

**Tompkins County Industrial Development Agency  
Annual Accomplishment and Operations Report  
2016**

The following information is intended to outline the basic operations and accomplishments of the Tompkins County Industrial Development Agency (TCIDA). TCIDA received administrative support from Tompkins County Area Development, Inc. (TCAD), a separate not-for-profit economic development agency. TCIDA receives attorney services from Mariette Geldenhuys, Attorney at Law and receives bond counsel services from Harris Beach, PLLC.

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## **Policies and Procedures - 2016**

At its April and May 2016 Board meetings the Tompkins County IDA approved updates to the **Application** form and **Recapture Policy** in order to comply with NYS Legislation effective June 15, 2016.

The TCIDA also adopted a **Local Labor Utilization Policy** and a **Uniform Project Evaluation Policy**.

The TCIDA also began utilizing an **Agent Project Agreement** in order to comply with the new legislation. Copies of these policies and form are included in this report.

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**PROJECT RECAPTURE POLICY**

Adopted June 9, 2016

Pursuant to and in accordance with Section 874 (10)-(12) of the General Municipal Law (“GML”), the Tompkins County Industrial Development Agency (the “Agency”) hereby establishes a Project Recapture and Termination Policy for the suspension, discontinuance and/or recapture of Financial Assistance (as defined herein), or for the modification of any Payment in Lieu of Tax Agreement (“PILOT Agreement”) to require increased payments under circumstances as specified herein, which may include but shall not be limited to events of material violation of the terms and conditions of any Project Agreement (as defined herein).

The Agency in its discretion reserves the right pursuant to this policy and any applicable Project Agreement to suspend, discontinue and/or recapture any financial assistance granted for a project that may include: (i) sales and use tax exemptions; (ii) mortgage recording tax exemptions; and (iii) real property tax exemptions governed by a PILOT Agreement (collectively, “Financial Assistance”). The Agency’s provision of Financial Assistance shall be administered and governed pursuant to one or more Project Agreements, which shall include (i) an Agent, Financial Assistance and Project Agreement, (ii) Leaseback Agreement, and/or (iii) PILOT Agreement, along with related documents and herein, each a “Project Agreement.”

**I. Recapture of Financial Assistance**

The Agency reserves the right to suspend, discontinue and/or recapture any financial assistance previously conferred to a Company where it is determined through the process specified below, that:

i. Financial Assistance was obtained as a result of a knowing misstatement of a material fact where such misstatement occurred in the Application for Financial Assistance, in any written submission, or in any on the record verbal statement made to the Agency or Agency staff.

ii. A material violation of the terms and conditions of a Project Agreement which may include but not be limited to material shortfalls in job creation and retention projections or material violations of the terms and conditions of a Project Agreement.

iii. In accordance with GML Section 875(3), if the Agency grants any sales and use tax exemptions to any Applicant (hereinafter, the “Company”) and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Agency is bound and shall recapture the sales and use tax benefits from the Company and the Agency, in its sole discretion, may terminate all applicable Project Agreements. The Agency’s Project Agreements shall include provisions whereby the Company will (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Agency shall cooperate with the New York State Tax Commissioner in connection with any efforts

by the State of New York to assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

iv. If the company shifts production activity to a facility outside of Tompkins County and, as a result, fails to achieve the economic benefits projected, then the Agency will declare the agreement to be in default and require the value of the incentives utilized to date to be repaid, together with any relevant penalties and interest due on such amounts.

## **II. Due Process for Recapture of Financial Assistance**

When Agency staff become aware of a potential issue with respect to a potential violation related to the provision of Financial Assistance to an Applicant and is unable to otherwise remedy the issue, staff shall notify the Agency board.

The Agency shall at least annually assess the progress of each project that continues to receive financial assistance, or project that is otherwise active, toward achieving job retention or creation or other material aspects of the terms and conditions of a Project Agreement. Such assessments shall be provided to the Agency board. The Agency board shall then make a decision to commence a recapture proceeding if any material violations have occurred.

Agency Decision to Commence a Proceeding. The Agency board shall cause a proceeding to be commenced to determine if Financial Assistance should be recaptured.

Notice to the Applicant. If a decision is made to commence a proceeding to recapture Financial Assistance, then the Applicant shall be provided written notice (“Notice”) of: (i) the alleged Material Factor(s) violation, (ii) the potential for recapture of Financial Assistance as may be considered with respect to the commencement of such a proceeding, (iii) their rights to be heard and to appeal any such determination, and (iv) the date and time where a meeting will take place to consider the matter.

### Due Process Provisions.

- (i) **Sufficient Time to Prepare a Response:** An Applicant shall be given ten (10) business days from the date said Notice is received or deemed received to prepare and submit a written response to any alleged violation(s).
- (ii) **Opportunity to be Heard:** An Applicant will be provided an opportunity to make a written or written and oral presentation to the Agency following the ten (10) day Notice period.
- (iii) **Representation:** An Applicant shall have the right to be represented by counsel, or to appear without counsel.
- (iv) **Creation of Written Record:** The Agency shall create a full written or electronic record that includes a statement of the alleged violation(s), the response, all evidence that has been submitted and a transcript or summary of any oral presentations that have been made. The record shall also include the vote, if any, taken by the Agency.

- (v) Executive Session: To the extent allowed by the New York State Open Meetings Law, at the request of an Applicant, the Agency may go into executive session to receive certain confidential information that pertains to the considerations being made by the Agency.
- (vi) Agency Recommendation: The Agency shall vote on a resolution recommending whether to recapture Financial Assistance.

### **III. Flexible Application of Recapture of Agency Benefits**

To the extent permitted by law and Agency policies, the Agency board shall have broad discretion in recommending how to implement the termination of Project Agreements, suspension or discontinuance of Financial Assistance and recapture of Financial Assistance. Such recommendation related thereto shall be based upon the circumstances that trigger such action.

The Agency Board shall consider the extent of the violation, the duration of such violation, the cause of such violation and the extent to which there was a creation of net new jobs, new investment, the use of local labor and such other material factors as may have been considered at the time of the inducement.

The following criteria will be used to determine if a valid explanation exists for failure to achieve the economic benefits projected by the Company:

- a. Natural Disaster: if a natural disaster such as a fire, flood, or tornado disrupts the business
- b. Industry Trends: An evaluation of industry trends will be made relevant to the company, and a determination reached as to whether the company is in a market that is declining. International and national data will be used in the evaluation. An industry is considered in decline when, measured by the appropriate SIC code, it experiences employment or revenue declines--beyond its control--of 10% or more over 3 years.
- c. Loss of Major Supplier or Customer: if the loss of a customer or supplier represents 15% or more of the sales of the company
- d. Productivity Improvements: if new technology, equipment or general productivity improvements result in the need for less than projected employees or investment

### **IV. Recapture Payments**

Sales Tax and Mortgage Recording Tax Recapture. If a determination is made to recapture New York State and local sales and use tax exemptions and mortgage recording tax exemptions, in accordance with General Municipal Law and Agency policies, the maximum amount that may be recaptured is equal to, but may be less than, the sum total of New York State and local sales and use tax exemption and/or mortgage recording tax exemption benefit so obtained and utilized.

PILOT Payment Recapture. If a determination is made to recapture an abated amount of real property tax payment or payments provided by and through the Agency to an Applicant under the terms of a PILOT Agreement, the maximum amount that may be recaptured is equal to, but may be less than, the sum total of real property tax abatement received by the Applicant in the year or years that the violation(s) of Material Factors occurred as so determined by the Agency and as provided in the related inducement resolution authorizing the provision of Financial Assistance to the Applicant.

Interest and Recapture Payment Amount and Distribution. Interest shall be due from the date when the Company failed to achieve the economic benefits projected by the Company to the date of payment, at the rate of interest for judgments set forth in New York Civil Practice Law and Rules §5004 and any future amendments thereof. The taxing jurisdictions will receive the recaptured property tax, sales and use tax, and/or mortgage recording tax, plus the estimated interest income the taxing jurisdictions would have earned if they had collected the taxes when due, as calculated and determined by the Finance Director of Tompkins County, unless the taxing jurisdiction specifically waives receipt of the recapture payments in advance. The remainder of the interest shall constitute an Administrative Fee of the Agency and shall be retained by the Agency and used for future economic development activities.

**V. Right to Appeal**

All determinations by the Agency with respect to recapture shall be final. Such determination may be contested by commencing a proceeding under Article 78 of the Civil Practice Law and Rules (CPLR) in the Tompkins County Supreme Court.

**VI. Rights and Remedies of the Agency**

The Agency reserves all rights and remedies pursuant to applicable law, including the right to enforce payment of all recaptured sums through applicable provisions of the Project Agreement(s) and to institute legal actions to recover any recaptured sums.

## **Local Labor Utilization Policy Approved April 14, 2016**

Policy to apply to all IDA applications.

Applicants are encouraged to hire locally wherever possible. Applicants must solicit construction bids from local subcontractors and submit monthly construction labor reports during the construction period. This is an effort to collect data regarding local construction labor utilization. There is no minimum or maximum local construction labor utilization requirement.

Local is defined as anyone residing in Tompkins County, or any of the 6 contiguous counties of Cayuga, Seneca, Schuyler, Chemung, Tioga, and Cortland Counties. Zip codes will be used to determine local labor utilization rates. The IDA recognizes that some zip codes reach into other non-contiguous counties, but determined this to be a relatively adequate indicator.

The following reporting information will be required:

### **Proof of Local Bids**

The general contractor will provide (in a format acceptable to the IDA) a bid list with the name, address, contact information and detail of type of work for all firms that were solicited and documentation that an 'invitation to bid' was sent. If there are categories or types of work for which no bid was solicited from a local firm, a written explanation must be attached (i.e. no firms locally provide that service).

### **Construction Labor Reporting**

The general contractor will provide monthly payroll reports for workers for all contractors and subcontractors on site. Monthly reports will cover any pay periods ending during that month. Reports will be submitted within 30 days of the end of each month during construction. The reporting format will be provided by the IDA and will include a written certification, similar to a certified payroll report. Reports will include the name of the individual or an identifying number, total hours, gross amount earned, and zip code of residence.

Electronic construction labor reporting forms may be obtained by contacting [heatherm@tcad.org](mailto:heatherm@tcad.org).

**TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
UNIFORM PROJECT EVALUATION POLICY**

Adopted June 9, 2016

Pursuant to and in accordance with Section 859-a(5) of the General Municipal Law (“GML”), the Tompkins County Industrial Development Agency (the “Agency”) hereby establishes a Uniform Project Evaluation Policy for the evaluation and selection for all qualifying categories of projects for which the Agency may provide Financial Assistance in accordance with its Uniform Tax Exemption Policy (“UTEF”).

For each Application for Financial Assistance received by the Agency, the following must occur prior to authorizing the project and provision of Financial Assistance:

- 1) The Agency shall undertake an assessment of all material information included in connection with the Application for Financial Assistance as necessary to afford a reasonable basis for the decision by the Agency to provide Financial Assistance for the Project, including, but not limited to qualification of the proposed project under the GML (including any retail analysis, as applicable), conducting a full application review, review of applicant financial history and project pro-formas, and consideration of all local development priorities;
- 2) A written cost-benefit analysis shall be developed by the Agency that identifies
  - a. The extent to which a project will create or retain permanent, private sector jobs,
  - b. The estimated value of any tax exemptions to be provided,
  - c. The amount of private sector investment generated or likely to be generated by the proposed project,
  - d. The likelihood of accomplishing the proposed project in a timely fashion,
  - e. The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts,
  - f. Any other public benefits that might occur as a result of the project, including the economic condition of the area at the time of the application, the effect of the proposed project upon the environment and surrounding property, and 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;
- 3) The Agency’s Application for Financial Assistance shall include a statement by the applicant that the project, as of the date of the application, is in substantial compliance with all provisions of GML Article 18-A, including, but not limited to, the provisions of GML Section 859-a(5) and 862(1)

## AGENCY PROJECT AGREEMENT

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **Tompkins County Industrial Development Agency**, a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 (the “Agency”) and \_\_\_\_\_, a \_\_\_\_\_ [type of entity] duly formed and validly existing pursuant to the laws of the State of \_\_\_\_\_, with a business address of \_\_\_\_\_ (the “Company”).

### WITNESSETH:

WHEREAS, the Agency was created by Section 895 of the General Municipal Law of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company desires to \_\_\_\_\_ [description of the project] (the “Project”); and

WHEREAS, by Resolution dated \_\_\_\_\_ (the “Resolution”), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing and equipping the Project as set forth above, subject to the Company entering into this Agency Project Agreement; and

WHEREAS, the Agency approved the following financial assistance to the Company, as set forth in the Resolution: \_\_\_\_\_ [description of amount and type of financial assistance to be provided to the Company]; and

WHEREAS, the Agency purpose to be achieved by providing the financial assistance to the Company is as follows, as set forth in the Resolution: \_\_\_\_\_;

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

- . Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Project. The right of the Company to act as agent of the Agency shall expire on \_\_\_\_\_ [date], unless extended as contemplated by the Resolution.
- . The parties are contemplating that the Agency and the Company will enter into a lease agreement from the Company to the Agency (the “Lease Agreement”), a leaseback agreement from the Agency to the Company (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement

(the "PILOT Agreement") with the Company. The Company agrees not to take title to any property as agent for the Agency until the Leaseback Agreement and PILOT Agreement have been executed and delivered.

- . Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:

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*IDA\Agency Project Agreement 2016 6/2/16 - Page 1 -*

- a. The Company is a limited partnership duly formed and validly existing under the laws of the State of New York, has the authority to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.
- b. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
- c. The Project and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection.
- d. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, an in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.
- e. The Company covenants that the Project will comply in all respects with all environmental laws and regulations, and, except in compliance with environmental laws and regulations, (I) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Project except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances at the Project or onto any other property, (iii) that no

asbestos will be incorporated into or disposed of at the Project; (iv) that no underground storage tanks will be located at the Project, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this section, shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorney's fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

- f. The Agency encourages the Company to use an open bidding process for construction contracts; to give opportunities for employment in the construction of the Project to persons residing in Tompkins County, New York; and to award contracts for work in connection with the Project to eligible business concerns which are located in, or owned in substantial part by persons residing in, Tompkins County, New York.
  
- g. The Company commits to the following investment amount: \_\_\_\_\_
  
- h. The Company states that the current number of jobs it provides is \_\_\_\_\_ and projects that the Project will result in the creation of the following number of jobs: \_\_\_\_\_
  
- i. The Company makes the following commitment regarding the use of local labor: \_\_\_\_\_
  
- j. The Company shall provide a certified statement and documentation annually, containing the following information, and such other information required by the Agency:
  - i. The number of full time equivalent ("FTE") jobs retained and/or created as a result of the financial assistance, by category, including FTE independent contractors or employees of independent contractors that work at the project location;
  
  - ii. That the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that were provided in the application are still accurate, and if it is not still accurate, a revised list of salary and fringe benefit averages or ranges for categories of

jobs retained and/or jobs created.

k. In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and local sales and use tax exemption benefits (“sales and use tax exemption benefits”) from the Agency, and it is determined that: (I) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (I) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

l. The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in amount up to \_\_\_\_\_, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \_\_\_\_\_.

m. The Company will receive an abatement of a portion of the mortgage recording tax, in the amount of one-quarter of one percent of the total amount of the mortgage (for example, if the Company borrows \$2,500,000.00, the amount of the mortgage tax that will be abated is \$6,250.00). The Company will make a payment at closing in lieu of the remaining portion of the mortgage recording tax, in the amount of three-quarters of one percent of the total amount of the mortgage.

4. Payments in Lieu of Taxes (“PILOT” payments): The Company will make PILOT payments as set forth in the PILOT Agreement to be executed by the parties. The estimated dates when PILOT payments are to be made and the estimated amounts to be paid to each affected taxing jurisdiction, or a formula by which the amounts will be calculated, are as follows:

\_\_\_\_\_  
\_\_\_\_\_.

5. Suspension or discontinuance of financial assistance; return of all or part of financial assistance: The Company shall be subject to discontinuance of financial assistance and the return of all or part of the financial assistance provided by the Agency as set forth in the Agency Recapture Policy.

6. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members, employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (I) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Project, including without limitation the generality of the foregoing, all causes of action and reasonable attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

7. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

a. Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Project, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirements of periodic appraisal), the Company may insure the Project under a blanket insurance policy or policies covering not only the Project but other properties as well.

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Worker's Compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project.

b. Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding

liability imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

8. Additional Provisions Regarding Insurance.

- a. All insurance required by Section 4(a) hereof shall name the Agency as a named insured and all other insurance required by Section 4 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for (I) payment of the losses of the Company and the Agency as their respective interests may appear, and (ii) at least thirty (30) days' prior written notice of the cancellation thereof to the Company and the Agency.
- b. All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency prior to the commencement of the Project. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

9. Errors and Omissions; Compliance. In consideration for the assistance provided to the Company by the Agency, the Company agrees, if requested by Agency, to fully cooperate and execute and/or re-execute any document that should have been signed at or before the closing of the transaction described in this Agreement, or a corrected or modified version of any such documents, where the document was inadvertently not executed at or before the closing, or the version executed at or before the closing contained any typographical, clerical or mathematical error, or erroneously contained or omitted any provision that does not conform with the statutory authority and established policies of the Agency.

10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but which together shall constitute a single instrument.

11. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

b. \_\_\_\_\_

To the Agency:

With a copy to:

To the Company:

With a copy to:

Tompkins County Industrial Development Agency 401 East State Street, Suite 402B Ithaca, New York 14850

Mariette Geldenhuys, Attorney and Mediator 401 East State Street, Suite 306 Ithaca, New York 14850

\_\_\_\_\_  
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or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this section.

12. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein, and the parties hereby agree to submit to the personal jurisdiction of the federal or state courts located in Tompkins County, New York.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Tompkins County Industrial Development Agency

By: \_\_\_\_\_ Name: HeatherD.McDaniel Title: Administrative Director

\_\_\_\_\_ Company

By: \_\_\_\_\_ Name: Title:

Date: \_\_\_\_\_

*[Company]*

By: \_\_\_\_\_ Name: \_\_\_\_\_ Title: \_\_\_\_\_

CERTIFICATION

\_\_\_\_\_ *[Name]*, the \_\_\_\_\_ *[Title]* of  
\_\_\_\_\_ *[Company]* hereby certify under penalty of perjury that  
the Company is in substantial compliance with all local, state and federal tax, worker protection and  
environmental laws, rules and regulations.

## **Major Accomplishments – 2016**

During 2016, four projects received final approval by the TCIDA as follows:

### **Hotel Ithaca/Lenroc – Phase II**

Phase II, the subject of this application, commencing in the spring 2016 the existing north wing will be demolished to create a footprint for a new five-story building that will contain ninety guestrooms. The new building will connect to the existing commercial building on the first floor and second floors creating a new north side pre function area, break out meeting space and fitness center. The second floor connection will create elevator access to the existing balcony hotel rooms located in the main building. The existing lobby, pool and restaurant will be renovated. The new north building is scheduled to open by May 2017. Completion of phase II will include the demolition of the two-story west wing once the new facilities are open in addition to parking lot surfacing, new site lighting, new decorative fencing, new parking lot entry pillars and lighting and enhanced landscaping.

When complete the hotel room count will be reduced from 180 to 170. Event, meeting and pre function space will double from 2,900 square feet to 5,800 square feet.

### **Simeon's On The Commons – Sales Tax Exemption only**

A year and a half since a tragic accident closed Simeon's. They have been anxiously awaiting the rebuild of the building and renovation of their restaurant. It has been a significant financial burden to not be open and generating any revenue. Simeon's will be renovating the existing footprint of the restaurant, expanding the dining room to include a second floor dining area, and expanding the kitchen to provide better service.

### **Therm, Incorporated**

Therm is a third generation, family owned company. The company has occupied its facility since its founding in 1935. Therm specializes in custom machining for the aerospace industry. Major customers include GE and Honeywell. The company is planning a new 20,000 square foot building at its existing campus located at 1000 Hudson Street Extension in the Town of Ithaca. The new building will relocate a unit of the company that has been operating out of the South Hill Business Campus for many years. Consolidating operations will reduce costs and improve company efficiencies.

### **Cargill – Sales Tax Exemption only**

The Cayuga Mine in Lansing has been in continuous operation since 1918. The mine produces approximately two million tons of rock salt per year. The Cayuga Mine employs over 200 full-time employees in operations, maintenance, engineering, finance, management, and support positions.

Due to the age of the mine, the underground mine workings are currently over 7 miles from the elevator shafts. Because of the distance, providing fresh ventilation air and safe access to surface in the event of an emergency is becoming increasingly difficult. A new ventilation and access shaft is required, or the mine will be shut down and all 200+ jobs lost as the remaining salt reserves could not be safely and productively mined.

The #4 Shaft project will be constructed on a 55 acre plot of land owned by Cargill, approximately 5

miles north of the current Cayuga Mine Site. The key objective of the project will be to provide an escapeway 30 minutes closer for the underground miners and the infrastructure and fresh air for an additional 30 years of mining at the Cayuga Mine.

The #4 Shaft Project will include a 14' diameter mine shaft that is 2,500' deep with a heavy duty mine elevator. This shaft will allow miners to evacuate 30 minutes faster in an emergency and will provide fresh ventilation air to ensure a safe and healthy work environment. The project will also include change room facilities for the miners, an electrical upgrade for the mine, and a small maintenance shop for equipment.

**Tompkins County Industrial Development Agency  
2016 Budget**

<b>Starting Balance</b>		\$543,623
<b>Income</b>		
Fees		\$108,570
Interest		\$250
	<b>Total</b>	<hr/> \$108,820
<b>Expenses</b>		
Administration		\$262,088
Energy Efficiency Study		\$19,998
Energy Focus Study		\$19,998
TCAD Foundation Grant Sup		\$9,950
Attorney Fees		\$4,000
Audit		\$7,000
	<b>Total</b>	<hr/> \$323,034
<b>Projected Ending Balance</b>		\$329,409

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**Tompkins County Industrial Development Agency  
2016 Board of Directors**

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★ - annual appointment  
★ ★ - two year term ends 12/31/16  
★ ★ ★ - two year term ends 12/31/17  
\* = member of Audit Committee  
# = member of Governance Committee

## **Comments on Operations**

Currently the TCIDA does not have any real property. Any information on outstanding bonds or notes for current TCIDA projects are reported in its Annual Financial Report. There is no compensation schedule, as TCIDA does not have any employees. Administrative management is provided by TCAD.

The Board Treasurer maintains the IDA funds and reports annually to the Board. Administrative fees are paid via check or wire transfer.