

# **CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY GENERAL PRACTICES AND OPERATING PROCEDURES**

## ***Straight-lease Application Process:***

A Straight-lease Application Form and Environmental Assessment Form (EAF) are completed by the company seeking benefits and submitted to the Industrial Development Agency office where they are reviewed for completeness. If complete, the application is forwarded to Industrial Development Agency counsel for legal review for eligibility under Article 18-A of General Municipal Law. The Application Form and EAF are then sent to Industrial Development Agency members for deliberation and consideration at an open meeting. Deliberation typically includes consideration of factors such as:

- Total capital investment to be made (typically in excess of \$500,000)
- Achievement of certain wage standards (typically 135% of the per capita income) and job creation over three years
- Whether the project will provide employment for Cortland County workers, particularly displaced workers, or bring new workers to the area
- Whether the benefit is necessary for the company to retain its competitive position and/or productivity
- Whether the benefit is necessary to attract an out-of-state company or enable a project in Cortland County that might otherwise have gone out-of-state
- Whether the project is supported through another public source and whether Industrial Development Agency benefits are necessary or duplicative
- Whether the project will help redevelop an abandoned facility, revitalize a key industrial site or stimulate a downtown central business district development
- Whether the project is necessary to meet critical community needs such as health or safety, environmental issues, infrastructure, transportation (particularly multimodal) or recreational
- The company's overall financial status, its competitive position in its industry, and its long-term prospect for viability
- Means of financing and whether commitments are in place from lenders
- Whether the project would be undertaken without Industrial Development Agency support
- The impact of the project on the county and overall regional economy
- How the project benefits the taxpayer and local tax base over the long term

Upon legal opinion by Industrial Development Agency counsel and approval by Industrial Development Agency members at an open meeting, the Industrial Development Agency passes a "Preliminary Inducement Resolution" and signs a "Preliminary Agreement" with the company.

Industrial Development Agency members review the EAF, consider opinion of counsel, and review the entire project impact as part of the Industrial Development Agency's compliance with the State Environmental Quality Review Act ("SEQR"). The Industrial Development

Agency selects the appropriate action category for the project under SEQR, determines whether it should serve as lead agency, and if so, proceeds with the SEQR process appropriate for that action. At the appropriate time during the SEQR process, the Industrial Development Agency will adopt a "Resolution" or other appropriate SEQR document setting forth the Industrial Development Agency's SEQR determination for the project. If the Industrial Development Agency is not lead agency under SEQR, it agrees to abide by the SEQR determination issued by whichever agency is acting as lead agency.

Industrial Development Agency members pass a "Public Hearing Resolution" authorizing a public hearing regarding the proposed project. Industrial Development Agency counsel prepares and distributes the required public notices to the media and local taxing authorities. Proof of publication of legal notice is submitted to the Industrial Development Agency. Minutes of the public hearing are prepared and sent to Industrial Development Agency counsel. A report of the public hearing is provided to Industrial Development Agency members.

Based on consideration of public comment, Industrial Development Agency members pass a "Final Inducement Resolution."

Certificates regarding no conflict of interest are signed and filed with the Industrial Development Agency. Other documents (such as general certificate of company, certificate of insurance, etc.) as required by law are submitted by the company to Industrial Development Agency counsel. The Industrial Development Agency members direct counsel to prepare the required closing documents and conduct a closing. After closing, Industrial Development Agency counsel prepares a project binder as a permanent record that documents all steps of process. Both Industrial Development Agency counsel and the Industrial Development Agency office retain copies of the closing binder.

Industrial Development Agency members directs counsel to notify the Cortland County Office of Real Property Services and local taxing authorities as to the start and end dates of the PILOT.

***Tracking:***

Upon closing, the Industrial Development Agency financial administrator assigns a project code per OSC reporting requirements. An independent auditor is retained by the Cortland County Industrial Development Agency to complete the required OSC annual report with details such as employment levels and tax exemptions provided because of Industrial Development Agency sponsorship. The auditor sends out independent confirmation letters as part of its audit. The auditor's report and findings are presented by the outside auditor to Industrial Development Agency members at an open meeting at the conclusion of the audit.

The Industrial Development Agency receives insurance certificates at project closing. If the Industrial Development Agency office receives notice of cancellation, staff advises Industrial Development Agency counsel to take action, beginning with an inquiry. If the

Industrial Development Agency office simply receives a notice of change of carrier, this is filed with the financial administrator. The financial administrator reviews coverage on an annual basis for policy changes and notifies Industrial Development Agency counsel if there are issues or concerns.

At the direction of the Industrial Development Agency, counsel sends annual employment affidavits to all companies receiving Industrial Development Agency benefits, advising them of a November 1 annual required affidavit filing deadline. Affidavits measure number of jobs, types of jobs and wage levels. Completed affidavits come back to the Industrial Development Agency office and are logged by Industrial Development Agency staff. Originals are kept in the Industrial Development Agency office and copies are sent to Industrial Development Agency counsel who reviews them against the PILOT legal requirements, outlined in the agreement between the Industrial Development Agency and the company. Industrial Development Agency staff maintains a tracking spreadsheet with project specifics such as employment levels. This information is also used to help evaluate whether jobs are being created and/or retained by the project, as well as other economic impacts. Industrial Development Agency staff writes a narrative summary for review by the Industrial Development Agency members.

If Industrial Development Agency members, in consultation with counsel, determine that a company is in default, counsel is instructed to notify the company, which is given an opportunity to take corrective action to comply, or to respond. The Industrial Development Agency reviews each case individually, and takes appropriate action as required. The Industrial Development Agency may choose to continue the PILOT based on factors cited by the company such as industry cycles, a general downturn in the economy, or other special circumstances. The Industrial Development Agency may modify the PILOT based on guidelines within the agreement. The Industrial Development Agency may terminate the PILOT. Industrial Development Agency counsel is instructed by the Industrial Development Agency to notify all local taxing authorities of the board's decision, if it involves a modification or termination.

If a project involves new construction and/or the acquisition of new equipment, Industrial Development Agency staff makes a site visit to assure that the project has been completed to the specifications stated in the application, and that the stated investment has been made. Industrial Development Agency staff maintains regular contact with companies receiving PILOT benefits throughout the duration of the PILOT agreement. This includes periodic telephone conversations and site visits to assess operations and staffing levels. Industrial Development Agency staff also assess whether the company is continuing to make ongoing investments, even beyond the initial project period, and reports these findings to Industrial Development Agency members. Industrial Development Agency staff may request additional financial information if required, and may monitor SEC filings of public companies. If there are apparent inconsistencies with employment affidavits filed with the Industrial Development Agency by the company receiving benefits, these are reported to Industrial Development Agency members. Industrial Development Agency staff makes reports to Industrial Development Agency members on the status of Industrial

Development Agency projects at regularly scheduled monthly open Industrial Development Agency meetings.

Industrial Development Agency members, in consultation with staff and counsel, regularly review and discuss the criteria for Industrial Development Agency incentives to assure that they are consistently applied. Industrial Development Agency members, in consultation with staff and counsel, monitor project performance based on both annual employment affidavits and staff site visits to ensure that projects have fulfilled proposed benefits and objectives.

At the conclusion of a PILOT project, Industrial Development Agency counsel is instructed by the Industrial Development Agency to notify local taxing authorities and initiate a termination procedure.