

Albany Industrial Development Agency

21 Lodge Street
Albany, New York 12207
Telephone: (518) 434-2532
Fax: (518) 434-9846

Anthony J. Ferrara, *Chairman*
Willard A. Bruce, *Vice-Chairman*
Kathy Sheehan, *Treasurer*
Susan Pedo, *Secretary*
Martin Daley
C. Anthony Owens
John R. Vero

Michael Yevoli, *Chief Executive Officer*
Erik J. Smith, *Chief Financial Officer*
John Reilly, *Agency Counsel*

To: Anthony J. Ferrara
Willard A. Bruce
Kathy Sheehan
Susan Pedo
Martin Daley
C. Anthony Owens
John R. Vero

Mike Yevoli
Erik Smith
Joe Scott
John Reilly
Megan Daly
Brad Chevalier

Date: January 13, 2012

AGENDA

The regular meeting of the City of Albany Industrial Development Agency will be held on **Thursday, January 19, 2012 at 12:15PM** at the 21 Lodge Street, Albany, NY 12207 (Conference Room)

Roll Call

Reading of Minutes of the Regular Meeting of December 15, 2011

Approval of Minutes of the Regular Meeting of December 15, 2011

Reports of Committees

Report of Chief Executive Officer

Report of Chief Financial Officer

- Financial Report

Communications

Unfinished Business

New Business

- City of Albany Industrial Development Agency Annual Housekeeping Resolution 2012

Other Business

- Public Authority New Board Member Training Discussion

Adjournment

*** The next regularly scheduled meeting will be held Thursday, February 16, at 21 Lodge Street, Albany, NY 12207**

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IDA MINUTES OF REGULAR MEETING Thursday, December 15, 2011

Attending: Tony Ferrara, Bill Bruce, Susan Pedo, Martin Daley, Anthony Owens & John Vero

Absent: Kathy Sheehan

Also Present: Chris Martell, John Rielly, Mike Yevoli, Erik Smith, Brad Chevalier & Amy Gardner

Chairman Tony Ferrara called the regular meeting of the IDA to order at 12:15PM.

Roll Call

Chairman Ferrara reported that all Board Members were present with the exception of Kathy Sheehan.

Reading of Minutes of the Regular Meeting of November 17th, 2011

Since the minutes of the previous meeting had been distributed to Board members in advance for review, Chairman Ferrara made a proposal to dispense with the reading of the minutes.

Approval of Minutes of the Regular Meeting of November 17th, 2011

Chairman Ferrara made a proposal to approve the minutes of the Regular Board Meeting as presented. A motion to accept the minutes, as presented, was made by Bill Bruce and seconded by Martin Daley. A vote being taken, the minutes were accepted unanimously.

Unfinished Business

None

New Business

TMG-NY Albany I, LP Preliminary Inducement Resolution

Brad Chevalier provided a brief background on the project. The Applicant is proposing to acquire and renovate a 179 unit affordable senior housing complex located at 400 Hudson Ave. Mr. Chevalier stated that the total project cost would be about \$17.6 million. The Applicant is asking the IDA for sales,

mortgage recording, and property tax abatements. Along with tax exempt bond financing, the Applicant is requesting a PILOT that is in line with the IDA's standard affordable housing PILOT.

Chris Martell, from Hodgson Russ LLP, reviewed the proposed resolution with the Board. Essentially, the resolution commits the Board to holding a public hearing regarding this project and allows the Applicant to be reimbursed by potential bond proceeds for certain costs associated with the project. Mr. Martell assured the Board that they will not have to move forward with the project until the requirements presented in Section 3 of the resolution are completed.

Royce Mulholland and Laurie Gordon of The Mulholland Group along with Jonathan DeForest of BBL Construction made a presentation to the Board detailing the renovations they will be making to the building. The renovations will incorporate numerous amenities including a state of the art movie theatre, fitness center, laundry facility and a medical examination room that will allow for on site services by potential outside providers.

Chairman Ferrara presented the TMG-NY Albany I, LP Preliminary Inducement Resolution to the Board. A motion to adopt the Resolution was made by Martin Daley and seconded by Susan Pedo. A vote being taken, the Resolution passed unanimously.

True North Albany Extended Stay, LLC Authorizing Mortgage Modification Resolution

Chris Martell reviewed the resolution with the Board. Lee Browning Jr., from True North Albany Extended Stay, LLC was present to answer questions. Mr. Browning advised the Board that the applicant was requesting an 18 month extension on the existing loan. Mr. Martell advised the Board that the extension creates a more manageable payment for the borrower. Mr. Martell also advised that the terms of the agreement include borrower covenants that indicate if the PILOT payments are not made it will constitute a default and all of the existing remedies would be available to the lender. The request does not involve the approval of any new benefits by the Board to this project. The extension and terms of the agreement will provide the IDA with more security on the PILOT payments.

Chairman Ferrara presented the True North Albany Extended Stay, LLC Authorizing Mortgage Modification Resolution to the Board. A motion to adopt the Resolution was made by Bill Bruce and seconded by Martin Daley. A vote being taken, the Resolution passed unanimously.

Reports of Committees

None

Report of Chief Executive Officer

Mike Yevoli reported that award announcements had been made by the Regional Economic Development Council. The Capital Region was awarded over \$60 million in funding. A brief discussion ensued.

Mike Yevoli advised the Board that the ability of the CRC to issue tax exempt bonds expires in April. A report will need to be made to the Common Council along with a request for renewal of the CRC. Mr. Yevoli assured the Board that staff will work with the Board first to determine how the Board would like to move forward.

Report of Chief Financial Officer

Erik Smith reported that November was uneventful in terms of revenue activity. In December staff expects about \$60,000 in agency revenue to come in with the closing of 60 State Place, LLC and Penta on Broadway, LLC. Staff is also working very hard to close on the Swan Street Lofts, LP project before the end of the year. Mr. Smith advised the Board that the IDA is estimated to end the year with \$538,000 in cash.

Mr. Smith advised the Board that there has been no official activity for the CRC since July. The CRC will end the year with \$120,000 in cash.

Communications

None

Other Business

There being no further business, Chairman Ferrara adjourned the meeting at 1:00PM.

Respectfully submitted,

Susan Pedo, Secretary

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City of Albany IDA
2011 Monthly Cash Position
December 2011

	ACTUAL												
	January	February	March	April	May	June	July	August	September	October	November	December	YTD Total
Beginning Balance	\$ 250,836	\$ 238,790	\$ 244,415	\$ 265,007	\$ 252,265	\$ 255,430	\$ 255,393	\$ 240,131	\$ 402,640	\$ 487,893	\$ 630,204	\$ 619,809	\$ 250,836
Revenue													
Fee Revenue													
Application Fee	\$ -	\$ 4,500	\$ -	\$ -	\$ 6,000	\$ 3,000	\$ -	\$ -	\$ 1,500	\$ -	\$ -	\$ -	\$ 15,000
Agency Fee	-	-	\$ 25,159	-	-	-	46,875	162,477	92,168	176,250	-	54,000	556,929
Administrative Fee	500	-	-	-	-	-	9,344	-	500	-	-	500	10,844
Modification Fee	1,000	1,500	-	-	-	48,219	-	-	-	-	-	-	50,719
Subtotal - Fee Revenue	\$ 1,500	\$ 6,000	\$ 25,159	\$ -	\$ 6,000	\$ 51,219	\$ 56,219	\$ 162,477	\$ 94,168	\$ 176,250	\$ -	\$ 54,500	\$ 633,492
Other Revenue													
Loan Repayments - Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Loan Repayments - Principal	-	-	-	-	-	-	-	-	-	-	-	-	-
Interest Income	37	33	39	37	38	26	26	32	43	44	54	55	463
Sale of Agency Property	-	-	-	-	-	-	-	-	-	-	-	-	-
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	27,216	27,216
Misc	-	-	-	-	-	-	-	-	-	-	-	-	-
Subtotal - Other Revenue	\$ 37	\$ 33	\$ 39	\$ 37	\$ 38	\$ 26	\$ 26	\$ 32	\$ 43	\$ 44	\$ 54	\$ 27,271	\$ 27,679
Total - Revenue	\$ 1,537	\$ 6,033	\$ 25,198	\$ 37	\$ 6,038	\$ 51,244	\$ 56,245	\$ 162,510	\$ 94,211	\$ 176,294	\$ 54	\$ 81,771	\$ 661,171
Expenditures													
Management Contract	\$ 8,333	\$ -	\$ -	\$ 1,053	\$ 2,708	\$ 2,917	\$ 5,417	\$ -	\$ 8,958	\$ 10,208	\$ 10,208	\$ 24,167	\$ 73,969
APA Contract	5,250	-	-	5,250	-	-	5,250	-	-	5,250	-	-	21,000
Audits	-	-	4,500	2,100	-	-	-	-	-	-	-	-	6,600
Agency Counsel	-	-	-	-	-	42,000	-	-	-	-	-	-	42,000
ED Support	-	-	-	4,224	-	5,250	-	-	-	18,375	-	21,750	49,599
Sub-lease AHCC	-	-	-	-	-	-	60,556	-	-	-	-	-	60,556
NYS BIC	-	-	-	-	-	-	-	-	-	-	-	-	-
D & O Insurance	-	-	-	-	-	1,010	-	-	-	-	-	-	1,010
Misc.	-	409	105	153	165	105	285	-	-	150	240	-	1,610
Other Expenses	-	-	-	-	-	-	-	-	-	-	-	-	-
Total - Expenditures	\$ 13,583	\$ 409	\$ 4,605	\$ 12,779	\$ 2,873	\$ 51,282	\$ 71,507	\$ -	\$ 8,958	\$ 33,983	\$ 10,448	\$ 45,917	\$ 256,344
Ending Balance	\$ 238,790	\$ 244,415	\$ 265,007	\$ 252,265	\$ 255,430	\$ 255,393	\$ 240,131	\$ 402,640	\$ 487,893	\$ 630,204	\$ 619,809	\$ 655,663	\$ 655,663

City of Albany IDA

Fee Detail by Month

December 2011

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>January</i>	South Mall Towers	\$ -	\$ -	\$ -	\$ 1,000	\$ 1,000
	CDPHP	-	-	500	-	500
	TOTAL	\$ -	\$ -	\$ 500	\$ 1,000	\$ 1,500
<i>February</i>	Jetro Cash & Carry Restaurant Depot	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Madison Properties	-	-	-	1,500	-
	39 Sheridan Realty, LLC	1,500	-	-	-	-
	Spanos 255 PatroonCreek Blvd.	1,500	-	-	-	1,500
TOTAL	\$ 4,500	\$ -	\$ -	\$ 1,500	\$ 6,000	
<i>March</i>	FC DCI, LLC	\$ -	\$ 18,695	\$ -	\$ -	\$ 18,695
	Morris St. Development	-	6,464	-	-	6,464
	TOTAL	\$ -	\$ 25,159	\$ -	\$ -	\$ 25,159
<i>April</i>		\$ -	\$ -	\$ -	\$ -	\$ -
	TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -
<i>May</i>	Sixty State Place, LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Albany Hotel, Inc	1,500	-	-	-	1,500
	Penta on Braodway	1,500	-	-	-	1,500
	SRS Albany, LLC	1,500	-	-	-	1,500
	TOTAL	\$ 6,000	\$ -	\$ -	\$ -	\$ 6,000
<i>June</i>	Downtown Albany Revitaliztion, LLC	\$ 1,500	\$ -	\$ -	\$ -	\$ 1,500
	Swan Street Lots, LP	1,500	-	-	-	1,500
	CSR Series 2007A	-	-	-	7,969	7,969
	CSR Series 2007B	-	-	-	40,250	40,250
		-	-	-	-	-
	TOTAL	\$ 3,000	\$ -	\$ -	\$ 48,219	\$ 51,219

City of Albany IDA

Fee Detail by Month

December 2011

	Name	Application Fee	Agency Fee	Administration Fee	Modification Fee	TOTAL FEE
<i>July</i>	AMRI	\$ -	\$ -	\$ 1,000	\$ -	\$ 1,000
	CSR Series 2007B			7,844		
	Albany Medical Center			500		
	39 Sheridan Realty, LLC	-	46,875	-	-	-
	TOTAL	\$ -	\$ 46,875	\$ 9,344	\$ -	\$ 56,219
<i>August</i>	SRS Albany, LLC	\$ -	\$ 162,477	-	-	162,477
		-	-	-	-	-
		-	-	-	-	-
		-	-	-	-	-
	TOTAL	\$ -	\$ 162,477	\$ -	\$ -	\$ 162,477
<i>September</i>	Columbia 425 NS, LLC	\$ -	\$ 30,543	\$ -	\$ -	\$ 30,543
	AMRI	-	60,625	-	-	60,625
	Brighter Choice	-	-	500	-	500
	Hampton Plaza		1,000			
	TMG - NY Albany, L.P.	1,500	-	-	-	1,500
		-	-	-	-	-
	TOTAL	\$ 1,500	\$ 92,168	\$ 500	\$ -	\$ 94,168
<i>October</i>	Albany Hotel, Inc	\$ -	\$ 176,250	\$ -	\$ -	\$ 176,250
		-	-	-	-	-
		-	-	-	-	-
	TOTAL	\$ -	\$ 176,250	\$ -	\$ -	\$ 176,250
<i>November</i>		\$ -	\$ -	\$ -	\$ -	\$ -
		-	-	-	-	-
		-	-	-	-	-
	TOTAL	\$ -	\$ -	\$ -	\$ -	\$ -
<i>December</i>	Swan St Lofts	\$ -	\$ 54,000	\$ -	\$ -	\$ 54,000
	Albany Mid-Town Hotel	-	-	500	-	500
		-	-	-	-	-
	TOTAL	\$ -	\$ 54,000	\$ 500	\$ -	\$ 54,500
	2011 TOTAL	\$ 15,000	\$ 556,929	\$ 10,844	\$ 50,719	\$ 633,492
		<i>Application Fee</i>	<i>Agency Fee</i>	<i>Administration Fee</i>	<i>Modification Fee</i>	<i>TOTAL FEE</i>

**CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY
ANNUAL HOUSEKEEPING RESOLUTION 2012**

A regular meeting of City of Albany Industrial Development Agency (the “Agency”) was convened in public session at the office of the Department of Development and Planning at 21 Lodge Street in the City of Albany, Albany County, New York on January 19, 2012 at 12:15 o’clock p.m., local time.

The meeting was called to order by the Chairman and, upon roll being called, the following members of the Agency were:

PRESENT:

Anthony J. Ferrara	Chairman
Willard A. Bruce	Vice Chairman
Susan Pedo	Secretary
Hon. Kathy Sheehan	Treasurer
Martin Daley	Member
C. Anthony Owens	Member
John R. Vero	Member

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

Michael J. Yevoli	CEO - Capitalize Albany Corporation
Megan Daly	Department of Development and Planning
Erik Smith	CFO - Capitalize Albany Corporation
Bradley Chevalier	Economic Development Specialist, Capitalize Albany Corporation
Amy Gardner	Administrative Assistant, Capitalize Albany Corporation
John J. Reilly, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Bond Counsel

The following resolution was offered by _____, seconded by _____, to wit:

RESOLUTION APPROVING CERTAIN APPOINTMENTS AND ADMINISTRATIVE MATTERS OF THE AGENCY.

WHEREAS, City of Albany Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of 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 325 of the 1974 Laws of New York, as amended, constituting Section 903-a 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, recreation and civic 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, under Section 858 of the Act, the Agency has the power to make certain appointments and approve certain administrative matters; and

WHEREAS, under Section 856 of the Act, the members of the Agency shall elect the officers of the Agency; and

WHEREAS, as provided in the Agency's by-laws and the Governance Committee Charter, the members of the Governance Committee have reviewed and made certain recommendations on the Agency policies; and

WHEREAS, the members of the Agency desire to make certain appointments and approve certain administrative matters;

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

Section 1. The Agency hereby takes the following actions:

(A) Approves the appointments and the administrative matters described in Schedule A attached hereto.

(B) Approves, ratifies and confirms the policies described in Schedule A and contained in the Agency's Policy Manual.

Section 2. The Agency hereby authorizes the (Vice) Chairman and the Executive Director to take all steps necessary to implement the matters described in Schedule A attached.

Section 3. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

Anthony J. Ferrara	VOTING	_____
Willard A. Bruce	VOTING	_____
Susan Pedo	VOTING	_____
Hon. Kathy Sheehan	VOTING	_____
Martin Daley	VOTING	_____
C. Anthony Owens	VOTING	_____
John R. Vero	VOTING	_____

The resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

I, the undersigned (Assistant) Secretary of City of Albany Industrial Development Agency (the “Agency”), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency held on January 19, 2012 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 19th day of January, 2012.

(Assistant) Secretary

(SEAL)

SCHEDULE A

Confirmation of Regular Agency Meeting Schedule

Third Thursday of each month at 12:15 o'clock p.m., local time

Appointment of Chief Executive Officer and Staff to the Agency

Michael Yevoli, Chief Executive Officer
Erik Smith, Chief Financial Officer

Appointment of Accounting Firm of the Agency

Teal, Becker & Chiamonte, CPAs, P.C.

Appointment of Agency Counsel

John J. Reilly

Appointment of Bond Counsel to the Agency

Hodgson Russ LLP - A. Joseph Scott, III

Appointment of Bank of the Agency and Accounts

Key Bank Fee: 100904067
Fee Money Market: 329687000896
PMM: 325110017093
PMM Money Market: 329687000904

Appointments to Governance Committee

John Vero – Chairman
Martin Daley – Member
Susan Pedo – Member

Appointments to Audit Committee

Susan Pedo – Chairperson
Martin Daley – Member
C. Anthony Owens – Member

Appointments to Finance Committee

Bill Bruce – Chairman
Martin Daley – Member
Susan Pedo – Member
Kathy Sheehan – Member

Approval and Confirmation of Agency Policies

Uniform Tax Exemption Policy
Investment Policy
Procurement Policy
Enforcement Policy
PAAA Policies

Appointment of Contract Officer

Michael Yevoli

Appointment of Investment Officer

Erik Smith

Appendix A

Uniform Tax Exemption Policy

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”), City of Albany 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 the City of Albany.

(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 the school district of the City of Albany.

(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.

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

(B) Exceptions. The Agency 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: (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, 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 and/or equipping of each project with respect to which the Agency grants financial assistance. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of a project from sales and/or use taxes applicable to the initial acquisition, construction and/or equipping of such project, except (1) as described in subsection (E) below or (2) in the circumstance where (a) a project is offered sales tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (b) such event does not occur, in which case the Agency may require that the applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance.

(B) Period of Exemption. Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the “tax exemption period”) shall be determined as follows:

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

(2) Early Commencement. The tax exemption period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency’s debt relating to the project, provided that (a) the Agency has complied with the requirements of Section 859-a of the Act, (b) the Agency thereafter adopts a resolution determining to commence such period earlier, said resolution to be substantially in the form of Appendix 17A 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 Executive Director of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.

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

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

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

(1) Items incorporated into the real property;

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

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

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

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

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

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

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

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

(F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Such confirmation letter shall be in the form of either Appendix 17B (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 17C (where such exemption is tentative, because there remain conditions precedent to such tax exemption which have not been satisfied). Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

(G) Required Filings. The New York State Department of Taxation and Finance requires that proper forms and supporting material be filed with a vendor to establish a purchaser's entitlement to a sales tax exemption. For example, TSB-M-87(7) outlines the material 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. Pursuant to Section 874(B), 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 or leasehold mortgage, if applicable, 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 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 to Appendix 17D.

(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 Requirements. (1) 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.

(2)(a) The Agency has adopted an Urban Reinvestment Tax Incentive Program (the “Urban Incentive Program”). An applicant will be considered for participation in the Urban Incentive Program by the Agency upon satisfaction of the conditions described in Appendix E attached hereto. In order to be considered for the Urban Incentive Program, the applicant must complete the Agency’s Urban Incentive Program application.

(b) After completion of the Urban Incentive Program application, the applicant should submit the application to the Agency. The Agency shall make a determination based on the application whether the applicant is eligible for the Urban Incentive Program.

(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 to not 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 of Albany (currently known as the “Commercial and Industrial Incentive Board of the City of Albany”). Accordingly, the amount of any PILOT payment would equal the amount of taxes that would be 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.

(b)(i) In circumstances where the applicant has complied with the requirements contained in Section 1707(B)(2) hereof regarding the Urban Reinvestment Tax Incentive Program and the Agency has determined that the applicant is eligible for the Urban Reinvestment Incentive Program, the amount of abatement provided under the PILOT Agreement shall be described as follows:

<u>Year</u>	<u>Percentage Abatement</u>
1	100%
2	100%
3	100%
4	100%
5	100%
6	100%

7	100%
8	75%
9	50%
10	25%
11 and thereafter	0%

(ii) The abatement schedule described above will be applied against the increase in assessed value due to the project proposed by the applicant. There will be no diminution of existing real property taxes being paid prior to the undertaking of the proposed project.

(c) Notwithstanding anything herein to the contrary, if the project consists of an affordable housing project, the applicant shall make annual payments in lieu of property taxes pursuant to the PILOT Agreement with respect to the project as follows:

(i) An amount equal to ten percent (10%) of the shelter rents (rents, excluding the component thereof, if any, attributable to energy and utility costs) payable by the tenants in connection with the housing project.

(ii) The amounts payable under the PILOT Agreement with respect to the housing project shall be (x) payable at the times normal taxes are billed and collected, and (y) allocated among the affected tax jurisdictions in proportion to the tax rates of such affected tax jurisdictions in accordance with Section 858(15) of the Act.

(d)(i) Notwithstanding anything herein to the contrary, if the project is located in the City’s Empire Zone, the applicant will apply for certification as a Qualified Empire Zone Enterprise (“QEZE”), as defined under Article 18-B of the General Municipal Law. If the applicant is designated as a QEZE, the applicant shall make annual payments in lieu of property taxes pursuant to the PILOT Agreement with respect to the project in amounts equal to the applicable percentage of the Normal Tax due each Tax Entity with respect to the project for such tax year, as shown in the following table:

Tax Year Commencing During Fiscal Year	Percentage of Normal Tax
1-10	100%

(ii) However, if the amount of the credit payable to the applicant as a QEZE under Article 18-B of the General Municipal Law for

payments in lieu of taxes in a particular year is less than the amount estimated by the applicant to be payable as a payment in lieu of tax under the Agency's standard PILOT for the next tax year, the applicant may elect an option to make the payment in lieu of taxes for said tax year in an amount determined under the Agency's standard PILOT. The option described hereunder may be exercised by the applicant in any year during the term of the PILOT Agreement, commencing in the year when the applicant has received a credit for payments in lieu of taxes.

(iii) Notwithstanding anything herein to the contrary, if the project is located in the City's Empire Zone, the applicant will meet with Agency staff, Agency counsel and Bond Counsel to review the terms of the proposed PILOT Agreement. During such meeting, the following matters will be reviewed: (1) the applicant will apply for certification as a QEZE, (2) the likelihood of the applicant obtaining QEZE status, (3) the level of real property tax benefits the applicant will receive as a QEZE and (4) whether the level of real property tax benefits the applicant will receive as a QEZE will be more than the potential real property tax benefits to be provided under the Agency's Uniform Tax Exemption Policy. The applicant and the Agency will also discuss how to coordinate with the City of Albany Office of the Treasurer and Office of Real Property Tax the election option contained in (b)(ii) above.

(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 the 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. (a) 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.

(b) In addition, where the Agency has entered into a PILOT Agreement granting an applicant a real property tax abatement under the Urban Reinvestment Incentive Program, failure by the applicant to comply with the terms of the Urban Reinvestment Tax Incentive Program, including, but not limited to, the filing of the annual affidavits described in the Urban Reinvestment Incentive Program Application or the creation or retention of the jobs described in the Application, may result, in the discretion of the Agency, in the termination of the real property tax abatement provided under the Program and the conveyance of the project from the Agency to the Company. Upon such conveyance, the Company will then be responsible for the payment of normal real property taxes with respect to the project.

(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 City, 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.

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.

(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 the City of Albany and affected tax jurisdictions, and adoption of any changes shall take not less than 10 days thereafter. The Executive Director 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. The thirty day comment period shall not apply to the adoption of the original policies of the Agency which said policies shall become effective as herein provided.

Investment Policy

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 City of Albany 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 Executive Director of the Agency shall prepare and submit to the treasurer reports showing the amount of Agency Funds on deposit in each Depository and the general nature of the investment of such Agency Funds. Such reports shall be prepared within thirty (30) days of the end of each fiscal quarter. The treasurer shall in tam present such reports at the next regularly scheduled meeting of the Agency following the completion of such report.

(B) Annual Report. Within thirty (30) days of the end of each fiscal year, the Executive Director of the Agency shall prepare and submit to the treasurer 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. The treasurer of the Agency shall then present said report to the members of the Agency at the last regular meeting of the Agency for 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.

Procurement Policy

PART 5

PROCUREMENT POLICY

SECTION 501. PURPOSE AND AUTHORITY. The purpose of this Part is to outline the procurement policy of City of Albany Industrial Development Agency (the "Agency") as set forth by the procurement policy resolution (the "Resolution") adopted by the Agency on February 24, 1995 pursuant to Section 858-a(2) of Title One of Article 18-A of the General Municipal Law (the "Act").

SECTION 502. 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 unfair preference will be avoided, except in the following circumstances: purchases costing less than \$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 504 of this policy.

SECTION 503. 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 Contract¹</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000 and above	3 written/fax quotations or written request for proposals

^{1/} Purchase Contract refers to contracts for the purchase of equipment.

<u>Estimated Amount of Public Works Contract²</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000-\$4,999	2 written/fax quotations
\$5,000 and above	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. So long as a good faith attempt is made to obtain proposals, the failure to obtain the proposals will not 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 504. 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, judgement, 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.

^{2/} Public Works Contract refers to contracts for services.

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); 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; real estate brokerage services; appraisers; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged 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 second-hand goods from any source. It is difficult to try to compare prices of used goods and a lower price may indicate an older product.

(D) Goods or Services Under \$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 unfair preference.

(E) Special Findings. In the event the Agency determines that the solicitation of alternative proposals or quotations is not in the best interests of the Agency, the Agency must make such determination by resolution duly adopted and entered into the minutes of the Agency. Such resolution should include any findings described in this Section 504 supporting such determination.

SECTION 505. 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, creed, color, national origin, sex, age, disability or marital 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, creed, color, national origin, sex, age, disability or marital status.

(B) Any contract awarded by the Agency will include the provisions of Section 505 (A) hereof 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 505 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 505, 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 505 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 506. POLICY REVIEW. This policy will be reviewed annually.

Enforcement Policy

PART 22

AGENCY ENFORCEMENT OF AGENCY PROJECTS

SECTION 2201. PURPOSE AND AUTHORITY. The purpose of this Part is to outline the procedures utilized by the City of Albany Industrial Development Agency (the “Agency”) pursuant to Section 903-a of the General Municipal Law and Title One of Article 18-A of the General Municipal Law (collectively, the “Act”) to review compliance with 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 people of the State and to improve their standard of living.

SECTION 2202. JOB CREATION AND RETENTION. 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.

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 New York State Office of the Comptroller. In order to satisfy its annual reporting requirements and other requirements under the Act, 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:

(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 City of Albany Department of Administrative Services and Workforce Development, such programs collectively with the DOC, hereinafter referred to as the “Workforce Investment Program”.

(2) 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 City of Albany Department of Administrative Services and Workforce Development 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 the Installment Sale Agreement [or Lease 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 the 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 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 sublessee or other 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 (the "Annual Sales Tax Report"), 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 Section 4.1(E) of this Installment Sale Agreement [or this Lease Agreement] and/or the Final Inducement Resolution and/or the Sales Tax Exemption Letter.

(8) The applicant agrees to furnish to the Agency a copy of each such annual report submitted to the New York State Department of Taxation and Finance by the applicant pursuant to Section 874(8) of the Act.

SECTION 2204. COMPLIANCE.

(A) Compliance. The City of Albany Department of Administrative Services and Workforce Development ("DASWD") will act as agent to the Agency to review and report on compliance by applicants with the requirements described in Section 2203(B) above. The obligations of DASWD regarding compliance will be described in a service contract between the Agency and DASWD.

(B) Annual Reports. Within seventy-five (75) days after the end of each calendar year, DASWD will provide the Agency with an annual report describing the compliance by applicants with the requirements described in Section 2203(B) above, including the filing of annual reports and the number of jobs created and retained by the applicant.

(C) Agency Review. The Agency will review the report prepared by DASWD at a regular meeting of the Agency. After the review of the report prepared by DASWD, 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, and (3) 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.

SECTION 2205 ENFORCEMENT.

(A) General. Upon completion of the report prepared by DASWD regarding compliance by applicants with the requirements described in Section 2203(B) above, the Agency will initiate enforcement action against those applicants that have failed to comply with such requirements.

(B) Enforcement Action. Enforcement action by the Agency shall 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 the applicant's failure to comply with such requirements.
- (4) Terminating the financial assistance provided by the Agency, including any sales tax exemption letters and payment in lieu of tax agreements.

PAAA Policies

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 City of Albany 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;
- (2) Compensation Policy;
- (3) Whistle blower policy;
- (4) Travel Policy;
- (5) Real Property Acquisition Policy;
- (6) Real Property Disposition Policy; and
- (7) Indemnification Policy.

(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 attached.

(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
- (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.

MEMO

TO: City of Albany IDA members
FROM: Bradley Chevalier, Economic Developer
RE: New Board Member Training Options
DATE: January 13, 2011

In the matter of new board member training, two options are available to complete this State sanctioned requirement.

First, the New York State Public Authorities Office (ABO) is now offering free webinar training for public authority members. Training will be provided on a first come first served basis. To participate in this training, participants must set aside approximately 3 hours of uninterrupted time. Participants will be expected to ask and answer questions in the same manner as if they were in a classroom setting. For more information on upcoming sessions and registration details please visit the ABO's website at <http://www.abo.state.ny.us/training/onlinetraining.html>.

Second, a free onsite seminar can be scheduled with Scott Fein. Mr. Fein is co-chair of the Government and Corporate Regulatory Affairs practice group of Whiteman Osterman and Hanna, a law firm with offices in Albany and Washington, D.C. He serves as Director of the Public Authorities Project of the Government Law Center of Albany Law School. Over the past 7 years he has provided training to many of the state and local authorities. Typically the training requires approximately 2 hours and can either precede or follow a board session.

We put this before the Board for discussion and consideration.