Agency shall be computed as follows:

Tax-Exempt Obligation: Except as provided below, one percent (1.0%) of the aggregate principal amount of the obligations the interest on which is not subject to federal income tax issued with respect to the Agency Project.

Tax-Exempt Not-for-Profit Obligations: One percent (1.0%) of the aggregate principal amount of the obligations the interest on which is not subject to federal income tax issued with respect to the Agency Project. This fee formula is applicable to Agency Projects which benefit not-for-profit corporations.

Taxable Obligations: One percent (1.0%) of the aggregate principal amount of the obligations subject to federal income tax issued with respect to the Agency Project.

The Agency may modify the amount of the administrative fee computed herein if Bond Counsel/Special Counsel advises the Agency that such modification is necessary in order to ensure that the interest on the obligations is excludable from gross income for federal income tax purposes.

(C) Amount: Refunding Bond Transactions. The amount of the administrative fee for an Agency Project involving the sale of obligations to refund an outstanding amount of obligations shall be computed as follows:

If the outstanding obligations were originally issued by the Agency and the amount of the refunding obligations does not exceed the amount of the existing obligations, the administrative fee shall be one-quarter of one percent (.25%) of the aggregate principal amount of the refunding obligations to be issued.

If the outstanding obligations were originally issued by the Agency and the amount of the refunding obligations does exceed the amount of the outstanding obligations, an administrative fee shall be payable on such difference based on the formula contained in Section 2104(B) above.

If the outstanding obligations were not originally issued by the Agency, an administrative fee shall be payable on the total aggregate principal amount of the refunding obligations based on the formula contained in Section 2104(B) above.

The Agency may modify the amount of the administrative fee computed herein if Bond Counsel/Special Counsel advises the Agency that such modification is necessary in order to ensure that the interest on the refunding obligations is excludable from gross income for federal income tax purposes.

(D) Amount: Straight Lease Transactions. The amount of the administrative fee for an Agency Project involving straight lease transactions shall be computed as follows:

One percent (1.0%) of the cost of the Agency Project. The cost of the Agency Project shall be the greater of (A) the amount financed by the applicant in undertaking the Agency Project, or (B) the cost incurred by the applicant in undertaking the Agency Project. If the administrative fee is to be determined by the cost incurred by the applicant in undertaking the Agency Project, the applicant shall deliver to the Agency at the closing an affidavit certifying as to the cost of the Agency Project.

## SECTION 2105. OTHER AGENCY ADMINISTRATIVE FEES.

(A) Other Agency Administrative Fees. The Agency will also charge certain other administrative fees described in this Section 2105 in connection with Agency Projects. Such fees include post-closing modification/amendment transaction fees, New York State Cost Recovery fees, and special meeting fees. Such administrative fees shall typically be payable upon the execution and delivery of documents completing the transaction.

(B) Amount: Post-Closing Modification/Amendment Transactions. The amount of the administrative fee for Post-Closing Modification/Amendment Transactions shall be determined by the staff of the Agency, with the review and approval by the Agency. The minimum administrative fee for such transactions shall equal \$500, payable at the time the applicant submits the application to the Agency.

(C) New York State Cost Recovery Fees. Chapter 85 of the Laws of 2002 (the “2002 Act”) imposes certain “cost recovery” fees on the Agency. The amount of the fee is based on the principal amount of bonds issued by the Agency, as described below:

<u>Principal Amount of Bonds</u>	<u>Fee</u>
\$1,000,000 or less	.168%
\$1,000,000 to \$5,000,000	.336%
\$5,000,001 to \$10,000,000	.504%
\$10,000,001 to \$20,000,000	.672%
More than \$20,000,000	.840%

Under the 2002 Act, the Agency is obligated to pay such fee no later than 15 days after the end of the calendar month in which the bonds of the Agency are issued. The Agency will collect the amount of the fee from the applicant and in turn pay such fee to the applicable office of New York State. The Agency will cooperate with applicants in preparing and delivering any letters or forms prepared by the applicant or Bond Counsel/Special Counsel necessary to enable the Agency (and the applicant) to qualify for a waiver from such fee. Bond Counsel/Special Counsel will prepare and review with Agency staff any forms required to be prepared and filed in connection with the provisions of the 2002 Act.

(D) Amount: Special Meeting Fees. The amount of the administrative fee for the holding of a special meeting of the Agency shall equal \$500.

(E) Local Agency Cooperation. The Agency reserves the right, in its sole and absolute discretion, to cooperate with any industrial development agencies that exist for the benefit of any of the various towns, villages, and/or cities located within Albany County, New York (the “Local Agencies”). If the Agency receives an application for a project located within Albany County, New York that also exists in a town, village, and/or city that is served by a Local Agency, the Agency may, in its sole and absolute discretion, enter into an economic development cooperation agreement (the “Agreement”) with each Local Agency related to, among other things, sharing a portion of the administrative fee to be collected by the Agency. The amount of the administrative fee to be shared with each Local Agreement shall be set forth within the Agreement.

(F) Other Miscellaneous Fees. The Agency reserves the right to determine and impose other administrative fees on Agency Projects in consideration for the financial assistance being granted by the Agency and/or the costs incurred by the Agency.

SECTION 2106. EXPENSES. In addition to any application fees and administrative fees an Agency Project is subject, the Agency may also charge its reasonable expenses incurred in connection with an Agency Project. Such expenses include the following: publication charges, stenographer and transcription expenses and the expenses and fees of Agency Counsel, Bond Counsel and/or Special Counsel. Any moneys generated by the payment of the expenses of the Agency pursuant to this Section 2106 shall become the property of the Agency and part of its general fund.

SECTION 2107. REIMBURSEMENT. The application and administrative fees provided for in this Part 21 are designed to cover operating and other expenses of the Agency. Such fees are not charged to collect any real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction (as defined in Section 854(16) of the Act).

SECTION 2108. DEVIATION. The Agency may provide for a different application fee and/or a different administrative fee and/or an additional administrative fee for a particular project by resolution duly adopted by the Agency.

PART 22

PROJECT MONITORING AND ENFORCEMENT

**SECTION 2201. PURPOSE AND AUTHORITY.** The purpose of this Part is to outline the procedures utilized by Albany County Industrial Development Agency (the “Agency”) pursuant to Section 903-b of Title 2 of Article 18-A of the General Municipal Law and Title 1 of Article 18-A the General Municipal Law (collectively, the “Act”) to (A) monitor compliance with Agency requirements relating to the exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (the “Financial Assistance”) provided for authorized projects and (B) review satisfaction of the Agency requirements relating to job creation, retention and reporting. Under the Act, the Agency was created in order to advance the job opportunities, health, general prosperity, and economic welfare of the residents of Albany County, New York (the “County”) and the State of New York (the “State”) and to improve their standard of living.

**SECTION 2202. JOB CREATION, RETENTION, AND PUBLIC BENEFITS.** When considering applications for Financial Assistance, the Agency will consider and review the job creation and retention information contained in the application completed by the applicant. Further, the applicant for each approved project must enter into a uniform agency project agreement with the Agency (the “Uniform Agency Project Agreement”) where the applicant agrees (A) that the amount of Financial Assistance to be received shall be contingent upon, and shall bear a direct relationship to the success or lack of success of such project in delivering certain described public benefits (the “Public Benefits”) and (B) the Agency will be entitled to recapture some or all of the Financial Assistance granted to the applicant if the project is unsuccessful in whole or in part in delivering the promised Public Benefits.

**SECTION 2203. REQUIREMENTS OF THE APPLICANT.**

(A) Background. Under the Act, the Agency is required to submit certain annual reports relating to Agency projects to the Office of the New York State Comptroller and to the New York State Authorities Budget Office. In order to satisfy its annual reporting requirements and other requirements under the Act, as well as policies of the Agency, the Agency will require applicants for Financial Assistance to satisfy the requirements described in Section 2203(B) below.

(B) Applicant Requirements. Each applicant for Financial Assistance from the Agency will agree to satisfy the following requirements as a condition to the receipt of such Financial Assistance:<sup>1</sup>

(1) Except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOC”) and with the administrative entity (collectively with the DOC, the “JTPA Entities”) of the service delivery area created by the federal job training partnership act (Public Law 97-300) (“JTPA”), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), where the Project is located.

(2) Except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in the JTPA programs

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<sup>1</sup> The requirements described in Section 2203(B)(9) are applicable for projects where the application was received by the Agency after March 19, 2015, unless otherwise required in the documents entered into by the Agency with the project applicant.

who shall be referred by the JTPA Entities for new employment opportunities created as a result of the project.

(3) The applicant agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the Applicant, its finances and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

(4) Within sixty (60) days after the end of each calendar year, the applicant shall furnish to the Agency a certificate of an Authorized Representative of the applicant stating that no event of default under an installment sale agreement or a lease agreement (hereinafter collectively referred to as the "Project Agreement") has occurred or is continuing or, if any event of default exists, specifying the nature and period of existence thereof and what action the applicant has taken or proposes to take with respect thereto, and setting forth the unpaid principal balance of any bonds and accrued but unpaid interest thereon and that no defenses, offsets or counterclaims exist with respect to the indebtedness evidenced thereby.

(5) The applicant shall insure that all employees and applicants for employment with regard to the project are afforded equal employment opportunities without discrimination.

(6) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the applicant agrees to file with the Agency, no later than sixty (60) days after the end of each calendar year, reports regarding the number of people employed at the project facility and certain other matters, the initial said report to be in substantially the form annexed as Schedule A attached hereto, and subsequent reports to be in substantially the form annexed as Schedule B attached hereto.

(7) Pursuant to Section 874(8) of the Act, the applicant agrees to annually file and cause any other directly appointed operator of the project facility to file annually, with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance ("Form ST-340"), a statement of the value of all sales and use tax exemptions claimed by the applicant and all contractors, subcontractors, consultants and other agents of the applicant under the authority granted to the applicant pursuant to an installment sale agreement and/or a lease agreement and/or a final inducement resolution and/or a sales tax exemption letter.

(8) The applicant agrees, if applicable, within sixty (60) days of the end of each calendar year, to furnish to the Agency a copy of each ST-340 submitted to the New York State Department of Taxation and Finance by the applicant pursuant to Section 874(8) of the Act.

(9) The applicant agrees, within sixty (60) days of the end of each calendar year until the project is terminated, to furnish to the Agency a copy of the NYS-45 – Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return – for the quarter ending December 31 (the "NYS-45"), and the US Dept. of Labor BLS 3020 Multiple Worksite report, if applicable.

(10) The applicant agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the participation of individuals from minority groups as employees or applicants for employment with regard to the project.

## SECTION 2204. PROJECT MONITORING.

(A) Monitoring. Agency project monitoring shall include but not be limited to the following:

(1) requesting and reviewing the items outlined in Section 2203(B) and any and all items required to be submitted by an applicant pursuant to the following, including but not limited to: statute, Agency policy, a Project Agreement, or a Uniform Agency Project Agreement; and

(2) confirming with the applicable Assessor for each active Agency project the status of any unpaid payment in lieu of tax (“PILOT”) payments; and

(3) providing for on-site visits of projects identified by the Agency in the calendar year.

(B) Annual Reports. Within seventy-five (75) days after the end of each calendar year, the staff of the Agency will provide the Agency with an annual report describing the compliance by applicants with the requirements described in Section 2203(B) above and the results of the project monitoring described in Section 2204(A), including the filing of annual reports, the amount of sales tax exemption received for a project, and the number of jobs created and retained by the applicant.

(C) Agency Review. The Agency will review the report prepared by the staff of the Agency at a regular meeting of the Agency. After the review of the report prepared by the staff of the Agency, the Agency will take such action as it deems necessary, including but not limited to, (1) scheduling meetings with applicants to review non-compliance and to discuss remedial actions, (2) considering enforcement action against applicants that fail to comply with the requirements described in Section 2203(B) above, as described in Section 2205 below, (3) considering enforcement action against applicants based on the results of the project monitoring described in Section 2204(A), as described in Section 2205 below, and (4) preparation of letters of commendation or other forms of congratulation to those applicants that have created and/or retained jobs consistent with (or in excess of) the estimates contained in the applicant’s original application to the Agency.

(D) PILOT Agreements. (1) Prior to distribution of the PILOT payment bills, the staff of the Agency will confirm with the applicable Assessor for each active Agency project the payment amounts for such PILOT bills for the current fiscal year.

(2) The staff of the Agency will also confirm with the applicable Assessor for each active Agency project the status of new projects closed in the prior calendar year and the termination of projects whose PILOT term expired or project facility was reconveyed to the applicant.

(E) Reconveyance. (1) Annually the staff of the Agency will review the Project Agreements of all active Agency projects to determine if the Project Agreement has expired and the project facility should be reconveyed to the applicant and placed on the taxable roll of the applicable municipality.

(2) Annually the staff of the Agency will confirm with the applicable Assessor for the active Agency project that the particular project facility should be reconveyed to the applicant and placed on the taxable roll of the applicable municipality.

(3) Annually the staff of the Agency will also notify the applicant and work with the applicant and the Agency to file the appropriate documents to place the project on the taxable roll of the applicable municipality.

## SECTION 2205. ENFORCEMENT.

(A) General. Upon completion of the report prepared by the staff of the Agency described in Section 2204(C) above and review of such report by the members of the Agency, the Agency may, after consultation with the staff of the Agency and counsel, initiate enforcement action against applicants as determined by the Agency.

(B) Enforcement Action. Enforcement action by the Agency may include, but not be limited to, the following:

- (1) Requesting the information and/or compliance by a final notice letter.
- (2) Forwarding an event of default notice to the involved parties, including the lender.
- (3) Notifying appropriate New York State agencies of (a) the applicant's failure to comply with the requirements of Section 2203(B) above or (b) the negative results of the project monitoring in Section 2204(A) above.
- (4) Terminating the Financial Assistance provided by the Agency.
- (5) Recapturing some or all of the Financial Assistance granted to the applicant pursuant to the Uniform Agency Project Agreement, if applicable.
- (6) In the event of any failure by an applicant to make any required PILOT payment, to coordinate with the applicable affected taxing jurisdictions in the recovery of such due payment.

**SCHEDULE A**  
**INITIAL EMPLOYMENT REPORT**

[Please Confirm/Complete Either of the Two Alternative Provisions]

The initial employment plan for the Project is as described in the Application dated \_\_\_\_\_, 20\_\_ and delivered to the IDA.

OR

Project or Company Name: \_\_\_\_\_

1. Number of Full Time Employees at the Project Site before IDA status \_\_\_\_\_
2. Estimate of Jobs to be Created \_\_\_\_\_
3. Estimate of Jobs to be Retained \_\_\_\_\_
4. Estimated Average Annual Salary of Jobs to be Created \_\_\_\_\_
5. Estimated Annualized Salary Range of Jobs to be Created \_\_\_\_\_
6. Estimated Average Annual Salary of Jobs to be Retained \_\_\_\_\_
7. Please complete the following tables:

**PROJECTED CONSTRUCTION EMPLOYMENT IMPACT**

Please provide estimates of total construction jobs and the total annual wages and benefits of construction jobs at the Project:

Year	Number of Construction Jobs	Total Annual Wages and Benefits	Estimated Additional NYS Income Tax
Current Year		\$_____	\$_____
Year 1		\$_____	\$_____
Year 2		\$_____	\$_____
Year 3		\$_____	\$_____
Year 4		\$_____	\$_____
Year 5		\$_____	\$_____

### **PROJECTED PERMANENT EMPLOYMENT IMPACT**

Please provide estimates of total number of existing permanent jobs to be preserved or retained as a result of the Project:

Year	Professional	Skilled	Semi-Skilled	Unskilled
Current Year				
Year 1				
Year 2				
Year 3				
Year 4				
Year 5				

Please provide estimates of total new permanent jobs to be created at the Project:

Year	Professional	Skilled	Semi-Skilled	Unskilled
Current Year				
Year 1				
Year 2				
Year 3				
Year 4				
Year 5				

## SCHEDULE B

### SUBSEQUENT EMPLOYMENT REPORT

#### FORM OF ANNUAL EMPLOYMENT VERIFICATION/COMPLIANCE REPORT

Project or Company Name: \_\_\_\_\_

1. Original Estimate of Jobs to be Created and Retained (from the project application) \_\_\_\_\_
2. Number of Current Full Time Employees (as of end of Report Year). \_\_\_\_\_
3. Number of Full Time Construction Jobs During Fiscal Year (Report Year) \_\_\_\_\_
4. If "Original Estimate of Jobs to be Created and Retained" does not equal "Number of Current Full Time Employees (as of end of Report Year)," please explain: \_\_\_\_\_  
\_\_\_\_\_
5. Did the Company receive a mortgage recording tax exemption in Report Year (Y/N)? \_\_\_\_\_  
If yes, indicate the amount (\$) of mortgage recording tax exemption received in Report Year \_\_\_\_\_
6. Did the Company receive a real property tax exemption in Report Year (Y/N)? \_\_\_\_\_  
If yes, indicate if the Company has paid its annual PILOT payments in Report Year (Y/N) \_\_\_\_\_  
If outstanding Report Year PILOT payments remain due, please explain: \_\_\_\_\_  
\_\_\_\_\_
7. Did the Company receive a sales tax exemption in Report Year (Y/N)? \_\_\_\_\_  
If yes, **please attach** a copy of a filed NYS Dept. of Taxation and Finance Form **ST-340** Annual Report of Sales and Use Tax Exemptions for Report Year (applicable to projects with sales tax exemption letters for construction phase).
8. Does the Company have a Uniform Agency Project Agreement (Y/N)? \_\_\_\_\_  
If yes, **please attach** a copy of a filed Report Year **NYS-45** Quarterly Combined Withholding, Wage Reporting, and Unemployment Insurance Return for the last payroll date in the month of December of Report Year.
9. **Attach** an updated Certificate of Insurance naming the Agency as "Additional Insured." Please refer to your Project Documents for information about required insurance.
10. Has an event of default under the Project Documents occurred or is continuing during the Report Year?  
(Y/N) \_\_\_\_\_ If yes, please explain: \_\_\_\_\_

### CERTIFICATION

I hereby certify that I am the owner of the project site or am the duly authorized representative and may sign this data submission on behalf of the owner(s) of said project site. I have read and understand all of the requirements contained within the Project Documents and I have read the foregoing Annual Employment Verification/Compliance Report and know the contents thereof; and that the same is true and complete and accurate to the best of my knowledge.

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Name (Print)

---

Title

---

Signature

---

Phone Number

---

E-mail Address

---

Company Mailing Address

## PART 23

### POLICY RESPECTING RECAPTURE OF PROJECT BENEFITS

**SECTION 2301. PURPOSE AND JUSTIFICATION.** (A) The purpose of this Policy is to outline the procedures utilized by Albany County Industrial Development Agency (the “Agency”) to review compliance with (1) the requirements of the Agency relating to job creation and/or retention, other expected public benefits and reporting and (2) the requirements of the State of New York (the “State”) relating to sales tax exemptions and reporting.

(B) The Agency was created pursuant to Section 903-b of Title 2 of Article 18-A of the General Municipal Law and Title 1 of Article 18-A the General Municipal Law (collectively, the “Act”) for the purpose of promoting employment opportunities for, and the general prosperity and economic welfare of, residents of Albany County, New York (the “County”) and the State of New York (the “State”). Under the Act, the Agency was created in order to advance the job opportunities, health, general prosperity and economic welfare of the residents of the County and of the State.

(C) Chapter 59 of the Laws of 2013 (Part J), effective March 28, 2013 (the “2013 Budget Law”), enacted March 28, 2013, established new recordkeeping, reporting, and recapture requirements for industrial development agency projects that receive sales tax exemptions.

(D) The new sales tax recording and reporting requirements required by the 2013 Budget Law include the following: (1) a requirement to keep records of the amount of sales tax benefits provided to each project and make those records available to the State upon request; (2) a requirement to report to the State, within 30 days after providing financial assistance, the amount of sales tax benefits intended to be provided to a project; and (3) a requirement that the Agency post on the internet and make available without charge copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes. A project operator (“Project Operator”) is appointed by the Agency through the filing of form ST-60 with the New York State Department of Taxation and Finance.

(E) The 2013 Budget Law requires that the Agency recapture State sales tax benefits where: (1) the project is not entitled to receive those benefits; (2) the exemptions exceed the amount authorized, or are claimed for unauthorized property or services; or (3) the project operator failed to use property or services in the manner required by its agreements with the Agency.

(F) For purposes of this Policy, with respect to a particular calendar year and a particular project, the term “financial assistance” shall include the following:

(1) Proceeds of debt obligations issued by the Agency with respect to said project have been disbursed during the calendar year in question.

(2) Any tax exemption or abatement (a) which may have directly or indirectly benefitted the project or project operator shall during such calendar year and (b) which resulted from (i) the Agency’s title to, possession of or, control of or other interest in said project, or (ii) the designation by the Agency of said project occupant (or any sublessee, contractor, supplier or other operator of the project) as an agent of the Agency.

(3) Any grant made by the Agency with respect to said project or project operator shall during such calendar year.

(4) Any loan made by the Agency with respect to said project or project operator shall during such calendar year.

(G) For purposes of this Policy, with respect to a particular project, the term “Project Agreements” shall mean the project documents between the Agency and an applicant with respect to the applicant’s project. In addition to a lease agreement or installment sale agreement between the Agency and the applicant, the Project Agreements may also include a payment in lieu of tax agreement, a project agreement, and one or more recapture agreements, as well as security agreements intended to ensure compliance by the applicant with the requirements of the Project Agreements.

**SECTION 2302. REQUIREMENTS FOR APPLICANTS.** (A) Under the Act, the Agency is required to submit certain annual reports relating to Agency projects to the New York State Office of the Comptroller. In order to satisfy its annual reporting requirements and other requirements under the Act and certain other requirements imposed by the Act, as well as the new requirements imposed upon the Agency by the 2013 Budget Law, the Agency will require each applicant for financial assistance from the Agency agree to satisfy the following requirements as a condition to the receipt of such financial assistance:

(1) Any applicant requesting a sales tax exemption from the Agency must include in the application a realistic estimate of the value of the savings anticipated to be received by the applicant. Each applicant is hereby warned to provide a realistic estimate in the application, as the 2013 Budget Law and the regulations expected to be enacted thereunder are expected to require that the Agency recapture any benefit that exceeds the greater of (a) the amount listed in said application or (b) authorized by the Agency in a separate resolution.

(2) Any applicant requesting a sales tax exemption from the Agency must agree to annually file (and cause any sublessee, contractor, supplier or other operator of the project to file annually) with the State, on a form and in such manner as is prescribed by the State, a statement of the value of all sales and use tax exemptions claimed by the applicant and all contractors, subcontractors, consultants and other agents of the applicant under the authority granted to the applicant by the Agency.

(3) Any applicant requesting a sales tax exemption from the Agency must agree to furnish to the Agency a copy of each such annual report submitted to the State by the applicant or any sublessee, contractor, supplier or other operator of the project.

(4) As required by the 2013 Budget Law, the Project Agreements will provide that any sales tax benefits determined by the Agency to be subject to recapture pursuant to the 2013 Budget Law must be remitted by the applicant to the Agency within 20 days of a request therefor by the Agency.

(5) The applicant agrees that, as required by the 2013 Budget Law, the resolutions of the Agency with respect to the project and the Project Agreements will now be publicly available on the Agency’s website. As provided in the New York Freedom of Information Law (“FOIL”), the applicant may request that certain information contained therein be redacted and, if the applicant can demonstrate to the satisfaction of the Agency that release of said information would result in substantial harm to the applicant’s competitive position, the Agency may comply with such request.

(6) Except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the “DOC”) and with the administrative entity (collectively with the DOC, the “JTPA Entities”) of the service delivery area created by the federal

job training partnership act (Public Law 97-300) ("JTPA"), as replaced by the Workforce Investment Act of 1998 (Public Law 105-220), where the Project is located.

(7) Except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in JTPA programs who shall be referred by JTPA Entities for new employment opportunities created as a result of the Project.

(8) The applicant agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the Applicant, its finances and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

(9) Within sixty (60) days after the end of each calendar year, the applicant shall furnish to the Agency a certificate of an Authorized Representative of the applicant stating that no event of default under the Project Agreements has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the applicant has taken or proposes to take with respect thereto, and setting forth the unpaid principal balance of the Bonds and accrued but unpaid interest thereon and that no defenses, offsets or counterclaims exist with respect to the indebtedness evidenced thereby.

(10) The applicant shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

(11) The applicant agrees to file with the Agency, no later than sixty (60) days after the end of each calendar year, reports regarding the number of people employed at the project and certain other matters.

(B) In order to ensure that the project will create the public benefits anticipated by the Agency accruing to the residents and taxpayers of the County, the Project Agreements will require that each Agency project operator agree that, annually, within 60 days of the end of each calendar year during which a project has received any financial assistance from the Agency, such Agency project operator will complete and file with the Agency an annual report (the "Operator Annual Report") describing the status of the project during the calendar year just completed, including such information as: jobs projected to be created/retained; estimated salary of jobs to be created/retained; current number of jobs; construction jobs created through the year; exemptions from taxes and payments in lieu of tax made; and status of bond financing related to the project.

SECTION 2303. ENFORCEMENT. (A) The Agency will use the information contained in the Operator Annual Report, and may use site visits and follow ups, to gauge the status of a project in relation to the original commitment of the applicant as stated in the project application.

(B) Should the staff or board members of the Agency find significant deficiencies in any area; the project will be further reviewed. Examples of situations that may trigger review and/or action by the Agency include:

(1) If the project operator shifts production activity to a facility outside of the County and, as a result, fails to achieve the economic benefits projected.

(2) If the project operator moves all operations outside the County, neglects to move operations to the County, or the project does not otherwise conform to the project described in the Project Agreements.

(3) If a significant shortfall in economic benefits is identified, as compared with the application, such as a significant shortfall in new job creation/retention and/or expected major investments in the business.

(4) Failure to comply with annual reporting requirements or provide the Agency with requested information.

(5) Sale or closure of a project within the time period the applicant receives Agency financial assistance.

(C) Should the staff or board members of the Agency find significant deficiencies in the achievement of the economic benefits promised as described in the application and the Project Agreements, the project operator will be asked to provide justification for said shortfalls. The board members of the Agency will compare these statements against industry standards, as well as the current market and economic conditions, to determine whether the project operator did all that it could to meet its obligations as outlined in the application and the Project Agreements.

(D) The board members of the Agency will determine on a case by case basis whether a hearing is appropriate to allow a project operator to be heard on the issue regarding said project operator's failure to achieve the projected economic benefits.

(E) Should the board members of the Agency find that (1) significant deficiencies in the achievement of the economic benefits promised as described in the application and the Project Agreements have occurred and (2) there appears to be no justification satisfactory to the Agency to explain these deficiencies, the Agency may determine to undertake any enforcement action available to the Agency under the Project Agreements to seek redress for these deficiencies.

(F) Enforcement action taken by the Agency under the Project Agreements may include, but shall not be limited to, the following:

(1) Requesting cure of the deficiency by a final notice letter.

(2) Forwarding an event of default notice under the Project Agreements.

(3) Notifying appropriate New York State agencies of the project operator's failure to comply with such requirements.

(4) Terminating any or all of the Project Agreements early.

(5) Reducing the value of financial assistance moving forward.

(6) Terminating any future financial assistance.

(7) Requiring that the value of all the financial assistance utilized to date to be repaid in full or in part, with interest.

(G) In connection with the undertaking of a Project and/or the preparation of Project Agreements, the Agency also reserves the right to negotiate the terms and conditions of these recapture provisions.

SECTION 2304. EFFECTIVE DATE. This policy shall be effective with respect to any project undertaken by the Agency after the date of approval of this Policy, including but not limited to any Project Agreements signed or amended after such date.

## PART 24

### POLICY RESPECTING UNIFORM CRITERIA FOR THE EVALUATION OF PROJECTS

**SECTION 2401. PURPOSE AND JUSTIFICATION.** (A) The purpose of this Policy is to provide the uniform criteria to be utilized by Albany County Industrial Development Agency (the “Agency”) to evaluate and select projects from each category of eligible projects for which the Agency can provide financial assistance.

(B) The Agency was created pursuant to Section 903-b of Title 2 of Article 18-A of the General Municipal Law and Title 1 of Article 18-A the General Municipal Law (collectively, the “Act”) for the purpose of promoting employment opportunities for, and the general prosperity and economic welfare of, residents of Albany County, New York (the “County”) and the State of New York (the “State”). Under the Act, the Agency was created in order to advance the job opportunities, health, general prosperity, and economic welfare of the residents of the County and of the State.

(C) Chapter 563 of the Laws of 2015, effective June 15, 2016 (the “Reform Legislation”), requires each industrial development agency to adopt an assessment of all material information included in connection with an application for financial assistance, as necessary to afford a reasonable basis for the decision by an industrial development agency to provide financial assistance for a project.

**SECTION 2402. ELIGIBLE PROJECT CATEGORIES.** The Agency may provide financial assistance to any “project,” as defined in Section 854 of the Act.

**SECTION 2403. UNIFORM CRITERIA.** (A) The following general uniform criteria will apply to all categories of eligible projects: (1) Extent to which a project will create or retain jobs; (2) Estimated value of tax exemptions; (3) Amount of private sector investment; (4) Likelihood of project being accomplished in a timely fashion; (5) Extent of new revenue provided to local taxing jurisdictions; (6) Any additional public benefits; and (7) Local labor construction jobs.

(B) The following additional criteria may apply to warehousing and research projects: (1) wage rates (above median for County); (2) in County purchases (% of purchases from local vendors); (3) supports local businesses or clusters; (4) retention or flight risk; and (5) provides capacity to meet County demand or shortage.

(C) The following additional criteria may apply to commercial projects: (1) regional wealth creation (% of sales/customers outside of the County); (2) located in a highly distressed census tract; (3) alignment with local planning and development efforts; (4) promotes walkable community areas; (5) elimination or reduction in blight; (6) proximity/support of regional tourism attractions/facilities; (7) local or County official support; (8) building or site has historic designation; and (9) provides brownfield remediation.

**SECTION 2404: REMOVAL OR ABANDONMENT.** If the proposed project involves the removal or abandonment of a facility or plant within the state, the Agency will notify the chief executive officer or officers of the municipality or municipalities in which the facility or plant was located.

**SECTION 2405. EFFECTIVE DATE.** This policy shall be effective with respect to any project undertaken by the Agency after the date of approval of this Policy.

PART 25

INTERPRETATION

SECTION 2501. INTERPRETATION. In these Rules and Regulations, words of masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.