

BOARD MEMBERS
DAVID MADDEN - CHAIRMAN
WAYNE HAWKINS – VICE CHAIRMAN
ANDREW BRITTO
JOSEPH M. DESTEFANO

MARIA BRUNI, ADMINISTRATIVE DIRECTOR
PATRICIA RACINE, SECRETARY
JOHN NAUMCHIK, TREASURER
ALEX SMITH, IDA COUNSEL

**Industrial Development
Agency
City of Middletown**

MISSION STATEMENT, BYLAWS AND POLICIES

Adopted January 18, 2022

BYLAWS
OF THE
CITY OF MIDDLETOWN
INDUSTRIAL DEVELOPMENT AGENCY

ARTICLE I
THE AGENCY

Section 1 Name. The name of the Agency shall be “City of Middletown Industrial Development Agency.”

Section 2. Seal of the Agency. The seal of the Agency shall be in the form of a circle and shall bear the name of the Agency and the year of its organization.

Section 3. Office of the Agency. The Office of the Agency shall be at the Community Development Office in the City of Middletown New York but the Agency may have other offices at such other places as the Agency may from time to time designate by resolution.

ARTICLE II
BOARD MEMBERS

Section 1. The Agency shall consist of not less than three nor more than seven members who shall constitute the members of the Board of the IDA (“the Board”) and who shall be appointed by the City of Middletown Common Council.

Section 2. The term of office of each member of the Board shall be at the pleasure of the City of Middletown Common Council, and each Board member shall continue to hold office until his/her successor is appointed and has qualified or as may be established by law.

Section 3. Chairman. The Chairman of the Board shall preside at all meetings of the Board. Except as otherwise authorized by resolution of the Board, the Chairman shall execute all agreements, contracts, deeds and any other, instruments of the Agency. At each meeting the Chairman shall submit such recommendations and information as s/he may consider proper concerning the business affairs and policies of the Agency. The Chairman shall be chosen by the members of the Board at the annual meeting of the Board.

Section 4. Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in case of the resignation or death of the Chairman, the Vice Chairman shall perform such duties as are imposed on the Chairman until such time as the Board shall choose a new Chairman and the Vice Chairman shall be chosen by the members of the Board at the annual meeting of the Board.

ARTICLE III
OFFICERS

Section 1. Officers. The officers of the Agency shall be an Administrative Director, a Secretary, and a Treasurer.

Section 2. Administrative Director. The Administrative Director shall not be a member of the Board. S/He shall have general supervision over the administration of the business and affairs of the Agency, subject to the direction of the Board. S/He shall be charged with the management of all projects of the Agency.

Section 3. Secretary. The Secretary may be a member of the Board. The Secretary shall keep all records of the Agency, shall act as Secretary at the meetings of the Board and shall record all votes and shall record the proceedings of the Board in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office. S/He shall keep in safe custody the seal of the Agency and shall have the power to affix such seal to all contracts and other instruments authorized to be executed by the Board.

Section 4. Treasurer. The Treasurer shall not be a member of the Board. The Treasurer shall have the care and custody of all funds of the Agency and shall deposit the same in the name of the Agency in such bank or banks as the Agency may select. Except as otherwise authorized by resolution of the Board, the Treasurer shall sign all instruments of indebtedness, all orders, and all checks for the payment of money; and shall pay out and disburse such money under the direction of the Board. Except as otherwise authorized by resolution of the Board, all such instruments of indebtedness, orders and checks shall be counter-signed by the Chairman. S/He shall keep regular books of accounts showing receipts and expenditures, shall render to the Agency at each regular meeting an account of his or her transactions and also of the financial condition of the Agency. S/He shall give such bond for the faithful performance of his or her duties as the Agency may determine.

Section 5. Additional Duties. The officers of the Agency shall perform such other duties and functions as may from time to time be required by the Board, by the by-laws of the Agency, or by rules and regulations of the Agency.

Section 6. Appointment of Officers. All officers of the Agency shall be appointed at the annual meeting of the Board and shall hold office for one year or until their successors are appointed.

Section 7. Vacancies. Should any office become vacant, the Board shall appoint a successor at the next regular meeting, and such appointment shall be for the unexpired term of said office.

ARTICLE IV
ADDITIONAL PERSONNEL

Section 1. The Agency may from time to time, employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act, as amended, and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel shall be determined by the Board subject to the laws of the State of New York.

ARTICLE V
MEETINGS

Section 1. Annual Meeting. The annual meeting of the Agency shall be held in January of each year at a date and time to be determined by the Board.

Section 2. Regular Meetings. Regular meetings of the Board may be held at such times and places as from time to time may be determined by Resolution of the Board.

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

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

Section 5. Order of Business. At the regular meetings of the Board the following shall be the order of business:

1. Roll Call
2. Reading and approval of the minutes of the previous meeting
3. Bills and communications
4. Report of Treasurer
5. Reports of Committees
6. Unfinished business
7. New business
8. Adjournment

All resolutions shall be in writing and shall be copied in or attached to a journal of the proceedings of the Board.

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

Article VI
Indemnification

The Agency shall indemnify all members of the Board and each officer and employee thereof in the performance of their duties, and to the extent authorized by the Board, each other person authorized to act for the Agency or on its behalf, to the full extent to which indemnification is permitted under the General Municipal Law of the State of New York or any other law of the State of New York.

ARTICLE VII
AMENDMENTS

Section 1. Amendments to By-laws. The by-laws of the Agency shall be amended only with the approval of at least a majority of the members of the Board at a regular or special meeting of the Board, but no such amendment shall be adopted unless a seven days written notice thereof has been previously given to all Board members.

Approved and adopted this 16th day of February 2021.

MISSION STATEMENT

MISSION STATEMENT:

To promote economic development, sustainable growth, and general prosperity for the people of the City of Middletown by encouraging the location, expansion, or retention of compatible and diverse businesses by using available incentives, rights, and powers in an efficient and cooperative manner.

Adopted: January 18, 2021

PERFORMANCE GOALS:

- A. Perform outreach within the community to educate local business owners, elected officials and other community representatives regarding the economic development resources the City of Middletown Industrial Development Agency has available for use by new and existing businesses within the jurisdictional boundaries of the City of Middletown. Such outreach shall include but is not limited to, conducting informational meetings with community members, preparation and dissemination of press releases, marketing materials, and creation of a City of Middletown Industrial Development Agency website.
- B. Continue to market and administer existing City of Middletown Industrial Development Agency programs including completion of administrative activities.
- C. Continue to market City of Middletown Industrial Development Agency programs to prospective businesses seeking to expand and grow within the City of Middletown.
- D. Work cooperatively with other industrial development agencies active in Orange County to encourage efficient allocation of economic development resources.
- E. Work cooperatively with the City of Middletown Department of Economic Development to foster job growth, promote sustainable development, and contribute to the prosperity of the City of Middletown.
- F. Improve City of Middletown Industrial Development Agency efficiency through the reduction of overhead attributable to non-core activities.
- G. Promote the expansion of economic opportunities by taking advantage of State and Federal business incentive programs designed for the promotion of small businesses.

CODE OF ETHICS

The members of the board (the "Board") of the City of Middletown Industrial Development Agency (the "Agency"), a duly established public benefit corporation of the State of New York (the "State"), along with the officers and staff of the Agency, shall comply with and adhere to the provisions of Article 18 of the General Municipal Law of the State.

Further, no director, officer, or employee of the Agency shall

- (1) accept other employment which will impair his or her independence of judgement in the exercise of his or her official duties;
- (2) accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position of authority;
- (3) disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests;
- (4) use or attempt to use his or her official duties nor use such information to further his or her personal interests;
- (5) use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others;
- (6) engage in any transaction as a representative or agent of the Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with proper discharge of his or her official duties;
- (7) not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship rank, position or her duty in the public interest and his or her private interest; and
- (8) endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

Approved and adopted this 18th day of January 2022.

COMPENSATION, REIMBURSEMENT AND ATTENDANCE POLICY

Pursuant to and in accordance with Sections 856 and [GML enabling act] of the General Municipal Law of the state of New York, the members of the board of the City of Middletown Industrial Development Agency (the "Board") shall serve without salary at the pleasure of the Mayor and Common Council, of the City of Middletown, New York (the "MUNICIPALITY") but may be reimbursed for reasonable expenses incurred in the performance of Agency duties at the approval of the Board.

The officers, employees and agents of the Agency shall serve at the pleasure of the Agency at such compensation levels as may be approved by the Board from time to time and may be reimbursed for reasonable expenses incurred in the performance of Agency duties at the approval of the Board.

The members of the Board and officers of the Agency shall be available as required to perform the operations of the Agency as set forth within the By-Laws of the Agency, as may be amended, restated or revised by the Board from time to time. Said members and officers of the Agency shall put forth their best efforts to perform their respective duties as outlined in the By-Laws of the Agency and any other directives of the Board relating to same.

Approved and adopted this 18th day of January 2022.

CONFLICT OF INTEREST POLICY

Board members and employees should review on an ongoing basis circumstances that constitute a conflict of interest or the appearance of a conflict of interest, abide by this policy and seek guidance when necessary and appropriate.

This policy is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to public authorities.

Conflicts of Interest: A conflict of interest is a situation in which the financial, familial, or personal interests of a director or employee come into actual or perceived conflict with their duties and responsibilities with the Authority. Perceived conflicts of interest are situations where there is the appearance that a board member and/or employee can personally benefit from actions or decisions made in their official capacity, or where a board member or employee may be influenced to act in a manner that does not represent the best interests of the authority. The perception of a conflict may occur if circumstances would suggest to a reasonable person that a board member may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner for the purposes of this Policy.

Board members and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust. While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a director or employee has or will have:

- A financial or personal interest in any person, firm, corporation or association which has or will have a transaction, agreement or any other arrangement in which the authority participates.
- The ability to use his or her position, confidential information or the assets of the authority, to his or her personal advantage.
- Solicited or accepted a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her, or could reasonably be expected to influence him/her, in the performance of his/her official duties or was intended as a reward for any action on his/her part.
- Any other circumstance that may or appear to make it difficult for the board member or employee to exercise independent judgment and properly exercise his or her official duties. Outside Employment of Authority's Employees: No employee may engage in outside employment if such employment interferes with his/her ability to properly exercise his or her official duties with the authority.

PROCEDURES

Duty to Disclose: All material facts related to the conflicts of interest (including the nature of the interest and information about the conflicting transaction) shall be disclosed in good faith and in writing to the Governance Committee and/or the Ethics Officer. Such written disclosure shall be made part of the official record of the proceedings of the authority.

Determining Whether a Conflict of Interest Exists: The Governance Committee and/or Ethics Officer shall advise the individual who appears to have a conflict of interest how to proceed. The Governance Committee and/or Ethics Officer should seek guidance from counsel or New York State agencies, such as the Authorities Budget Office, State Inspector General or the Joint Commission on Public Ethics (JCOPE) when dealing with cases where they are unsure of what to do.

Recusal and Abstention: No board member or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any organization in which he or she is deemed to have an interest. Board members and employees must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and are prohibited from attempting to influence other board members or employees in the deliberation and voting on the matter.

Records of Conflicts of Interest: The minutes of the authority's meetings during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

Reporting of Violations: Board members and employees should promptly report any violations of this policy to his or her supervisor, or to the public authority's ethics officer, general counsel or human resources representative in accordance with the authority's Whistleblower Policy and Procedures. Penalties: Any director or employee that fails to comply with this policy may be penalized in the manner provided for in law, rules or regulations.

Approved and adopted this 18th day of January 2022.

DEFENSE AND INDEMNIFICATION POLICY

Pursuant to the By-laws of the City of Middletown Industrial Development Agency (the "Agency"), the agency shall indemnify all members of the Board of the Agency and each officer and employees thereof, in the performance of their duties, and to the extent authorized by the Board, each other person authorized to act for the Agency or on its behalf, to the full extent to which indemnification is permitted under the General Municipal Law of the State of New York.

Approved and adopted this 18th day of January 2022.

DISPOSITION OF REAL PROPERTY GUIDELINES

Section 1. DEFINITIONS

- A. "Contracting officer" shall mean the officer or employee of the City of Middletown Industrial Development Agency (hereinafter, the "Agency") who shall be appointed by resolution to be responsible for the disposition property.
- B. "Dispose" or disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the Public Authorities Law.
- C. "Property" shall mean personal property in excess of five thousand dollars (\$5000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

Section 2. DUTIES

- A. The Agency shall:
 - (i) Maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;
 - (ii) Periodically inventory such property to determine which property shall be disposed of;
 - (iii) Produce a written report of such property in accordance with subsection B herewith; and
 - (iv) Transfer or dispose of such property as promptly and practicably as possible in accordance with Section 2 below.
- B. The Agency shall:
 - (i) Publish not less frequently than annually a report listing all real property owned in fee by the Agency. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period; and
 - (ii) Shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of the State of New York, the Commissioner of the New York State Office of General Service, and the New York State Legislature (via distribution to the majority leader of the senate and the speaker of the assembly).

Section 3. TRANSFER OR DISPOSITION OF PROPERTY

- A. Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the "contracting Officer") shall have supervision and direction over the disposition and sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.
- B. Custody and Control. The custody and control of Agency property, pending its disposition, and the disposal of such property, shall be performed by the agency or by the Commissioner of General Services when so authorized under this section.
- C. Method of Disposition. Unless otherwise permitted, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other

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

- D. Sales by the Commissioner of General Services (the "Commissioner"). When the Agency shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner of General Services pursuant to which the Commissioner may dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the Contracting Officer shall be deemed to refer to such Commissioner.
- E. Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency in accordance here with shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack or such compliance prior to the closing.
- F. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.
 - (i) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the agency shall be made after publicly advertising for bids except as provided in subsection (ii) of this Section F.
 - (ii) Whenever public advertising for bids is required under subsection(i)if this Section F:
 - (A.) The advertisement for bids shall be made at such time prior to the disposal or contract through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition;
 - (B.) All bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - (C.) The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the incitation for bids, will be most advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected at the agency's discretion.
 - (iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section F but subject to obtaining such competition as is feasible under the circumstances if:
 - (A.) The personal property involved is of a nature and quantity which, if disposed of under subsections (i) and (ii) of this Section F, would adversely affect the state or local market for such property, and the estimated fair market value of such

property and other satisfactory terms of disposal can be obtained by negotiation;

(B.) The fair market value of the property does not exceed fifteen thousand dollars;

(C.) Bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(D.) The disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

(E.) The disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the Agency, the state or a political subdivision (to include by not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Agency or

(F.) Such action is otherwise authorized by law.

(iv) (A.) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(1) Any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(2) Any real property that has an estimated fair market value in excess of one hundred thousand dollars except that any real property disposed of by lease or exchange shall only be subject to clauses (3) through (5) of this subparagraph;

(3) Any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars for any such years;

(4) Any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars; or

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

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

The Guidelines are subject to modification and amendment at the discretion of the Agency board and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the agency is the Administrative Director.

Approved and adopted this 18th day of January 2022.

INVESTMENT POLICY

INVESTMENT POLICY

1 SCOPE

This investment policy applies to all monies and other financial resources available for investment on its own behalf or on behalf of any other entity or individual.

2 OBJECTIVES

The primary objectives of the City of Middletown Industrial Development Agency Industrial Development Agency's investment activities are, in priority order,

- ✓ **Legal:** to conform with all applicable federal, state and other local requirements;
- ✓ **Safety:** to adequately safeguard principal;
- ✓ **Liquidity:** to provide sufficient liquidity to meet all operating requirements; and
- ✓ **Yield:** to obtain reasonable rate of return.

3 DELEGATION OF AUTHORITY

The governing board's responsibility for administration of the investment program is delegated to the Treasurer who shall establish written procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on data base or records incorporating description and amounts of investments, transaction dates, and other relevant information and regulate the activities of subordinate employees.

4 PRUDENCE

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the City of Middletown Industrial Development Agency Industrial Development Agency to govern effectively.

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.

All participants involved in the investment process shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

5 DIVERSIFICATION

It is the policy of the City of Middletown Industrial Development Agency Industrial Development Agency to diversify its deposits and investments by financial institutions, by investment, and by maturity scheduling.

6 INTERNAL CONTROLS

It is the policy of the City of Middletown Industrial Development Agency Industrial Development Agency for all monies collected by any officer or employee of the Agency to transfer those funds to the Treasurer within one day of deposit, or within the time specified in law, whichever is shorter.

The Treasurer is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

7 DESIGNATION OF DEPOSITORIES

The bank and trust companies authorized for the deposit of monies up to the maximum amounts are:

Depository Name	Maximum Amount
Orange Bank & Trust Co.	\$1,000,000

8 COLLATERALIZING OF DEPOSITS

In accordance with the provisions of General Municipal Law, §10, all deposits of the City of Middletown Industrial Development Agency Industrial Development Agency, including certificates of deposits and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- 1) By a pledge of "eligible securities" with an aggregate "market value" as provided by GML §10, equal to the aggregate amount of deposits from the categories designated in Appendix A to the policy.
- 2) By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of the deposits and the agreed upon interest, if any or 100% in the case of an irrevocable letter of credit issued in favor of the local government by certain Federal Home Loan Banks. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
- 3) By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of the deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims - paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

9 SAFEKEEPING AND COLLATERALIZATION

Eligible securities used for collateralizing deposits shall be held by a third party or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses rising out of collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events, which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with the City of Middletown Industrial Development Agency Industrial Development Agency, or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution or release of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

10 PERMITTED INVESTMENTS

As authorized by General Municipal Law, §11, the City of Middletown Industrial Development Agency Industrial Development Agency authorizes the Treasurer to invest monies not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- ✓ Special time deposit accounts authorized to do business in New York State;
- ✓ Certificates of deposit;
- ✓ Obligations of the United States of America;
- ✓ Obligations guaranteed by the agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America;
- ✓ Obligations of the State of New York;
- ✓ Obligations issued pursuant to LFL §24.00 or 25.00 (with the approval of the State Comptroller) by any municipality, school district or district corporation other than the City of Middletown Industrial Development Agency;
- ✓ Obligations of public authorities, public housing authorities, urban renewal agencies and industrial development agencies where the general State statutes governing such entities or whose specific enabling legislation authorizes such investments.
- ✓ Certificates of Participation (COPs) issued pursuant to GML §109-b.
- ✓ Obligations of this local government, but only with any monies in a reserve fund established pursuant to GML §6-c, 6-d, 6-g, 6-h, g-j, 6-k, 6-l, 6-m, or 6-n.

All investment obligations shall be payable or redeemable at the option of the City of Middletown Industrial Development Agency within such times as the proceeds will be needed to meet expenditures for purposes for which the monies were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the City of Middletown Industrial Development Agency within two years of the date of purchase. The designated depository will confirm all purchases and transactions in writing to the City of Middletown Industrial Development Agency.

11 AUTHORIZED FINANCIAL INSTITUTIONS AND DEALERS

The City of Middletown Industrial Development Agency shall maintain a list of financial institutions and dealers approved for investment purposes and establish appropriate limits to the amount of investments, which can be made with each financial institution or dealer. All financial institutions

with which the local government conducts business must be credited worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the City of Middletown Industrial Development Agency. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank as primary dealers. The Treasurer is responsible for evaluating the financial position and maintaining a listing of proposed depositaries, trading partners and custodians. Such listing shall be evaluated at least annually.

12 PURCHASE OF INVESTMENTS

The Treasurer is authorized to contract for the purchase of investments:

1. Directly, including through a repurchase agreement, from an authorized trading partner.
2. By participation in a cooperative program with another authorized governmental entity pursuant to Article 5G of the General Municipal Law where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
3. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the City of Middletown Industrial Development Agency by the bank or trust company. Any obligations held in the custody of a bank or trust company shall be held pursuant to a written custodial agreement as described in General Municipal Law, §10.

The custodial agreement shall provide the securities held by the bank or trust company, as agent and of custodian for, the City of Middletown Industrial Development Agency, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the City of Middletown Industrial Development Agency a perfected interest in the securities.

13 REPURCHASE AGREEMENTS

Repurchase agreements are authorized subject to the following restrictions:

- All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- Trading partners are limited to banks or trust companies authorized to do business in New York and primary reporting dealers.
- Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- No substitution of security will be allowed.

- The custodian shall be a party other than the trading partner.

14 OPERATIONS, AUDIT AND REPORTING

The Treasurer, having custody of money, shall authorize the purchase and sale of all securities and execute contracts on behalf of the City of Middletown Industrial Development Agency. Oral directions concerning the purchase, transaction, or sale of securities shall be confirmed in writing. The City of Middletown Industrial Development Agency shall pay for purchased securities upon delivery.

The City of Middletown Industrial Development Agency will encourage the purchase and sale of securities through a competitive or negotiated process involving solicitations of at least three bids for each transaction.

At the time independent auditors conduct the annual financial audit of the accounts and affairs of the City of Middletown Industrial Development Agency, the auditors shall audit compliance with the Investment Guidelines.

The legislative body of the City of Middletown Industrial Development Agency shall review and approve the annual investment report at its Annual reorganization meeting.

The provisions of these Investment Guidelines and any amendments hereto, shall take effect prospectively, and shall not invalidate the prior selection of any custodial bank or prior investment.

APPENDIX A

Schedule of Eligible Securities

- i. Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or United States Government sponsored corporation.
- ii. Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.

Revised 01/20

Approved and adopted
this 18th day of January 2022.

LABOR POLICY

Approved and adopted this 18th day of January 2022.

The City of Middletown Industrial Development Agency (IDA) was established for the purpose of creating employment opportunities for, and to promote the general prosperity and economic welfare of the residents of Middletown, NY. The IDA offers economic incentives and benefits to qualified applicants who wish to locate or expand their businesses or facilities in the City of Middletown. When the IDA approves a project, it enters into agreements to extend these incentives and benefits to the applicant.

Construction jobs, though limited in time duration, are vital to the overall employment opportunities and economic growth in the City of Middletown. The IDA believes that companies benefiting from its incentive programs should employ local laborers, mechanics, craft persons, journey workers, equipment operators, truck drivers and apprentices (hereinafter "construction workers"), including those who have returned from military service, during the construction phase of projects. In this way, the IDA can generate significant benefits to advance the City's general prosperity. It is, therefore, the policy of the IDA that firms benefiting from its programs shall employ workers from Orange County and preferably from the City of Middletown and the "local labor" market during all project phases, including the construction phase.

For the purpose of this policy, the "local labor" market for construction workers shall be defined as those individuals living in Orange, Ulster, Sullivan, Dutchess, Putnam, Rockland and Westchester Counties. Applicants receiving IDA benefits shall ensure the contractor/developer hire at least 85% from the "local labor" market for their approved projects. The 85% shall be by contractor and in total at the time of completion of the project. The contractor/developer is mandated to keep daily log sheets of all field workers, commencing on the date of application. Any work performed after application shall be included in the determination of overall compliance with the 85% hiring requirements of this policy. A third-party auditing firm may be engaged to monitor construction work commencing on the date benefits are granted by resolution of the IDA Board.

However, the IDA recognizes that the use of local labor may not be possible for the following reasons and the applicant may request an exemption on a particular contract or trade scope for the following reasons:

1. Warranty issues related to installation of specialized equipment whereby the manufacturer requires installation by only approved installers;
2. Specialized construction is required and no local contractors or local construction workers have the required skills, certifications or training to perform the work;
3. Cost Differentials:

- a. For projects whose project cost exceeds \$15M, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the sub contract or contract of a particular trade or work scope by at least 20%. Every reasonable effort should be made by the applicant and or the applicant's contractor to get below the 20% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the Hudson Valley Building and Construction Trades Council and other local Contractor Associations;
 - b. For projects whose project cost is less than \$15M, significant cost differentials in bid prices whereby the use of local labor and materials significantly increases the sub contract or contract of a particular trade or work scope by 10% or more. Every reasonable effort should be made by the applicant and or the applicant's contractor to get below the 10% cost differential including, but not limited to, communicating and meeting with local construction trade organizations, such as the Hudson Valley Building and Construction Trades Council and other local Contractor Associations;
4. No labor is available for the project; and
 5. The contractor requires key or core persons such as supervisors, foreman or "construction workers" having special skills that are not available in the "local labor" market.

The request to secure an exemption for the use of non-local labor must be received from the applicant on the exemption form provided by the IDA or the 3rd party monitor and received in advance of work commencing. The request will be reviewed by the 3rd party monitor and forwarded to the IDA, or by the IDA directly, at which time the IDA's Audit Committee shall have the authority to approve or disapprove the exemption. The 3rd party monitor, if there is one shall report each authorized exemption to the Board of Directors at its monthly meeting.

In addition, applicants receiving IDA benefits and contractors on the project shall make every reasonable effort to utilize vendors, material suppliers, subcontractors and professional services from the City of Middletown and the surrounding counties. Applicants and contractors shall be required to keep records of those local vendors, material suppliers, contractors and professional services whom they have solicited and with whom they have contracted with or awarded. This shall be stored in a binder on site and shall be easily available for review by an authorized representative of the IDA, such as the IDA's 3rd party monitor. It shall include any documents for solicitation and contracts. It is the goal of the City of Middletown and the IDA to promote the use of local veterans on projects receiving IDA benefits. By partnering with local contractors, local contractor groups, local trade unions and contractors awarded work on IDA projects, there are opportunities for veterans to gain both short term and long term careers in the construction industry.

Once approved for IDA benefits, all applicants will be required to provide to IDA staff the following information:

1. Contact information for the applicant's representative who will be responsible and accountable for providing information about the bidding and awarding of construction contracts relative to the applicant's project;

2. Description of the nature of construction jobs created by the project, including in as much detail as possible, the number, type and duration of construction positions;

3. The names, contact information, certificate of authorization to do business in the State of New York and copies of current Certificates of NYS Workers' Compensation Insurance, NYS Disability Insurance, General Liability Insurance and proof of current OSHA training certification from all contractors' employees performing work on the site; and

4. A Construction Completion Report listing the names and business locations of prime contractors, subcontractors and vendors who have been engaged in the construction phase of the project. All City of Middletown IDA projects are subject to local monitoring by the IDA and any 3rd party monitor. The applicant and/or the Construction Manager or General Contractor acting as agent for the applicant on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA certifications. Reports will be on forms provided by the IDA or weekly payroll reports which contain the same information as required on the IDA issued form. The applicant and contractors are subject to periodic inspection or monitoring by the IDA or 3rd party monitor.

If used, the 3rd party monitor shall issue a report to the IDA staff immediately when an applicant or applicant's contractor is not in compliance with this labor policy. IDA staff shall advise the Audit Committee and/or IDA Board of non-compliance by email or at the next scheduled meeting. If a violation of policy has occurred, IDA staff shall notify the applicant and contractor in writing of non-compliance and give applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the IDA and/or its 3rd party monitor shall notify the applicant that the project is in violation of the City of Middletown IDA Labor Policy and is subject to IDA Board action which may result in the revocation, termination and/or recapture of any or all benefits conferred by the IDA.

If the IDA uses a third party firm or firms to monitor and audit compliance with this local labor policy, that cost shall be paid for by the Company in advance of the audits and held in a non-interest bearing escrow account until audits are complete.

The applicant of an IDA approved project shall be required to maintain a 4' X 8' bulletin board on the project site containing the following information:

1. Contact information of the applicant;
2. Summary of the IDA benefits received;
3. Contractors names and contact information on IDA provided form;
4. Copies of proof of exemption from labor policy;
5. Copies of any warnings or violations of policy;
6. Copy of the Executed Labor Policy.

The bulletin board shall be located in an area that is accessible to onsite workers and visitors, which should be clear and legible at least 10 feet from said board.

The applicant has read this Labor Policy and agrees to adhere to it without changes and shall require its construction manager, general contractor and sub-contractors who are not exempt to acknowledge the same. The Applicant understands and agrees that it is responsible for all third-party auditing and monitoring costs.

Applicant Signature

Signature of CM, GC or SC

Company Name

Company Name

Print Name of above signer

Print Name of above signer

Email/phone of Applicant

Email/phone of CM/GC/SC

Date

Date

agent for the applicant on the project, shall keep a log book on site detailing the number of workers, hours worked and counties and states in which they reside. Proof of residency or copy of drivers' license shall be included in the log book, along with evidence of necessary OSHA certifications. Reports will be on forms provided by the IDA or weekly payroll reports which contain the same information as required on the IDA issued form. The applicant and contractors are subject to periodic inspection or monitoring by the IDA or 3rd party monitor.

The 3rd party monitor shall issue a report to the IDA staff immediately when an applicant or applicant's contractor is not in compliance with this labor policy. IDA staff shall advise the Audit Committee and/or IDA Board of non-compliance by email or at the next scheduled meeting. If a violation of policy has occurred, IDA staff shall notify the applicant and contractor in writing of non-compliance and give applicant a warning of violation and 72 hours in which to correct such violation. Upon evidence of continued non-compliance or additional violations, the IDA and/or its 3rd party monitor shall notify the applicant that the project is in violation of the Orange County IDA Labor Policy and is subject to IDA Board action which may result in the revocation, termination and/or recapture of any or all benefits conferred by the IDA.

The IDA will use a third party firm or firms to monitor and audit compliance with this local labor policy, the cost of which shall be paid for by the Company in advance of the audits and held in a non-interest bearing escrow account until audits are complete.

The applicant of an IDA approved project shall be required to maintain a 4' X 8' bulletin board on the project site containing the following information:

1. Contact information of the applicant;
2. Summary of the IDA benefits received;
3. Contractors names and contact information on IDA provided form;
4. Copies of proof of exemption from labor policy;
5. Copies of any warnings or violations of policy;

6. Copy of the Executed Labor Policy.

The bulletin board shall be located in an area that is accessible to onsite workers and visitors, which should be clear and legible at least 10 feet from said board.

The applicant has read the OCIDA Labor Policy and agrees to adhere to it without changes and shall require its construction manager, general contractor and sub-contractors who are not exempt to acknowledge the same. The Applicant understands and agrees that it is responsible for all third-party auditing and monitoring costs.

Applicant Signature _____

Print Name of above signer _____

Company Name _____

Email/phone of Applicant _____

Date _____

Signature of CM, GC or SC _____

Company Name _____

Email/phone of CM/GC/SC _____

Date _____

MIXED-USE PILOT POLICY

Purpose Statement.

Section 926-d of the New York Consolidated Laws established the City of Middletown Industrial Development Agency (“Middletown IDA”) to promote, develop, encourage, and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, and furnishing industrial, manufacturing, warehousing, commercial, research, and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, and continuing care retirement communities. Pursuant to the powers granted in Section 858, of the New York Consolidated Laws, the Middletown IDA is authorized to establish a payment in lieu of tax (“PILOT”) policy and empowered to enter into agreements requiring payments in lieu of taxes. Due to difficult economic conditions facing the City of Middletown, the Middletown IDA established a PILOT policy (“Mixed-Use PILOT Policy”) to provide sufficient incentive to induce developers to proceed with mixed-use projects within Middletown, while not reducing the City’s tax base.

Qualified Development Projects.

In order to qualify for the Mixed-Use PILOT Policy, development projects must include two (2) components. One, the project must develop, construct, improve, maintain, or equip an industrial, manufacturing, warehousing, commercial, or educational or cultural facilities within the City of Middletown (the “Commercial Component”). Two, the project must develop, construct, improve, or maintain market rate housing within the City of Middletown (the “Housing Component”). In addition, the Housing Component must be sufficiently related and connected to the Commercial Component to support the conclusion that the developer would not have undertaken development of the Commercial Component without the right to develop the Housing Component (the “Nexus Requirement”). “Qualified Development Projects are development projects that include a Commercial Component, include a Housing Component, meet the Nexus Requirement, and satisfy all other requirements and conditions established by the Middletown IDA.

Mixed-use PILOT Policy.

The Mixed-Use PILOT Policy empowers the Middletown IDA and developers of Qualified Development Projects to enter into a PILOT agreement. In place of paying real property taxes on the Qualified Development Project to the IDA, such developer would make PILOT payments in accordance with the following schedule:

Commercial Component: For the first year of the PILOT agreement, the developer would pay real property tax on zero (0) percent of the increase of assessment on the improvements attributable to the Commercial Component portion of the Qualified Development Project. For each of the second through ninth year of the PILOT Agreement, the developer would pay real property tax on an additional ten (10) percent of the increase of assessment on the improvements attributable to the Commercial Component portion of the Qualified Development Project. For the period

beginning eleven years after the effective date of the PILOT Agreement the developer would pay real property tax on one hundred (100) percent of the assessment on the improvements attributable to the Commercial Component portion of the Qualified Development Project. During the term of the PILOT agreement, the developer would pay real property tax on one hundred (100) percent of the assessment on land underlying the Qualified Development project. These payments are summarized in the following table:

Year of PILOT Agreement	Percentage of Real Property Taxes Payable on Land Underlying Commercial Component of Qualified Development Project	Percentage of Real Property Taxes Payable on Improvements Attributable to Commercial Component of Qualified Development Project
1	100%	0%
2	100%	10%
3	100%	20%
4	100%	30%
5	100%	40%
6	100%	50%
7	100%	60%
8	100%	70%
9	100%	80%
10	100%	90%

Housing Component: For the first year of the PILOT Agreement, the developer would pay real property tax on fifty (50) percent if the increase of assessment on the improvement attributable to the Housing Component portion of the Qualified Development Project, For each of the second through ninth year of the PILOT Agreement, the developer would pay real property tax on an additional five (5) percent of the increase of assessment on the improvements attributable to the Housing Component portion of the Qualified Development Project. For the period beginning eleven years after the effective date of the PILOT Agreement, the developer would pay real property tax on one hundred (100) percent of the assessment on the improvements attributable to the Housing Component portion of the Qualified Development Project. During the term of the PILOT Agreement, the developer would pay real property tax on one hundred (100) percent of the assessment on land underlying the Qualified Development Project. These payments are summarized in the following table:

Year of PILOT Agreement	Percentage of Real Property Taxes Payable on Land Underlying	Percentage of Real Property Taxes Payable on Improvements Attributable to
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	Commercial Component of Qualified Development Project	Commercial Component of Qualified Development Project
1	100%	50%
2	100%	55%
3	100%	60%
4	100%	65%
5	100%	70%
6	100%	75%
7	100%	80%
8	100%	85%
9	100%	90%
10	100%	95%

Approved and adopted this 18th day of January 2022.

PROCUREMENT POLICY

PROCUREMENT POLICY

1 Adoption of procedures.

The following procedures are adopted for procurement of goods and services.

2 Purchases.

For purchases, the following procedures are to be followed:

A.

For purchases of items costing over \$20,000, competitive bidding in accordance with applicable laws and regulations is required.

B.

For purchases of items costing between \$5,000 and \$19,999.99, three or more written price quotes from suppliers are required.

C.

For purchases of items costing between \$2,000 and \$4,999.99, three or more verbal quotes from suppliers are required.

D.

For purchases of items costing between \$0 and \$1,999.99, appropriate verbal quotes from suppliers, in the discretion of the department head undertaking the purchasing, are required.

3 Public works contracts.

For public works contracts, the following procedures are to be followed:

A.

For contracts over \$35,000, competitive bidding in accordance with applicable laws and regulations is required.

B.

For contracts between \$5,000 and \$34,999.99, three or more written quotes from qualified contractors are required.

C.

For contracts between \$2,000 and \$4,999.99, three or more verbal quotes from qualified contractors are required.

D.

For contracts between \$0 and \$1,999.99, appropriate verbal quotes from qualified contractors, in the discretion of the department head who wishes to enter into the contracts, are required.

4 Other services.

In the event it can be anticipated that a particular service (e.g., painting services) may be required by the City of Middletown Industrial Development Agency for various projects which, in total, are expected to exceed \$35,000 for the year, then the procurement of those services will be subject to competitive bidding.

5 Verbal quotes.

Whenever this policy allows for verbal quotes, the department head must maintain a written log which lists appropriate information from each supplier or contractor supplying such verbal quotes.

6 Exceptions.

[Amended 4-23-2007 by L.L. No. 1-2007]

Exceptions to the above procurement processes are to be allowed in purchases or public work contracts which involves emergencies, true leases, and sole source purchases. In such events, the responsible department head must document the circumstances allowing the exception to the above procurement processes and should, whenever possible, attempt to make purchases and secure public works contracts at the lowest possible cost and should obtain at least three verbal quotes, to the extent possible under the circumstances.

7 Requests for proposals.

Whenever possible, professional services are to be obtained through requests for proposals (RFPs) issued by the Finance Committee. All responses to RFPs are to be reviewed by the Finance Committee, which must make a recommendation to the Agency Board for final approval.

8 Award to other than lowest bidder.

Whenever any contract is awarded to other than the lowest bidder or proposer, the reasons are to be set forth in writing and filed with the Agency.

9 Effect on other procedures.

Nothing in these procurement processes changes any administrative procedures required by the Charter of the City of Middletown Industrial Development Agency.

10 Contracts Awarded Based on a “Best Value” Analysis.

Notwithstanding anything else contained in this Chapter to the contrary, the Agency Board, after approval of the Finance Committee, may award purchase contracts and service contracts that have been procured pursuant to competitive bidding or otherwise under New York General Municipal Law Section 103(1) or this Chapter by either the lowest responsible bidder standard or the “best value” standard.

(A) “Best value” is defined in State Finance Law Section 163 to mean “the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the [New York] Executive Law to be used in evaluation of offers for awarding of contracts for services.” For purposes of this § 104-10, the Agency adopts the above definition of “best value,” as the same may be modified from time to time by the State Legislature.

(B) Pursuant to New York General Municipal Law Section 103(1), the “best value” standard may be used for purchase contracts, including contracts for service work, but it excludes and may not be used for any purchase contracts necessary for the completion of public works contracts pursuant to New York Labor Law Article 8.

(C) If the monetary thresholds of New York General Municipal Law Section 103 are increased or decreased in the future by the State Legislature, the monetary thresholds set forth herein will be deemed simultaneously amended to match the new General Municipal Law thresholds.

(D) Whenever any contract is awarded by the Agency (after approval of the Finance Committee) on the basis of “best value” instead of the lowest responsible bidder, the basis for determining “best value” will be thoroughly and accurately documented. Such documentation may include, but is not necessarily limited to, the cost of maintenance; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; quality of craftsmanship; or compatibility with existing Agency buildings or property.

Section 4. Severability of Provisions.

Should any section or provision of this Policy be declared, ordered or adjudged null, void, voidable or invalid by a court of competent jurisdiction, such finding of invalidity shall not affect the validity of the remaining portions of this Policy.

Revised 11/16

Approved and adopted this 18th day of January 2022

TRAVEL POLICY

Section 1. APPLICABILITY

This policy shall apply to every member of the board (the "Board") of the City of Middletown Industrial Development Agency (the "Agency") and all officers and employees thereof.

Section 2. APPROVAL OF TRAVEL

All official travel for which a reimbursement will be sought must be approved by the Administrative Director prior to such travel. Provided, however, in the instance where the Administrative Director will seek reimbursement for official travel, such travel must be preauthorized by the Chairman of the Agency.

Section 3. PAYMENT OF TRAVEL

The Agency will reimburse all reasonable expenses related to meals, travel and lodging that were incurred by any director, officer or employee as a result of the performance of their official duties. All official travel shall be properly authorized, reported and reimbursed. Under no circumstances shall expenses for personal travel be charged to, or temporarily funded by the Agency. It is the traveler's responsibility to report his or her travel expenses in a responsible and ethical manner, in accordance with this policy.

Section 4. TRAVEL EXPENSES

Travelers may use their private vehicle for business purposes if it is less expensive than renting a car, taking a taxi or using alternative transportation, or if it saves time. The traveler will be reimbursed at a standard mileage reimbursement rate.

Meals will be reimbursed at actual expense or a per diem rate, whichever is less. Lodging will be reimbursed at actual expense up to certain daily rate caps established for various locations. The applicability of such caps shall be determined on a case by case basis taking into consideration availability of lodging and other extenuating circumstances.

Reimbursement for miscellaneous expenses shall be determined on a case by case basis. Mileage rates, per diem allowances and lodging caps will be established and from time to time amended by the Treasurer. All determinations made pursuant to this section shall be made by the Treasurer. In the instance where such determinations regard the travel of the Treasurer, the Chairman shall make such determinations.

Approved and adopted this 18th day of January 2022.

UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

The general policy of the City of Middletown Industrial Development Agency (the "Agency") is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant enhanced benefits on a case by case basis for a project expected to have a significant economic impact on the City of Middletown, as determined by the Agency, which enhanced benefits shall be determined and granted in the sole and absolute discretion of the Agency.

A. Real Property Taxes.

The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatements provided apply to value added by construction or renovation and the existing parcel involved; provided, however, in no event will the involvement by the Agency result in revenue to the affected tax jurisdictions in any tax year less than the revenues received in the tax year preceding involvement by the Agency, except IDA owned and operated property, which shall be determined in the sole discretion of the Agency. The period of the exemption varies in length, but will not exceed (20 years), unless a deviation in the maximum length is approved by the Agency, in the sole and absolute discretion of the Agency. The Agency's policy results in a graduated schedule of abatement applicable to County, Municipal and School taxes. Special district charges or special assessments will not be entitled to an exemption under the Pilot Agreement. The schedule will result in increasing percentages of taxes due in each successive year. Eligible projects include industrial projects (i.e. manufacturing, remanufacturing, assembly, process, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, etc.).

Any deviations from the standard policy will be made only with the specific approval of the Agency based on the factors listed in Paragraph E and those described in the New York State General Municipal Law Section 874(4)(a). Additionally, the Agency shall notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefore.

The Agency will use existing tax data to negotiate the payment in lieu of tax agreement and, the use of appraisals will not normally be required.

B. Payment in Lieu of Taxes.

Upon approval of the agency each project may receive an abatement in the form of a Payment in Lieu of Tax Agreement ("PILOT Agreement") in a form acceptable to the Agency. The Agency will consider project factors, similar to those described in paragraph E herein, when determining the amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected tax jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected tax jurisdictions, such payments shall be allocated among the tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project.

The PILOT payments will be secured by a first priority PILOT mortgage on the subject facility so as to secure the PILOT payments with the equivalent priority to regular tax payments.

C. Sales and Use Tax Exemption.

- (1.) Purchase of construction materials and equipment rentals and purchases of project related equipment, furnishings and services are made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e. certificate of occupancy) or until the date certain established by the Agency on a project-by-project basis. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.
- (2.) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 875(8) of the General Municipal Law, and any other statutory or regulatory requirements.

D. Mortgage Recording Tax Exemptions

- (1.) The Agency's policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the Project.
- (2.) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings, (i.e. second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including, but not limited to, the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

E. Deviations.

In addition to or in lieu of the foregoing the Agency may determine, on a case by case basis, to deviate from the guidelines described above or provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdictions. The Agency may consider any or all of the following factors in making such determination, no single one of which is determinative:

- (1.) The nature of the proposed project (i.e. manufacturing, commercial, civic, etc.).
- (2.) The nature of the property before the project begins (i.e. vacant land, vacant building, etc.).
- (3.) The economic condition of the area at the time of the application and at the economic multiplying effect the project will have on the area.
- (4.) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained, and/or the salary ranges of such jobs.
- (5.) The estimated value of tax exemptions to be provided.
- (6.) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.

- (7.) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.
 - (8.) The amount of private sector investment generated or likely to be generated by the proposed project.
 - (9.) The likelihood of accomplishing the proposed project in a timely fashion.
 - (10.) The effect of the proposed project upon the environment and surrounding property,
 - (11.) The extent to which the proposed project will require the provisions of additional services including, but not limited to, educational, transportation, emergency medical or police and fire services,
 - (12.) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
 - (13.) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.
 - (14.) The length and duration of the proposed project.
- F. Recapture of Benefits.

The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and to require the project applicant to agree to the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement. Events that the Agency may determine will trigger recapture may include, but not be limited to:

- (1.) Sale or closure of the facility;
- (2.) Significant employment reduction;
- (3.) Significant change in use in the facility;
- (4.) Significant change in business activities or project applicant or operator; or
- (5.) Material noncompliance with or breach of terms of Agency transactions documents or of zoning or land use laws or regulations or federal, state or local environmental laws or regulations.

If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the time and percentage of recapture.

Approved and adopted this 18th day of January 2022.

WHISTLEBLOWER POLICY

Every member of the board (the “Board”) of the City of Middletown Industrial Development Agency (the “Agency”) and all officer and employees thereof, in the performance of their duties shall conduct themselves with honesty and integrity and observe the highest standards of business and personal ethics as set forth in the Code of Ethics of the Agency (the “Code”).

Each member, officer or employee is responsible to report any violation of the Code (whether suspected or known) to the Agency’s Administrative Director. Reports of violations will be kept confidential to the extent possible. No individual, regardless of their position with the Agency, will be subject to any retaliation for making a good faith claim and, any employee who chooses to retaliate against someone who has reported a violation, shall be subject to disciplinary action which may include termination of employment. Regardless, any claim of retaliation will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate offense.

The Administrative Director is responsible for immediately forwarding any claim to the Agency’s counsel who shall investigate and handle the claim in a timely manner.

Approved and adopted this 18th day of January 2022.