

Resolution Addressing Governance Matters

A regular meeting of the Nassau County Industrial Development Agency (the "Agency") was convened in public session at the Theodore Roosevelt Executive & Legislative Building, Ceremonial Chambers, Mineola, County of Nassau, New York, on June 19, 2018, at 6:30 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:

Richard Kessel	Chairman
Lewis M. Warren	Vice Chairman
Anthony Simon	2nd Vice Chairman
Timothy Williams	Secretary
Chris Fusco	Asst. Secretary
John Coumatos	Asst. Treasurer

NOT PRESENT:

Amy Flores	Treasurer
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THE FOLLOWING ADDITIONAL PERSONS WERE PRESENT:

Joseph J. Kearney	Executive Director
Joseph Foarile	Chief Financial Officer
Colleen Pereira	Administrative Director
Paul O'Brien, Esq.	General Counsel

The attached resolution no. 2018-35 was offered by T. Williams, seconded by A. Simon:

Resolution No. 2018-35

RESOLUTION OF THE NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY ADDRESSING GOVERNANCE MATTERS

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title I 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 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 manufacturing, industrial and commercial 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, County Executive Laura Curran has called upon the Agency to increase transparency and accountability in its governance and operations; and

WHEREAS, the Agency wishes to amend certain policies and procedures to enhance transparency and accountability as requested by the County Executive and to ensure continued compliance with current best practices in governance and applicable law, including, without limitation, the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:

Section 1. The Agency hereby determines that the Agency shall not proceed with the consideration or approval of any "project" (as such term is defined in the Act) in which facilities or property that are primarily used in making "retail sales" to customers who personally visit such facilities constitute more than one-third of the total project cost where such facilities or property would be used solely as (i) an automobile dealership or automobile repair facility or (ii) a self-storage facility (collectively, the "Prohibited Retail Facilities"). For the purposes of this resolution, "retail sales" shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. For purposes of clarity, the foregoing prohibition shall mean that no Prohibited Retail Facility shall be considered or approved by the Agency based on the "tourism destination" exception or any other exception set forth in Section 862 of the Act.

Section 2. With respect to any proposed multi-family housing project, the Agency hereby directs Staff to cause the Agency's cost/benefit analysis consultant to include within its analysis an estimate of the number of "net new" public school children created as a result of the proposed project and an estimate of the additional costs to the applicable school district of educating such children. The Agency further directs Staff and General Counsel to prepare any required amendments of the Agency's by-laws and any other policies or procedures required to reflect such requirements.

Section 3. The Agency hereby authorizes Staff of the Agency to issue Requests for Statements of Qualifications or Requests for Proposals (collectively, the "RFP's") in the forms presented to and reviewed by the members of the Agency, together with such changes thereto as the Chairman or the Executive Director may deem advisable or necessary, for the following services:

- (a) Affordable Housing Consulting Services
- (b) "Clean Energy" Consulting Services
- (c) Stenography Services.

Section 4. The Agency hereby adopts the amended and restated Prevailing Wage Policy annexed hereto in Exhibit A (the "Prevailing Wage Policy") as part of the Agency's Policy Manual. The Prevailing Wage Policy hereby replaces any and all policies heretofore adopted by the Agency with respect to the subject matter thereof.

Section 5. The Agency hereby adopts the Nassau County Industrial Development Agency Pay Equity Policy annexed hereto in Exhibit A (the "Pay Equity Policy") as part of the Agency's Policy Manual. The Pay Equity Policy hereby replaces any and all policies heretofore adopted by the Agency with respect to the subject matter thereof.

Section 6. The Agency hereby adopts the Nassau County Industrial Development Agency Labor Disharmony Policy annexed hereto in Exhibit A (the "Labor Disharmony Policy") as part of the Agency's Policy Manual. The Labor Disharmony Policy hereby replaces any and all policies heretofore adopted by the Agency with respect to the subject matter thereof.

Section 7. The Agency hereby adopts the amended and restated Public Comment Policy annexed hereto in Exhibit A (the "Public Comment Policy") as part of the Agency's Policy Manual. The Public Comment Policy hereby replaces any and all policies heretofore adopted by the Agency with respect to the subject matter thereof.

Section 8. The Agency hereby recognizes that the Governance Committee has recommended certain amendments to the Agency's Uniform Tax Exemption Policy. The Agency hereby authorizes Staff to give notice of the proposed amendments to the affected tax jurisdictions and to publish notice of a public hearing with respect thereto. After consideration of any comments received from the affected tax jurisdictions and/or the public, the members of the Agency shall meet to consider whether to approve such amendments.

Section 9. The Agency hereby determines that the provisions of Nassau County Executive Order Number 1-2018 shall apply in full to the members, officers and employees of the Agency and all members, officers and employees are directed to comply with the provisions thereof.

Section 10. This Resolution shall not preclude the Agency from adopting other or further policies relating to governance and operations as determined from time to time by the members of the Agency.

Section 11. This Resolution shall take effect immediately.

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

Richard Kessel	VOTING	Aye
Lewis M. Warren	VOTING	Aye
Anthony Simon	VOTING	Aye
Timothy Williams	VOTING	Aye
Chris Fusco	VOTING	Aye
Amy Flores	EXCUSED	
John Coumatos	VOTING	Aye

The foregoing Resolution was thereupon declared duly adopted.


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

We, the undersigned [~~Assistant~~] Secretary and [~~Vice~~] Chairman of the Nassau County Industrial Development Agency (the "Agency"), do hereby certify that we have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on June 19, 2018 with the original thereof on file in our office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

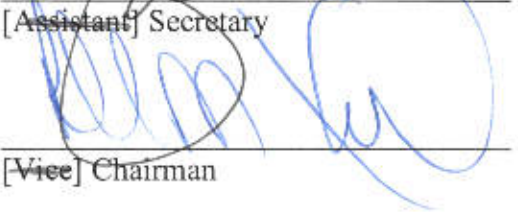
WE FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said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

WE 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, we have hereunto set our hands and affixed the seal of the Agency this 19th day of June, 2018



[Assistant] Secretary



[Vice] Chairman

(SEAL)

EXHIBIT A

See Attached

Nassau County Industrial Development Agency
"Prevailing Wage Policy"

- Policy:** It is the Agency's policy to encourage the creation and retention of highly skilled and high paying construction industry jobs in connection with certain Agency projects.
- Effective Date:** This policy is effective for all Applications for Financial Assistance received on or after June 19, 2018.
- Application:** This policy applies to any project (as such term is defined in Section 854 of the General Municipal Law, as in effect from time to time) for which the Agency issues its tax-exempt bonds to finance all or a portion of the construction costs of such project. "Construction costs" for the purposes of this Policy includes the cost of construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration and/or improvement for a project.
- Requirements:** No proceeds of the Agency's tax-exempt bonds shall be used to fund any construction costs of a project unless the applicant or its contractors as well as their subcontractors either:
- (i) agree in the Application and in the applicable Agency documentation with respect to the project, that for all construction trades utilized on the entire project and regardless of whether or not the work is public or private in nature, to: (a) have the project be governed by the prevailing wage requirement of Section 220 of Article 8 of New York Labor Law, whether or not that law is otherwise applicable to the project, and (b) have any other public and/or private funding for construction costs on a project which is also partially financed by the Agency's tax-exempt bonds be subject to the prevailing wage requirement of Section 220 of Article 8 of the New York Labor Law and (c) implement an apprenticeship program substantially as contemplated by Nassau County Local Law 9-2002, or any successor statute thereto; or
 - (ii) (a) submit to the Agency a fully executed project labor agreement with the Building and Construction Trades Council of Nassau and Suffolk Counties, New York, with respect to the entire project for all construction trades employees utilized on such project, in form and substance satisfactory to the Agency; and
 - (b) such project labor agreement will be binding upon the applicant, and its agents, successors and assigns, and applicable to any other public and/or private funding for construction costs on the entire project.

This Prevailing Wage Policy applies to the entire project, not just the IDA-financed portion of a project, notwithstanding any prior holding of a court of competent jurisdiction. If any provision of this Policy is rendered unenforceable or invalid by any state, local or federal law, rule or regulation or declared null and void by any court of competent jurisdiction, the remainder of the Policy shall remain in full force and effect.

**NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
PAY EQUITY POLICY**

1. Policy Purpose. The Nassau County Industrial Development Agency (the “Agency”) finds that wage discrimination on the basis of gender continues to be an issue in the workplace. The Agency reaffirms its position that employers receiving “financial assistance” from the Agency shall not be permitted to discriminate against any employee on the basis of gender and hereby adopts this Pay Equity Policy (this “Policy”) to accomplish these purposes.

2. Definitions.

“Applicant” shall mean a person, partnership, limited liability company, corporation or other entity that submits an Application seeking Financial Assistance from the Agency.

“Application” shall mean an application for financial assistance submitted to the Agency pursuant to Article 18-A of the General Municipal Law.

“Equal Pay Law” or “Equal Pay Laws” shall mean, individually or collectively as the context may require, the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964 and Federal Executive Order 11246 of September 24, 1965, Section 194 of the New York State Labor Law and all other applicable laws, rules, regulations and executive orders, to the extent that they prohibit pay discrimination on the basis of gender.

“Financial Assistance” shall have the meaning assigned to such term in Section 854 of the General Municipal Law.

“General Municipal Law” shall mean the New York State General Municipal Law, as amended or replaced from time to time.

“Project” shall have the meaning assigned to such term in Section 854 of the General Municipal Law.

“Uniform Project Agreement” shall mean the “uniform agency project agreement” described in Section 859-a of the General Municipal Law.

3. Policy Statement.

(a) The Agency's form of Application for Financial Assistance shall include the following certifications from the Applicant:

(i) In the five (5) years preceding the date of the Application, no court, agency or other adjudicative body has issued any judgment, order or other final determination under any Equal Pay Law finding that the Applicant discriminated against any employee on account of sex regarding the employee's pay, benefits or any other form of compensation. If any such final determination has been issued in the preceding five (5) years, the Applicant shall not be eligible to receive the Financial Assistance requested in the Application.

(ii) No claims are pending against the Applicant before any court, agency or other adjudicative body under any Equal Pay Law alleging discrimination against any employee on account of sex regarding such employee's pay, benefits or any other form of compensation. A pending claim shall not automatically make the Applicant ineligible to receive the requested Financial Assistance but may require further disclosure by the Applicant and investigation by the Agency.

(b) The Agency's form of Uniform Project Agreement for each Project shall include provisions in substantially the following form:

(i) The Applicant shall represent that (A) in the five (5) years preceding the date of the Uniform Project Agreement, no court, agency or other adjudicative body has issued any judgment, order or other final determination under any Equal Pay Law finding that the Applicant discriminated against any employee on account of sex regarding the employee's pay, benefits or any other form of compensation, and (B) no claims are pending against the Applicant before any court, agency or other adjudicative body under any Equal Pay Law alleging discrimination against any employee on account of sex regarding such employee's pay, benefits or any other form of compensation;

(ii) The Applicant shall covenant and agree to disclose to the Agency in writing (A) the filing of any claim against the Applicant before any court, agency or other adjudicative body under any Equal Pay Law alleging

discrimination against any employee on account of sex regarding such employee's pay, benefits or any other form of compensation; and (B) the issuance by any court, agency or other adjudicative body of a judgment, order or other final determination under any Equal Pay Law finding that the Applicant discriminated against any employee on account of sex regarding the employee's pay, benefits or any other form of compensation;

(iii) The Applicant shall covenant and agree to comply with all Equal Pay Laws at all times during the term of the Uniform Project Agreement;

(iv) The following shall constitute an Event of Default under the Uniform Project Agreement: (A) the issuance by any court, agency or other adjudicative body of a judgment, order or other final determination under any Equal Pay Law finding that the Applicant discriminated against any employee on account of sex regarding the employee's pay, benefits or any other form of compensation, or (B) if any certificate, statement, representation or warranty made by the Applicant pursuant to this Policy (whether in the Application, the Uniform Project Agreement or otherwise) shall prove to have been false, misleading or incorrect in any material respect at the time such certificate, statement, representation or warranty was made to the Agency. The occurrence of any such Event of Default may result in the termination or recapture of the Financial Assistance granted by the Agency to the Applicant.

(c) The Agency shall have the right to monitor and audit Applicants for compliance with the requirements of this Policy and shall have the right to utilize the assistance of the Nassau County Commission on Human Rights in such monitoring and auditing. Applicants shall be required to reasonably cooperate in such monitoring and auditing. The Agency shall also the right to refer matters to the appropriate enforcement agencies under Equal Pay Laws, including the United States Equal Employment Opportunity Commission, the New York State Department of Labor or the New York State Division of Human Rights.

4. Effective Date. This Policy is adopted by the members of the Agency this ____ day of June, 2018, shall be effective as of the date hereof and shall be applicable to any Application submitted on or after the date hereof.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

LABOR DISHARMONY POLICY

The Nassau County Industrial Development Agency (the "Agency") hereby adopts this labor disharmony policy (this "Policy"). This Policy shall apply to all "projects" (as such term is defined in Section 854 of the New York State General Municipal Law) of the Agency entered into on or after the date of adoption of this Policy, unless the members of the Agency shall determine otherwise in a particular instance.

The Agency's Uniform Project Agreement with respect to each "project" shall contain a provision in substantially the following form:

"The Company shall not take any action, or neglect to take any action, including, without limitation, the employment of any contractor, if such action or inaction would result in jurisdictional disputes or strikes or labor disharmony at or in connection with the Project Facility."

Failure to comply with the foregoing provision shall constitute an Event of Default under the Uniform Project Agreement and shall entitle the Agency to exercise its rights and remedies thereunder.

Adopted by the members of the Agency this ____ day of June, 2018.

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

RULES AND PROCEDURES FOR PUBLIC COMMENT

This Policy is adopted pursuant to a Recommended Practice
issued by the Authorities Budget Office

POLICY PURPOSE: It is the policy of the Nassau County Industrial Development Agency (the "Agency") to conduct its operations in compliance with the highest standards of conduct and ethical behavior and with best practices applicable to industrial development agencies and to operate in an accountable and transparent manner.

AUTHORITY: Pursuant to *Board Meetings: Best Practices Guide for Public Authorities* issued by the New York State Authorities Budget Office (the "ABO") on January 27, 2015, the ABO recommends, inter alia, that public authorities adopt rules and procedures reasonably governing public participation in meetings that are subject to the Open Meetings Law.

POLICY STATEMENT: Although the Open Meetings Law does not require the Agency to permit members of the public to speak at any Agency meeting (whether annual, regular, special or committee), the Agency hereby determines that permitting such public comment will enhance accountability and transparency. The Agency shall follow the following rules and procedures with respect to public comment:

1. The Agenda for the meeting will include a designated period for public comment (the "Public Comment Period"), during which time members of the public will be given the opportunity to address the members of the Agency.
2. Any person wishing to speak during the Public Comment Period shall register prior to the meeting on a sign-up sheet provided by the Agency. The Chair or presiding officer of the meeting shall utilize the sign-up sheet to set the order of persons who will address the members of the Agency (each, a "Speaker").
3. Speakers will be given a maximum of three (3) minutes to address the members of the Agency. A speaker shall not be permitted to relinquish all or any part of his/her allotted time to another speaker.
4. Written comments may be accepted and included in the Agency's minutes. The Agency will make reasonable efforts to document verbal comments.
5. Comments from Speakers must relate to the business of the Agency that is on the Agenda for the meeting.

6. The Public Comment Period is held for the purpose of soliciting public comment; it is not a question and answer period. The members and staff of the Agency are not required to respond to questions from Speakers.
7. Proper decorum shall be observed at all times during the Public Comment Period.
8. Statements made during the Public Comment Period shall not involve personal or slanderous attacks directed at any person, firm or company. The use of profane, vulgar, inflammatory, threatening, abusive, or disparaging language or racial, ethnic or other derogatory slurs directed at any person, firm or company will not be tolerated.
9. The Chair or the presiding officer shall control the meeting. Any individual who disregards the directives of the Chair or the presiding officer in enforcing these rules or who generally conducts himself or herself in an inappropriate manner while addressing the members of the Agency and/or is disruptive will be barred from further participation and forfeit their opportunity to address the members of the Agency.
10. The use of recording devices such as camcorders, cameras, television cameras, tape recorders and similar devices is not prohibited during meetings that are subject to the Open Meetings Law, provided that they are unobtrusive and would not detract from the deliberative process of the meeting as reasonably determined by the Chair or the presiding officer. The Chair or the presiding officer may impose reasonable restrictions on the use of such devices in the meeting location.

This Policy was adopted by the members of the Agency on June __, 2018.