

GOVERNMENT OPERATIONS COMMITTEE MEETING MINUTES  
JANUARY 24, 2023

GOVERNMENT OPERATIONS COMMITTEE MEMBERS PRESENT: Fedler, O'Brien, Haff, Hicks, Shaw, Fisher

GOVERNMENT OPERATIONS COMMITTEE MEMBERS ABSENT: Rozell

SUPERVISORS: Henke, Hall, Nolan, Campbell, Skellie, Hogan, Clary, Griffith

Sandy Huffer, Deputy Clerk

Roger Wickes, County Attorney

Melissa Fitch, County Administrator

Al Nolette, County Treasurer

AGENDA AS PRESENTED IN MEETING NOTICE:

1. Call to Order
2. Accept Minutes – December 20, 2022
3. Discuss IDA Uniform Tax Exemption Policy (UTEP)
4. Department Requests/Reports
  - A. Real Property
    1. Overnight Travel
    2. Argyle Parcel 182.-2-1.2 Remove RPTL 1138 Exemption
    3. Assessment Services Cost
  - B. Buildings & Grounds
    1. 2022 Parks Budget - .2 to .4 - \$2,878 Ropes & Buoys
    2. Main Complex Fire Alarm Sys. Engineering H125 - \$9,100
    3. Updates on Ongoing Projects
  - C. County Administrator
    1. Employee Handbook
    2. Purchasing Policy
5. Other Business
6. Adjournment

Chair Fedler called the meeting to order at 10:13 AM in the Board of Supervisors classroom, Room B214, Washington County Municipal Center, Fort Edward, NY.

A motion to accept the minutes of the December 20, 2022 meeting was moved by Mr. O'Brien, seconded by Mr. Fisher and adopted.

DISCUSS IDA UNIFORM TAX EXEMPTION POLICY (UTEP) – Chair Fedler welcomed Washington County appointees to the IDA Juan Gonzales and Ginny Sullivan who were in attendance and Mary King who is watching on live stream.

Mr. O'Brien stated that the IDA was looking to update the UTEP which was adopted in 1999. The comment period on the policy changes has been extended until March 1, 2023. The IDA has to go through the process to review all the comments submitted and is committed to having meetings to review all the information before making any changes. He stated they received good written comments and it is beneficial for the IDA to look at the comments to see it from other perspectives. Changes to the policy would not be adopted until probably May. The IDA did adopt a resolution on January 17, 2023 to maintain the provision of the UTEP that requires the Agency to obtain approval of certain municipalities in which a proposed project is to be located (attached). Mr. Hicks commented that the wording of the resolution is vague and should state which municipalities. Mr. O'Brien stated they will be listed in detail in the UTEP.

Mr. Haff distributed handouts that included his recommended edits to the proposed December 2022 draft WWIDA UTEP (attached). He proceeded to review all his suggested edits and discussion ensued. A motion for a resolution to the full Board recommending that the IDA include Mr. Haff suggested edits to the IDA UTEP, moved by Mr. Haff, seconded by Mr. Fisher. The Treasurer added that from the county perspective there should not be any sales tax forgiveness for solar farms. A motion to amend the motion to add the Treasurer's comments about sales tax and solar, moved by Mrs. Felder, seconded by Mr. Haff and adopted. The IDA members present would like the Board to put something in writing of what they expect. Discussion on the motion as amended. Mr. Shaw feels we are making this too complicated. He suggested simply stating our position is that the taxing jurisdiction(s) that the project is in must give approval for any tax abatements and if the IDA doesn't adhere to that we take steps to remove the members. The County Attorney stated it simply means that no one can affect our revenue stream without our permission. The amended motion for a resolution to the full Board recommending that the IDA include Mr. Haff's suggested edits to the IDA UTEP was withdrawn. A motion for a resolution stating that any concession affecting the revenue stream of any taxing jurisdiction must be approved by that taxing entity, was moved by Mr. Shaw, seconded by Mr. Haff and adopted.

#### DEPARTMENT REQUESTS/REPORTS:

REAL PROPERTY – Laura Chadwick, Director addressed the following items with the committee:

- Overnight Travel – Requesting permission for overnight stay in Albany to attend the winter Director's conference on February 27 – March 1, 2023. Funds in the budget. A motion to approve overnight stay in Albany on February 27 – March 1, 2023 to attend the winter Director's conference, moved by Mr. O'Brien, seconded by Mr. Shaw and adopted.
- Argyle Parcel 182.-2-1.2 Remove RPTL 1138 Exemption – Pulling this agenda item because the property was recently sold and she needs to consult with the Treasurer and new owner.
- Assessment Services Cost – The County currently provides assessment services to four towns in Washington County. When the draft contracts were sent to the towns last year at \$12 per parcel, there was potentially going to be six towns. Two towns decided not to contract with the county for assessment services, leaving four. Laura recommends we still charge \$12 per parcel because that's what the towns were told prior to the town budget process. Chair Fedler stated that the Supervisors of the towns involved, the Treasurer, Real Property Director and County Administrator met and recommend that for this year charge the \$12 per parcel and track the costs closely this year so an accurate figure can be used for 2024. The Treasurer stated that the actual cost per parcel after the change in the amount of towns participating, factoring in salary, fringe benefits, car pool, cell phone, will be \$13.73 and \$12.73 if state aid of \$1 per parcel is received. He added the total impact to the county is about \$9,200 without state aid and \$4,987 with state aid. Mr. Fisher stated he was presented with information from Roseanne Lemery that the actual cost was \$22 per parcel and Ms. Lemery addressed the committee. Mr. Nolan stated that it is unfair that the county is subsidizing the towns that haven't hired their own assessor. The Treasurer suggested a true up be added to next year's contract. In 2020

the Board of Supervisors passed a resolution authorizing the Chairman to sign contracts with various municipalities for the provision of assessing and data collection services stating that the per parcel charge shall be mutually agreed upon ensuring that the County costs are covered. The only contract that has been signed is with the Town of Fort Ann, which is for three years. Mr. Haff stated that \$12.73 is a pretty good estimate. No resolution needed because the resolution is already in place authorizing the Chairman to sign. Laura will track all the costs to the county this year to provide this service.

- Asked that any Town that passed a Local law for the volunteer fireman and EMS tax exemption send it to her prior to March 1<sup>st</sup>. Mr. Nolan added that these volunteers can get a \$200 tax credit on their income tax.

**BUILDINGS & GROUNDS** – Matt Jones, Superintendent of County Buildings addressed the following with the committee:

- 2022 Parks Budget - .2 to .4 \$2,878 - \$6,000 was budgeted in Lauderdale Park's 2022 equipment budget. Buoys, ropes and other items for the beach area were purchased but under the current purchasing policy do not qualify as equipment. Requesting to transfer funds from equipment to contractual. A motion to forward to the Finance Committee a 2022 budget amendment transferring \$2,878 from A.7111.2090 to A.7111.4035, was moved by Mr. O'Brien, seconded by Mr. Fisher and adopted.
- Main Complex Fire Alarm System Engineering – A motion to forward to Finance a budget amendment for the Fire Alarm System engineering in the amount of \$9,100, was moved by Mr. O'Brien, seconded by Mr. Fisher and adopted.
- Updates on Ongoing Projects
  - Floating Classroom – Received a request from Steve Butz, Cambridge teacher to partner with Lauderdale Park to provide summer educational opportunities that could be linked to the current programs they hold at the park. Matt said he is willing to support this as long as it is within regulations. A motion to approve allowing the floating classroom at Lauderdale Park, was moved by Mr. O'Brien, seconded by Mr. Fisher and adopted. Encouraged Matt to get more information.
  - Signed the contract for the jail roof replacement. Project will start in April if the materials are received.
  - The closing on the purchase of land adjacent to the Middle Falls barn is tomorrow. The Treasurer stated a discussion will be held at Finance on borrowing to pay for the barn construction. The bonding authorization would be both Fort Ann and the County and an intermunicipal agreement would be needed. The Treasurer estimates it would be \$10M.

**COUNTY ADMINISTRATOR** – Melissa Fitch, County Administrator addressed the following with the committee:

- Employee Handbook Changes - Handouts attached.
  - Date changes for the sick, floating holiday and vacation schedules. A motion to approve changing the Employee Handbook to change the effective date from 10/01/2009 to 1/1/2012 to match the CSEA contract, moved by Mr. Hicks, seconded by Mr. Fisher and adopted.
  - Accumulation of Sick Time – Employees max out their sick time at 205 days. At the end of the year, sick days earned are taken away to bring their balance back

to 205 days. Requesting to remove the 205 maximum of sick days an employee can earn. This change would not result in additional sick days being paid out. A motion to approve removing the limit of 205 maximum of sick days, was moved by Mr. Hicks, seconded by Mr. Fisher and adopted.

○ Employees who leave employment and return – Requesting that if an employee leaves employment and then is hired back within one year, the employee be placed at the step and longevity the employee earned prior to leaving. Discussion ensued. A decision on this item will be made next month.

○ New Hire Vacation – Recommending 10 days' vacation at the date of hire to assist in recruitment. Discussion ensued. A motion to approve 10 days' vacation at the date of hire, was moved by Mr. O'Brien, seconded by Mr. Fisher. Mr. Haff made a motion to amend the motion to 5 days' vacation at the date of hire and 5 days at six months and was seconded by Mr. Hicks and adopted. A motion to approve 10 days' vacation at the date of hire, was moved by Mr. O'Brien, seconded by Mr. Fisher and adopted, as amended.

● Purchasing Policy – We can't use the Sourcewell Cooperative because we haven't adopted the "best value" method of procurement. A motion to table discussion of this item until next month, was moved by Chair Fedler, seconded by Mr. Shaw and adopted.

OTHER BUSINESS: None.

The meeting adjourned at 1:24 PM.

*Sandy Huffer, Deputy Clerk, Washington County Board of Supervisors*

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

Adopted: January 17, 2023

Introduced by \_\_\_\_\_  
who moved its adoption.

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

**RESOLUTION CONCERNING MUNICIPAL APPROVAL IN CONNECTION WITH  
THE UNIFORM TAX EXEMPTION POLICY**

WHEREAS, the Agency has previously adopted a Uniform Tax Exemption Policy pursuant to the provisions of General Municipal Law; and

WHEREAS, the Agency has proposed revisions to its Uniform Tax Exemption Policy and has sought the input from the taxing jurisdictions in accordance with the provisions of General Municipal Law; and

WHEREAS, based on the initial feedback, the Agency has determined that it is in the best interests of the residents of Warren and Washington County to maintain the provision of the Uniform Tax Exemption Policy that requires the Agency to obtain approval of certain municipalities in which a proposed project is to be located.

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

1. The Agency hereby agrees to maintain the provision of the Uniform Tax Exemption Policy that requires the Agency to obtain approval of certain municipalities in which a proposed project is to be located.
2. This Resolution shall take effect immediately.

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1) Section II Definitions:

- Edit definition of PILOT to differentiate between a 'Base PILOT' and 'Enhanced PILOT'.

As per 1999 UTEP a **Base PILOT** pays 100% taxes on year 11. **Enhanced PILOT** pays 100% taxes on year 16.

- Insert definition of 'Certain Municipalities' WWIDA 1/17/23 Resolution Concerning Municipal Approval in Connection With The Uniform Tax Exemption Policy. AKA Appendix N

2) Section III General Provisions

- (B) Exceptions – 1) Notice Requirement: insert wording from WWIDA Resolution 1/17/23 about obtaining approval of certain municipalities (appendix N) prior to deviate from UTEP 2) Discretion to Deviate: Proposed UTEP says "Notwithstanding any of the foregoing provisions the Agency, at its discretion, reserves the right to deviate from its Uniform Tax Exemption Policy." In my opinion, this is a whopper and allows any part of the entire 15 page proposed UTEP to be deviated from. Revert back to the narrow scope wording from the current 1999 UTEP that says "The Agency, at its discretion, reserves the right to deviate from its Recapture of Benefits Policy, and to impose more severe penalties and restrictions".
- (C) Review and notification of town necessary: Insert 1/17/23 WWIDA resolution "Concerning Municipal Approval in Connection With the Uniform Tax Exemption Policy" for Certain Towns AKA Appendix N. Delete the requirement where if a town wants to comment, it has to submit comments 3 days prior to a Public hearing.
- (F) Use of Local Contractors, and Workers and Suppliers: Insert requirement that there must be at least 10 net new jobs created for consideration of any PILOT. These jobs need to be upon commencement of operation of the facility, not just construction of facility jobs. (see 1999 UTEP page 2 requiring minimum of 10 jobs

3) Section IV Sales and Use Tax Exemption: Insert and differentiate between **Base PILOT and Enhanced PILOT** for all the subparts

4) Section VIII B Impact on Local Economy 1 Jobs: Insert requirement of a minimum of 10 net new jobs created upon commencement of operation of the facility.

Dana Haff  
Hartford Supervisor

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COUNTIES of WARREN & WASHINGTON INDUSTRIAL DEVELOPMENT AGENCY

**UNIFORM TAX EXEMPTION POLICY (UTEP)**

December \_\_, 2022

**SECTION I. PURPOSE AND AUTHORITY.**

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

**SECTION II. DEFINITIONS.**

All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. 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, including, but not limited to legal fees, (2) rent imposed by the Agency for use of the property imposed by the Agency, and (3) other similar charges imposed by the Agency.
- (C) "Applicant" shall mean an applicant for financial assistance.
- (D) "County" shall mean the Counties of Warren or Washington.
- (E) "PILOT" or "Payment in Lieu of Tax" shall mean any payment made to the Agency or an affected tax jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an affected tax jurisdiction with respect to a project but for tax exemption obtained by reason of the involvement of the Agency in such project, but such term shall not include Agency fees.

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- (F) "School District" shall mean any school district located in the Warren or Washington Counties.
- (G) "Tax exemption" shall mean any financial assistance granted to a project, which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency.
- (H) "Town" shall mean any town located in Warren or Washington Counties.
- (I) "Village" shall mean any village located in the Warren or Washington Counties.

SECTION III. GENERAL PROVISIONS.

- (A) **General Policy.** The general policy of the Agency is to grant tax exemption as hereinafter set forth to any project who qualifies based on the terms of this UTEP and as allowed by law. Any Company which has been or will be financed by the issuance by the Agency of bonds, notes or other evidence of indebtedness with respect thereto shall also qualify for incentives as outlined in this document, as may be applicable.
- (B) **Exceptions.** The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider factors which make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to project; (2) whether the affected tax jurisdictions will be reimbursed by the project occupant if the project does not fulfill the purposes for which tax exemption was granted; (3) the impact of the project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by the project; (5) demonstrated public support for the project; (6) the estimated value of the tax exemptions requested; and (7) the extent to which the proposed project will provide needed services and/or revenues to the affected tax jurisdictions. In addition, the Agency may consider the other factors outlined in Sections 874(4)(a) of the Act.
  - 1. **Notice Requirement:** All affected tax jurisdictions shall be notified of any proposed deviation of the Uniform Tax Exemption Policy and the reasons for such deviation. Affected tax jurisdictions shall have the opportunity to provide input regarding deviation of this policy prior to final action by the Agency.
  - 2. **Discretion to Deviate:** Notwithstanding any of the foregoing provisions the Agency, at its discretion, reserves the right to deviate from its Uniform Tax



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**Exemption Policy.**

- (C) **REVIEW AND NOTIFICATION OF TOWN NECESSARY:** All enhanced real property tax exemptions will be subject to the review and notification of proposed benefit as required by GML 874 of the town within which the project is located. The town will be required to take into consideration the needs of the school district and/or village within which the project is located. Town approval is not required but comments provided by town should be considered in the Agency review process. These comments must be received Three (3) business days prior to the Public Hearing.
- (D) **Application.** No request for a tax exemption shall be considered by the Agency unless an application and environmental assessment form are filed with the Agency on the forms prescribed by the Agency pursuant to the rules and regulations of the Agency. Such application shall contain the information requested by the Agency, including a description of the proposed project and of each tax exemption sought with respect to the project, the estimated value of each tax exemption sought with respect to the project, the proposed financial assistance being sought with respect to the project, the estimated date of completion of the project, and whether such financial assistance is consistent with this part.
- (E) **Federal, State, County or Planning Board Approvals:** Financial benefits will not be granted until the project has received necessary Federal, State, County, or Planning Board Approvals.
- (F) **Use of Local Contractors, and Workers and Suppliers:** It is the intent of the Agency to encourage applicants to make every effort to use local suppliers, contractors, and workers during the construction phase.

**SECTION IV. SALES AND USE TAX EXEMPTION.**

- (A) **General.** State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales taxes to the initial acquisition, construction, expansion, renovations, equipping of each project, and any other form as allowed by law with respect to which the Agency grants financial assistance. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of a project from sales and/or use taxes applicable to the initial acquisition, construction, expansion, renovations, equipping of each project, and any other form as allowed by law, except (1) as described in subsection (E) below or (2) in the circumstance where (a) a project is offered sales tax exemption on the

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condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (b) such event does not occur, in which case the Agency may require that the applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance.

- (B) Period of Exemption. Except as set forth in subsection (A) above, the period for which a sales tax exemption shall be effective (the "tax exemption period") shall be determined as follows:
- (1) General. Unless otherwise determined by the Agency, the tax exemption for sales and use taxes shall be for the tax exemption period commencing with the issuance by the Agency of bonds, notes or other evidence of indebtedness with respect to the project and ending on the date of completion of the project. Tax exemption will begin for all projects not receiving forms of indebtedness from the Agency at the time of the execution of the Project Agreement and Agent Agreement and payment of any Agency fees due at that time.
  - (2) Early Commencement. If applicable, the tax exemption period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's debt relating to the project, provided that (a) the Agency has complied with the requirements of Section 859-a of the Act, (b) the Agency thereafter adopts a resolution determining to commence such period earlier, (c) the applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (d) the authorized officer of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.
  - (3) Normal Termination. The tax exemption period will normally end upon the completion of the project. On construction projects, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) such date as approved by the Board. On non-construction project, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date, which is three (3) months after the estimated date of completion of the project. If the Agency and the applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the applicant make the determination based on available evidence.
  - (4) Later Termination. The Agency, for good cause shown, may adopt a resolution extending the period for completion of the project and/or extending the tax exemption period.

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- (C) Items Exempted. The sales and use tax exemption granted by the Agency shall normally extend only to the following items acquired during the tax exemption period described in subsection (B) above:
- (1) Items incorporated into the real property;
  - (2) Tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased as agent of the Agency;
  - (3) the rental of tools and other items necessary for the construction and/or equipping of the project, if rented as agent of the Agency; and
  - (4) office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the project, if purchased as agent of the Agency.
- (D) Items Not Exempted. A sales and use tax exemption shall not be granted for the following:
- (1) Purchases occurring beyond the tax exemption period described in subsection (B) above;
  - (2) Repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or
  - (3) Operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act.
- (E) Percentage of Exemption. Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of the Agency's involvement in the project. If an exemption of less than one hundred percent (100%) is determined by the Agency, then the applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the affected tax jurisdictions in accordance with Section 874(3) of the Act.
- (F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

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

(H) Required Reports and Records.

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

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

## SECTION V. MORTGAGE RECORDING TAX EXEMPTION.

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

(B) Refinancing. In the event that the Agency retains title to or otherwise has jurisdiction over a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt for the purpose of refinancing prior debt, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid and the Agency has consented to said exemption upon written request to the Agency.

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- (C) Non-Agency Projects. In the event that the Agency does not hold title to or have jurisdiction over a project, it is the policy of the Agency not to join in a mortgage relating to that project and not to abate any mortgage recording taxes relating to that project.
  
- (D) Exemption Affidavit. The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto.
  
- (E) Non-Exempt Mortgage. If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a “nonexempt mortgage”), then the applicant and/or project occupant or other person recording same shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the “normal mortgage tax”). Such mortgage recording taxes are payable to the County Clerk of the County, who shall in turn distribute same in accordance with law. If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such nonexempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in accordance with Section 874(3) of the Act.

**SECTION VI. REAL ESTATE TRANSFER TAXES.**

- (B) 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. Real Property Transfer Gains Tax. Article 31-B of the Tax Law provides for the imposition of a tax upon gains derived from the transfer of certain real estate in New York State. Certain transfers are exempt from such tax. It is the policy of the Agency to comply with the law, and to file the appropriate documentation with the New York State Department of Taxation and Finance to obtain preclearance by that department for any documents transferring real property to or from the Agency.
  
- (C) Required Filings. It shall be the responsibility of the applicant and/or project occupant to ensure that all documentation necessary relative to the real estate transfer tax and the real estate transfer gains tax are timely filed with the appropriate officials.

**SECTION VII. REAL PROPERTY TAX EXEMPTION.**

- (A) **General.** Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes but not exempt from special assessments and special ad valorem levies. However, it is the general policy of the Agency that, notwithstanding the foregoing, every nongovernmental project will be required to enter into a payment in lieu of tax agreement (a "PILOT Agreement"), either separately or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.
- (B) **PILOT Requirement.** Unless the applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form EA-412-a (an "Exemption Form") with respect to the project, and the project documents shall provide that the applicant and/or the project occupant shall be required to make PILOT payments in such amounts as would result from taxes being levied on the project by the taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the applicant and/or project occupant have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such agreement.
- (C) **PILOT Agreement.** Unless otherwise determined by resolution of the Agency, all PILOT Agreements shall satisfy the following general conditions:
- (1) **Amount of Exemption:** The general policy of the Agency is to allow the assessor of the municipality in which the project is located to ascertain the BASE assessed value of a project under the jurisdiction of the Agency as of the date of the PILOT Agreement. The BASE value generally is the assessed value of the land and the improvements as it exists as of the date of the PILOT Agreement. Once the assessed BASE value is established it will remain the BASE for the term of the PILOT Agreement and one hundred percent of all taxes assessed by the respective taxing jurisdictions will be paid on the BASE value. The assessed value of the eligible improvements on the property, once determined will be reduced by the exemption percentage established by the Agency, and the resulting value will become the value for PILOT purposes (the "PILOT value"). The PILOT payment will then be computed for each taxing jurisdictions in each year by multiplying the PILOT value by the applicable tax rate of the respective taxing jurisdictions in such year.

**(D) UNIFORM TAX EXEMPTION SCHEDULES**

**(1) Types of Projects:**

<p><b>a) Manufacturing, Industrial and Research &amp; Development</b></p> <p>Base PILOT</p> <p>New Construction* PILOT</p>	<p>Eligible projects are limited to manufacturing, re-manufacturing, assembly processing, warehouse, wholesale/distribution, research and development, and software development.</p> <p><i>Continue</i> to pay 100% of taxes on land and existing buildings. <i>Continue</i> to pay 100% of water, sewer, and special assessments.</p> <p>100% exemption for 5 years; 50% exemption for the next 5 years; 0% exemption for 11<sup>th</sup> year and onward.</p>
<p><b>b) Other Eligible Projects</b></p> <p>Base PILOT</p> <p>New Construction* PILOT</p>	<p>Eligible projects permitted by General Municipal Law 874 except as otherwise mentioned in this policy.</p> <p><i>Continue</i> to pay 100% of taxes on land and existing buildings. <i>Continue</i> to pay 100% of water, sewer, and special assessments.</p> <p>50% exemption for 5 years; 25% exemption for the next 5 years; 0% exemption for 11<sup>th</sup> year and onward.</p>
<p><b>c) Hotels, Mixed Use, Commercial, Housing, Apartments, Planned Unit Developments, Resorts, and Planned Recreational Developments</b></p>	<p>Resorts destination for vacation or recreation.</p> <p>Planned Unit Developments for condominiums, commercial property such as retail stores, or any combination of these types. Mixed Use and Apartment projects. Planned Recreational Developments with public facilities designed and used to provide recreational opportunities to the public.</p>

<p>Base PILOT</p>     <p>New Construction* PILOT</p>	<p><i>Continue</i> to pay 100% of taxes on land and existing buildings.  <i>Continue</i> to pay 100% of water, sewer, and special assessments.</p> <p>Exemptions start at 50% and decline 5% each year until the 10<sup>th</sup> year.          At the 11<sup>th</sup> year the exemption will be 0%.          An accelerated exemption may be considered.</p>
<p><b>d) Green/Renewable Power Facilities</b></p>	<p>Hydro, solar, wind, transmission line and renewable facilities can be offered a minimum of a 10-year PILOT arrangements. The Agency may consider extending the exemption period up to 30 years if the project sponsor can demonstrate an extension is critical to the economic viability of the project. PILOTs will be negotiated on a case-by-case basis. For Solar projects, PILOT calculation will be based on the MWs of power produced.</p>
<p>* New Construction is defined as improvements, renovations, or expansion to existing properties as may be approved by the Agency.</p>	

F. **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 exemption by reason of ownership of the Project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by the applicant and/or project occupant. However, applicant and project occupants should be aware that the courts have ruled that an Agency sponsored project is eligible to apply for a tax-exemption under Section 485-b of the Real Property Tax Law. If an applicant or project occupant desires to obtain an exemption under Section 485-b, it is the responsibility of the applicant and/or project occupant to apply for same.



- G. **Payee.** Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an affected tax jurisdiction shall be assessed, billed, and collected directly by the Agency. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted by the Agency to each affected tax jurisdiction within thirty (30) days of receipt.
- H. **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.
- I. **Required Filings.** As indicated in subsection (B) above, pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, no real estate tax exemption with respect to a particular project shall be effective until an exemption form is filed with the assessor of each county, city, town, village and school district in which such project is located (each, a "Taxing Jurisdiction"). Once an exemption form with respect to a particular project is filed with a particular Taxing Jurisdiction, the real property tax exception for such project does not take effect until (1) a tax status date for such Taxing Jurisdiction occurs subsequent to such filing, (2) an assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date, (3) such assessment roll becomes the basis for the preparation of a tax roll for such Taxing Jurisdiction, and (4) the tax year to which such tax roll relates commences.
- J. **Real Property Appraisals.** Since the policy of the Agency stated in subsection (C)(1) is to base the value of a project for payment in lieu of tax purposes on a valuation of such project performed by the Assessor of the Town, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the assessor of any particular Taxing Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the applicant or by someone acting on behalf of the applicant, rather than by an assessor for a Taxing Jurisdiction or by the Agency. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.
- K. **Employment Filings.** If the Agency grants the applicant an exemption under this Section VII, the applicant will be required to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.
- L. **RECAPTURE OF BENEFITS POLICY:** The recapture policy of the Agency of the real property tax exemptions will be incorporated into all PILOT agreements.

**SECTION VIII: CRITERIA FOR CONSIDERING APPLICATIONS**

**A. Project Feasibility**

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

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

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

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

- (3) After receipt of a completed Application, the Agency shall provide a copy of the Application to the Town Supervisor and Assessor in which the Project is located. The Town Supervisor or his representative shall be invited to the Agency's executive meeting or the Agency's meeting at which the application is presented to the board and the applicant is present. Three (3) business days prior to the date of the Public Hearing the Town may submit any comments on the project for the Agency's consideration in its evaluation of Project's Application requesting financial assistance. The Agency shall not be bound by the input of the Town but may take comments into consideration during the final approval of the Project and will notify the Town in writing of the reasons for its decision to grant or deny of financial assistance.

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

**B. Impact on Local Economy**

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

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

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

10. The Agency shall promote renewable Energy projects which provide economic benefits to the area.

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

**C. Material Terms**

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

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

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

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

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

**D. Financing Decisions**

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

**SECTION IX: CRITERIA FOR CONSIDERING ASSISTANCE TO RETAIL PROJECTS**

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

Retail projects are permitted in the following limited circumstances:

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

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

At the Agency's Annual Meeting, the Agency shall review its tax exemption policies to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate.