

COUNTY OF CLINTON INDUSTRIAL DEVELOPMENT AGENCY

LEASE POLICY
ADOPTED 1/21/97

SECTION 1. PURPOSE AND AUTHORITY. Pursuant to Section 854(15) of Title One of Article 18-A of the General Municipal Law (the "Act"), the New York State Legislature has made it clear that County of Clinton Industrial Development Agency (the "Agency") is authorized to undertake a transaction whereby the Agency takes title, possession or control of property of a project occupant, thereby entitling such property to be exempt from taxation according to the provisions of the Act, even though no financial assistance in the form of proceeds of bonds issued by the Agency is provided to the project occupant (a "straight-lease transaction"). The purpose of this lease policy is to set forth the circumstances under which the Agency will consider undertaking a straight-lease transaction. This lease policy was adopted pursuant to a resolution enacted by the members of the Agency on January 21, 1997.

SECTION 2. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

(A) "Affected Tax Jurisdiction" means, with respect to a particular project, the County and each Municipality or School District in which such project is located which will fail to receive real property tax payments, or other tax payments which would otherwise be due with respect to such project, but for Tax Exemption obtained by reason of the involvement of the Agency in such project, unless the Affected Tax Jurisdictions shall agree in writing to add or subtract additional governmental entities thereto.

(B) "Applicant" shall mean an applicant for financial assistance.

(C) "Applicant Project" shall mean a project which is undertaken by the Agency for the benefit of an Applicant.

(D) "County" shall mean the County of Clinton.

(E) "Municipality" shall mean each city, town and village located within the County.

(F) "Non-Applicant Project" means a project which is undertaken by the Agency for the benefit of the Agency, and shall not include an Applicant Project.

(G) "School District" shall mean each school district located within the County.

(H) “Tax Exemption” shall mean any financial assistance granted to a project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency in such project.

(I) “Uniform Tax Exemption Policy” shall mean the Uniform Tax Exemption Policy adopted by the Agency on March 22, 1995.

SECTION 3. GENERAL PROVISIONS. (A) General Policy. The general policy of the Agency is not to consider becoming involved in a straight-lease transaction unless said transaction meets the following criteria: (1) the project must be a manufacturing or industrial project, or a project which is directly related and ancillary to a manufacturing or industrial project; (2) the total projected cost of the project must be at least \$350,000; and (3) if the applicant desires to achieve maximum cost savings, the transaction should be structured to minimize the documentation to be reviewed and executed between the Agency and an outside lender.

(B) Exceptions. Although the Agency has never deviated from the general policy enunciated under subsection (A) of this Section, the Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider factors which make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to the project; (2) whether the Affected Tax Jurisdictions will be reimbursed by the project occupant if the project does not fulfill the purposed for which Tax Exemption was granted; (3) the impact of the project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by the project; (5) demonstrated public support for the project; (6) the estimated value of the Tax Exemptions requested; and (7) the extent to which the proposed project will provide needed services and/or revenues to the Affected Tax Jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

(C) Application. No request for a Tax Exemption relating to an Applicant Project shall be considered by the Agency unless an application and environmental assessment form are filed with the Agency on the forms prescribed by the Agency pursuant to the rules and regulations of the Agency. Such application shall contain the information requested by the Agency, including a description of the proposed project and of each Tax Exemption sought with respect to the project, the estimated value of each Tax Exemption sought with respect to the project, the proposed financial assistance being sought with respect to the project, the estimated date of completion of the project, and whether such financial assistance is consistent with this part.

(D) Notice to Affected Tax Jurisdictions. No request for approval of an Applicant Project by the Agency which involves a straight-lease transaction, or which involves a proposed deviation from the provisions of this Lease Policy, shall be given final approval by the Agency unless and until (1) the

Agency has sent written notice of said request to each Affected Tax Jurisdiction, and (2) has given each Affected Tax Jurisdiction a reasonable opportunity, both in writing and in person, to be heard by the Agency with respect to the proposed request. With respect to Non-Applicant projects, the Agency shall comply with the provisions of Section 859-a of the Act, to the extent applicable. In addition, the Agency shall comply with all other notice provisions contained in the Act relative thereto.

SECTION 4. PROCEDURES FOR DEVIATION. In a case where the Agency shall determine that special circumstances may exist that may justify a deviation pursuant to Section 3(C) of this Lease Policy, the Agency may determine to deviate from the provisions of this Lease Policy provided that:

(A) the Agency adopts a resolution (1) setting forth, with respect to the proposed deviation, the reasons for the proposed deviation and (2) imposing such terms and conditions thereon as the Agency shall deem just and proper; and

(B) as provided in Section 3(D) hereof, the Agency shall give written notice of the proposed deviation from this Lease Policy to each Affected Tax Jurisdiction, setting forth therein a general description of the proposed deviation and the reasons therefor.

SECTION 5. ANNUAL REVIEW OF POLICY. At least annually, the Agency shall review this Lease Policy to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate. The Executive Director shall be responsible for conducting an annual review of this Lease Policy and for an evaluation of the internal control structure established to ensure compliance with this Lease Policy, which review shall be submitted to the Agency for consideration by the Agency.