

**FULTON COUNTY  
INDUSTRIAL DEVELOPMENT AGENCY**

**BASIC FINANCIAL STATEMENTS**

**DECEMBER 31, 2023**

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## **INDEPENDENT AUDITORS' REPORT**

To the Chairperson and Board of the  
Fulton County Industrial Development Agency  
Johnstown, New York

### **Report on the Audit of the Financial Statements**

#### ***Opinions***

We have audited the financial statements of the Fulton County Industrial Development Agency, a public benefits corporation, a component unit of Fulton County, New York, as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the Fulton County Industrial Development Agency's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements present fairly, in all material respects, the respective financial position of the Fulton County Industrial Development Agency, as of December 31, 2023, and the respective changes in financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### ***Basis for Opinions***

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Fulton County Industrial Development Agency and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### ***Responsibilities of Management for the Financial Statements***

Fulton County Industrial Development Agency's management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Fulton County Industrial Development Agency's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## ***Auditors' Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Fulton County Industrial Development Agency's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Fulton County Industrial Development Agency's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

## ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 4 through 16 be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

## ***Supplementary Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Fulton County Industrial Development Agency's basic financial statements. The supplemental information on pages 27 through 30 is presented for purposes of additional analysis and is not a required part of the basic financial statements.

The supplemental information on pages 27 through 30 is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplemental information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated March 12, 2024, on our consideration of the Fulton County Industrial Development Agency's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Fulton County Industrial Development Agency's internal control over financial reporting and compliance.

*WEST & COMPANY CPA PC*

Gloversville, New York  
March 12, 2024

# FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## MANAGEMENT'S DISCUSSION AND ANALYSIS

FOR THE YEAR ENDED DECEMBER 31, 2023

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The following is a narrative overview and analysis of the financial activities of Fulton County Industrial Development Agency (IDA or Agency) for the fiscal year ended December 31, 2023. This discussion is intended to serve as an introduction to the Agency's basic financial statements, which immediately follow this section. The basic financial statements have the following components: (1) management's discussion and analysis (MD&A), (2) Agency-wide financial statements, (3) notes to the financial statements and (4) supplemental schedules.

### OVERVIEW OF THE FINANCIAL STATEMENTS

This annual report consists of three parts: MD&A (this section), the basic financial statements and supplementary information. The basic financial statements include two statements that are Agency-wide financial statements that provide both short-term and long-term information about the Agency's overall financial status.

#### Agency-Wide Statements

The Agency-wide statements report information about the Agency as a whole using accounting methods similar to those used by private-sector companies. The statement of net position includes all of the Agency's assets and liabilities. All of the current year's revenues and expenses are accounted for in the statement of activities regardless of when cash is received or paid.

The two Agency-wide statements report the Agency's net position and how it has changed. Net position – the difference between the Agency's assets and liabilities – is one way to measure the Agency's financial health or position.

- Over time, increases or decreases in the Agency's net position are an indicator of whether its financial position is improving or deteriorating, respectively.
- To assess the Agency's overall health, you need to consider additional nonfinancial factors such as changes in the New York State government, labor forces and land availability.

### I. GENERAL OPERATIONS

#### A. Background:

The Fulton County Industrial Development Agency (IDA) was created in 1970 by an act of the New York State Legislature as a corporate governmental agency constituting a public benefit corporation. The purpose of an Industrial Development Agency (IDA) is:

“to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their standard of living.”

#### B. Mission Statement:

The IDA's Mission Statement is as follows:

“The IDA's mission is to create and promote economic growth and prosperity for both residents and entrepreneurs in Fulton County. The IDA's role in Fulton County's Economic Development Program is to develop and maintain an inventory of shovel-ready sites for new and expanding businesses, offer financial incentives, as may be required, to encourage the creation of new and retention of existing jobs and expand the County's tax base. In doing so, the IDA strives to make Fulton County a desirable place to live and do business.”

The IDA Board adopted a Tagline in 2023. The Tagline is:

*"WE INCENTIVIZE DEVELOPMENT OPPORTUNITIES."*

### **C. Tax Exemptions:**

The New York State General Municipal Law authorizes IDA's to offer three (3) types of tax exemptions to stimulate private sector investment and create jobs:

#### **1. Real Property Tax Exemptions:**

New York State Law designates IDA's as tax exempt entities. When an IDA holds title to real property, New York State Law says all improvements on the property are exempt from real property taxes. However, the land that the improvements are located on remain taxable.

However, for projects the IDA is involved with that includes real property tax exemptions, the IDA requires companies to enter into a Payment In Lieu Of Tax Agreement (PILOT). A PILOT is a contractual agreement between the IDA and a company that states that even though the project is tax exempt due to IDA ownership, the company shall make PILOT payments to local taxing jurisdictions in lieu of paying taxes. PILOT Agreements stipulate that companies make PILOT payments to local taxing jurisdictions that are based upon a percentage of the property tax that would otherwise be due if the property was not owned by the IDA. Once a PILOT is executed, the company makes the required annual PILOT payments to local taxing jurisdictions in accordance with the PILOT. It is the responsibility of the local taxing jurisdictions to issue annual invoices under a PILOT to the company and to ensure that payments are received in a timely manner.

The IDA provides Payment in Lieu of Tax Agreements to eligible projects in accordance with its Uniform Tax Exemption Policy (UTEP). The IDA's current UTEP states that it will provide PILOT's modeled after Section 485-b of NYS's Real Property Tax Law. Section 485-b states that a company can receive a 50% exemption on the assessed valuation of the improvements on the property in year 1. The exemption then decreases 5% a year for 10 years. After ten (10) years, the company would make a PILOT payment equivalent to 100% of the amount it would be paying in real property taxes if it owned the property. During that 10-year period, the company would be making "PILOT payments" to local taxing jurisdictions and not "property tax payments". Once the Lease and PILOT Agreement the IDA has with a company expires, the property then returns to the tax rolls. At that time, the company starts making "property tax payments" to local taxing jurisdictions and will no longer be making "PILOT payments".

As discussed on page 11 of this report, the IDA Board made changes to its UTEP in 2023.

The following IDA projects have active PILOT's as of December 31, 2023:

<b>Company</b>	<b>Address</b>	<b>Date PILOT Expires</b>
Benjamin Moore	155 Union Avenue Extension, Johnstown, NY	2032
Hoffman Car Wash	237 S. Kingsboro Ave Ext, Gloversville, NY	2032

The PILOT the IDA had with CG Roxane expired in November 2023. The IDA executed a deed to transfer ownership of the facility back to CG Roxane.

#### **2. Sales Tax Exemptions:**

IDA's can offer eligible projects an exemption from New York State and local sales taxes on construction materials and equipment. The exemption is generally limited to the construction, reconstruction or installation period and cannot cover ongoing operational costs.

The following IDA projects had active sales tax exemptions available in 2023:

Company	Address	Date Sales Tax Exemption Expires
Benjamin Moore	155 Union Avenue Extension, Johnstown, NY	6/30/2023
Vireo Health of NY, LLC	256 CR117, Johnstown, NY	3/31/2024

3. Mortgage Recording Tax Exemption:

If an eligible project involves a mortgage and that mortgage needs to be filed in the Fulton County Clerk's Office, the IDA can offer an exemption from New York State's mortgage recording tax which is currently 1% in Fulton County.

D. Financing:

IDA's can also provide bond financing for a project. Financial institutions, such as banks, insurance companies or private individuals purchase these bonds as an investment similar to an individual purchasing a U.S. Government Savings Bond. By purchasing a bond, a private investor lends its funds to a business. The business commits to repay the principal and interest, if the bonds are taxable, to the investor. The business and the financial institution, independent of the IDA, negotiate the terms, interest rate and other conditions of the transaction. The IDA acts as an intermediary for this private transaction. There are no IDA or public funds involved in an IDA bond transaction.

The IDA does not have a loan fund or pool of money to use to help finance projects. The financing referred to here is private funds coming from banks, financial institutions or private investors.

The IDA, Fulton County Government or Fulton County taxpayers do not lend any public money, nor do they assume any responsibility for repaying bonds if a company defaults on any payment. There is also no financial liability on the IDA, Fulton County or taxpayers. Bond payments are solely the responsibility of the company borrowing the money.

E. IDA Projects:

The following is a list of all active IDA projects as of December 31, 2023:

Company	Address
YMCA	213 Harrison Street, Gloversville, NY
Vireo Health of NY, LLC	256 CR117, Johnstown, NY
Hoffman Car Wash	342 S. Kingsboro Ave Ext, Gloversville, NY
Benjamin Moore	155 Union Ave Ext, Johnstown, NY

II. SUMMARY OF 2023 ACTIVITIES:

The IDA Board met twelve (12) times in 2023. The following is a summary of the key activities addressed by the IDA Board in 2023:

1. TRYON TECHNOLOGY PARK:

a. Vireo Health:

Vireo Health continued construction on its 324,000 SF building in 2023. Work is expected to be completed in 2024. Vireo also has been working with the NYS Office of Cannabis Management to secure its license to grow and sell adult-use cannabis.



b. Winstanley Enterprises:

In October 2021, the IDA Board executed a Letter of Intent (LOI) with Winstanley Enterprises, LLC (WE) of Concord, MA. The LOI stated that the IDA was interested in selling 243+/- acres of land in the TTP to WE. The LOI further stated that WE would use these lands to pursue the construction of the following buildings:

Site #	Parcel #/Bldg. #	Acreage (+/-)	Proposed Building Size (SF)
1	4	72	1,200,000
	7	18	
	Building 1	12	
	Wetlands	25	
2	3 <sup>(1)</sup>	18	150,000
3	Tryon Development Area	48	350,000
4	5	26	500,000
	6	24	
		<b>Total Acreage = 243+/-</b>	<b>2,200,000</b>

<sup>(1)</sup> Site 3 would be considered for a separate standalone building. However, in the event Site 3 is required to facilitate a larger development on Site 1, then Winstanley Enterprises, LLC will utilize Site 3 to accomplish this.

The IDA Board, in November 2021, executed a Purchase and Sale Agreement (PSA) with WE. WE began its due diligence review of the 243+/- acres it desired to purchase from the IDA. This included conducting a number of studies including survey, topo, geotechnical, wetlands, utilities, zoning and environmental and others. This due diligence was completed in 2022.

In October 2022, WE advised the IDA that their cost to abate and demolish the buildings on the lands they wanted to purchase was significantly higher than originally expected. As such, WE advised it could not purchase the property for what it originally offered. After discussing options, the IDA Board, at its November 8, 2022 meeting, agreed to reduce the price for the land with the reduction serving as a credit back to WE for what their actual cost will be to abate and demolish the buildings compared to what WE originally estimated the cost to be. The IDA executed Amendment No. 1 to the PSA to formalize the change in the purchase price.

In December 2022, WE advised the IDA that they were not going to move forward, at this time, to purchase the 243+/- acres at Tryon. WE advised that it would execute a 3-year option with the IDA and continue to market Tryon Companies. The IDA Board agreed to this Option and authorized its Chairman to execute a 3-year Option Agreement with WE. The Option Agreement included annual revenue payments to the IDA. In 2023, the IDA received the year 1 revenue due it under the Option Agreement.

During 2023, WE submitted sites at Tryon to several companies looking to develop new facilities. No projects materialized. It is noted that, due to inflation, high interest rates and challenges in securing debt financing, 2023 was a very challenging year for companies to advance building projects.

In December 2023, WE and IDA executed an amendment to the Option Agreement modifying the annual payment in the Option Agreement.

c. Backup Generator for Fulton County Sewer District No. 4:

The wastewater pump station that pumps all wastewater generated at Tryon to the City of Gloversville was operating without a backup generator. A backup generator would help ensure that the pump station continues to operate if a power outage occurred at Tryon. In January 2022, the IDA Board hired Environmental Design Partnership to prepare bid documents for purchasing and installing a backup generator. In April, the IDA Board awarded a contract to Koval Contracting, Waterford, NY to supply and install a new backup generator. Koval began work in 2022. The backup generator was delivered in late December 2022. That generator was found to have rust. The IDA rejected the new generator and another new unit was delivered to Tryon. During startup, it was found that the pumps did not automatically restart after the generator shut down. As a result, the IDA approved having the pumps reprogrammed to have them restart automatically once the generator shut off. The IDA also agreed to install an Uninterruptable Power Supply (UPS). This additional work was completed in 2023.

d. Nexus Renewables Project:

In 2021, the IDA Board executed leases with Nexus Renewables for Nexus to construct and operate four (4) community solar facilities on approximately 29+/- acres of IDA owned land adjacent to TTP. The 29+/- acres leased to Nexus was not part of the TTP. The Leases are for 25 years with three (3) five (5) year options. The IDA executed leases with four (4) separate LLCs who will each operate separate solar projects. The IDA will generate annual revenues from each solar project that will financially benefit the IDA's operations. Nexus obtained all State approvals in late 2021 and was expected to start construction in 2022. However, due to inflation, higher construction costs, higher materials cost and higher energy prices, Nexus did not start these projects in 2022. Nexus is hopeful work can commence in 2023.

In 2023, Nexus restarted its efforts to develop the solar facilities at Tryon. It is hoped that construction of these facilities would commence in 2024.

The IDA Board also approved granting sales tax exemptions to the project. The documents that need to be executed to provide these exemptions have not been executed. If the project moves forward, these documents would be executed in 2024.

e. Other:

In 2023, the IDA Board approved the following items for the TTP:

1. Hired James Esper to cut grass.
2. Leased lands to R & R Farms, Inc. to grow crops.

2. **BENJAMIN MOORE EXPANSION PROJECT:**

In 2020, Benjamin Moore advanced plans to expand its latex paint manufacturing plant in the City of Johnstown. Benjamin Moore proposed to construct a 120,000 square foot addition to its existing facility. The Company applied to the IDA for two (2) financial incentives:

1. Real Property Tax Exemption
2. Sales Tax Exemption

The IDA Board approved these exemptions. Benjamin Moore commenced work on the expansion project in late 2020. The project will create new jobs and property tax revenues for local taxing jurisdictions.

The IDA Board approved, in 2022, increasing the total amount of sales tax exemptions Benjamin Moore could take as part of its expansion project.

Benjamin Moore completed its project in 2023.

### **3. IDA WEBSITE:**

Emery Designs continued work in 2023 updating and revising the IDA's website.

### **4. HOUSING PROJECTS:**

In 2023, the IDA Board spent time discussing how it could incentivize housing projects in Fulton County. The Board believes there is a need for new housing being developed in the County including apartments, townhomes, condos, and senior housing.

The IDA's ability to incentivize housing projects is tied to the 1969 enabling legislation, a 1985 NYS Comptroller's Opinion and two (2) court cases. The following summarizes how each of those influence an IDA's ability to incentivize housing projects:

#### **A. 1969 Act:**

The 1969 Act creating Industrial Development Agencies stated that the purpose of IDA's was to:

“promote economic welfare of the State's inhabitants and to actively promote, attract, encourage and develop economically sound commerce and industry through governmental actions for the purpose of preventing unemployment and economic deterioration.”

The original Act identified a number of specific types of projects IDA's could assist.

This Act was then amended a number of times to add additional types of projects IDA's could assist.

This Act and all subsequent amendments never specifically identified housing as a type of project an IDA could assist.

#### **B. 1985 NYS Comptroller's Opinion No. 85-51:**

In 1985, the New York State Comptroller's Office was asked by the village attorney for the Village of Port Chester whether the construction of an apartment complex was a commercial project an IDA could assist.

The Comptroller's opinion stated that, at its inception, the IDA Act's primary thrust was to promote the development of commerce and industry as a means of increasing employment opportunities. The opinion then reasoned that for an apartment complex to qualify as an eligible project, it had to:

1. Promote employment opportunities.
2. Prevent economic deterioration in the area served by the IDA.

The Comptroller's Opinion added that the Comptroller's Office was “not in a position to render an opinion” as to whether a project that consisted of the construction of an apartment complex was a commercial project. Rather, the Opinion stated such a determination “must be made by local officials based upon all the facts relevant to the proposed project.”

Any such determination, the Comptroller's Opinion concluded, had to take into account the stated purposes of the IDA Act:

1. The promotion of employment opportunities.
2. The prevention of economic deterioration.

C. 1987 Triple 5 Realty v. Village of Port Chester:

In this case, the NYS Supreme Court in Westchester County found that an apartment complex could receive IDA tax exemptions if the IDA determined that:

1. The construction and operation of the apartments would increase employment opportunities.
2. The construction and operation of an apartment complex would prevent economic deterioration in the area served by the IDA.

D. 2017 Ryan v. Town of Hempstead Industrial Development Agency:

The Town of Hempstead of IDA (TOHIDA) granted financial tax benefits to Renaissance Downtowns Urban America LLC with respect to a new 336-unit residential apartment complex proposed to be built in the Village of Hempstead, Long Island.

The financial benefits and assistance granted by the TOHIDA included:

- Exemptions from mortgage recording taxes for one or more mortgages.
- Securing the principal amount not-to-exceed \$70,000,000.
- A sales and use tax exemption up to \$3,540,000 in connection with the purchase/lease of building materials, services, or other personal property for the project; and
- Abatement of real property taxes for an initial term of 10 years pursuant to a Payment in Lieu of Taxes ("PILOT") Agreement.

Six petitioners, including a trustee for the Village of Hempstead, challenged the TOHIDA's resolution in an Article 78 proceeding, arguing that an IDA could not grant benefits for a project that was residential, either in whole or in part in nature.

The Court dismissed the petitioners case. In its decision:

- The Court noted that the 1985 Comptroller's Opinion had observed that the determination of whether construction of an apartment complex was a commercial activity within the meaning of the IDA Act had to be made by local officials based on facts relevant to the proposed project.
- The Court noted that the TOHIDA found that the development of the first phase of the facility would "promote and maintain the job opportunities, health, general prosperity and economic welfare" of the town's citizens and "improve their standard of living."
- The Court further noted that the project promoted employment opportunities and served to combat economic deterioration in the area served by the TOHIDA.
- The Court upheld the TOHIDA's decision as rationally based and not arbitrary or capricious, an abuse of discretion, or an error of law.

E. Summary:

These two (2) court cases, in conjunction with the 1985 Comptroller's Opinion, establish the basis that an IDA can assist a residential project if the project demonstrates that it:

1. Promotes employment opportunities.
2. Prevents economic deterioration.

## 5. **UNIFORM TAX EXEMPTION POLICY:**

New York State's Industrial Development Agencies are authorized to provide financial assistance to a variety of projects including manufacturing, warehousing, distribution, commercial, mixed use, tourist destination facilities and others. Historically, the Fulton County Industrial Agency (IDA) has provided financial assistance to primarily manufacturing and warehousing type projects. The IDA Board took actions recently to change that historical trend.

The IDA Board, at its September 12, 2023 meeting, approved making changes to its Uniform Tax Exemption Policy (UTEP). This UTEP identifies the types of financial incentives the IDA can provide to eligible projects. One of those incentives is real property tax exemptions. These exemptions are provided through a Payment in Lieu of Tax Agreement (PILOT). The PILOT is an agreement between the IDA and company that identifies the real estate tax exemptions being provided to a project. Prior to September 12, 2023, the only PILOT the IDA offered was one based upon 485-b on NYS Real Property Tax Law. 485-b authorizes offering a 50% exemption on a project's assessed valuation in year 1 with that exemption declining 5% per year over the next 10 years. The exemption ends at the end of year 10. The IDA had offered the 485-b real property tax exemption to all projects.

The IDA board decided to amend its UTEP to offer different PILOT's for different types of projects. The Board's goal was to better incentivize new development opportunities in Fulton County beyond just manufacturing and warehousing type projects. The Board focused on the following types of projects:

1. Brownfields
2. Adaptive Reuse
3. Tourist Destination
4. Housing

These four (4) types of projects can now be offered a PILOT with higher real property tax exemptions that will help make these types of projects more financially feasible. The IDA can now offer these types of projects the following PILOTS:

### 1. **Brownfield Projects:**

Tax Year	Exemption
1 - 7	100%
8	75%
9	50%
10	25%
11	PILOT Ends

### 2. **Adaptive Reuse Projects:**

Tax Year	Exemption
1 - 6	100%
7	80%
8	60%
9	40%
10	20%
11	PILOT Ends

**3. Tourist Destination Projects:**

<b>Tax Year</b>	<b>Exemption</b>
1 - 2	100%
3 - 4	80%
5 - 6	60%
7 - 8	40%
9 - 10	20%
11	PILOT Ends

**4. Housing Projects:**

The Agency shall make available to Project Operators of Housing Projects developed on case by case basis with the maximum term being 30 years.

In order to grant exemptions to Housing Projects, the FCIDA must issue two (2) findings:

- a. The proposed Housing Project will create employment opportunities in the County.
- b. The proposed Housing Project will prevent economic deterioration in the County.

By offering these four (4) types of developmental projects with stronger financial incentives, the FCIDA Board desires to see these types of projects initiated in Fulton County. These PILOT's can help save developers significant dollars on their projects. Offering these stronger financial incentives is even more important in today's challenging economic times with high inflation and high interest rates.

**6. DESKTOP ENVIRONMENTAL ASSESSMENTS:**

The IDA Board retained the Environmental Design Partnership to evaluate several tracts of land for their potential to be developed as shovel-ready sites. This evaluation was completed in 2023.

**7. PROPERTY SALE TO DJF MOTORSPORTS:**

The IDA owned a .251 acre of land on the east side of NYS Route 30A in the Town of Johnstown. The parcel had little value to the IDA given its size. DJF Motorsports, which owned property adjacent to this parcel, asked the IDA Board if they would be willing to sell the parcel to the Company. The IDA Board agreed to sell this parcel to DJF Motorsports.

The IDA Board, in 2023, completed the sale of this .251 acre parcel to DJF Motorsports.

**8. BOARD TRAINING:**

In 2023, the IDA Board received training on the following topics:

1. Reviewed Public Authorities Law that requires the IDA to annually prepare five (5) reports:
  - a. Annual Report
  - b. Independent Audit
  - c. Investment Report
  - d. Procurement Report
  - e. Budget Report
2. Reviewed Key Reporting Dates for 2023.
3. Reviewed new State laws that were adopted in 2022 affecting IDA's.

4. Reviewed information on NYS's Public Work Enhancement Fund.
5. Reviewed Fulton County's 2018 Housing Strategy's findings and recommendations.
6. Reviewed and Updated Property Disposition Policy.
7. Reviewed types of projects IDA's are authorized to participate in which includes:
  - a. Industrial
  - b. Manufacturing
  - c. Warehousing
  - d. Commercial
  - e. Research and recreation facilities
  - f. Industrial pollution control facilities
  - g. Educational or cultural facilities
  - h. Railroad facilities
  - i. Horse racing facilities
  - j. Automobile racing facilities
  - k. Continuing care retirement communities
  - l. Retail: Retail component of total project cost can't exceed 33%
8. Reviewed information obtained from NYSEDC's Spring IDA Academy.
9. Reviewed information obtained at Brownfield's Summit.
10. Reviewed IDA Mission Statement. Based upon this review, it was decided to keep the Mission Statement as is but to add the Tagline:  
*"WE INCENTIVIZE DEVELOPMENT OPPORTUNITIES."*
11. Reviewed new IDA's incentivize housing projects.
12. Met with David Kimmel, President of Two Plus Four Construction, to discuss the development of new housing.
13. Reviewed how other counties incentivize housing projects by having different types of PILOT models.
14. Reviewed and revised the Uniform Tax Exemption Policy (UTEP) by adding new project definitions and adopting new PILOT schedules for these different types of projects.
15. Reviewed and completed Annual Board Performance Questionnaire.
16. Reviewed the IDA's Internal Financial Control System.

**9. OTHER:**

In 2023, the IDA Board also took the following additional actions:

- a. The IDA renewed its Gold Membership with the Fulton County Center for Regional Growth.
- b. The IDA Board adopted a 2024 Budget.

The IDA Board appreciates the strong partnership it has with the Fulton County Board of Supervisors and looks forward to continuing that partnership.

### III. SUMMARY OF FINANCIAL RESULTS

**Table A-1**

**Condensed Statements of Net Position**

	<b>2023</b>	<b>2022</b>	<b>Dollar Change Increase/ (Decrease)</b>
<b>Assets</b>			
Current assets	\$ 1,847,715	\$ 2,174,897	\$ (327,182)
Development projects	3,134,083	3,134,083	0
<b>Total Assets</b>	<b>4,981,798</b>	<b>5,308,980</b>	<b>(327,182)</b>
<b>Liabilities</b>			
Current liabilities	967	370,589	(369,622)
Long-term debt	514,708	514,708	0
<b>Total Liabilities</b>	<b>515,675</b>	<b>885,297</b>	<b>(369,622)</b>
<b>Net Position</b>			
Net investment in capital assets	2,619,375	2,619,395	(20)
Unrestricted	1,846,748	1,804,288	42,460
<b>Total Net Position</b>	<b>\$ 4,466,123</b>	<b>\$ 4,423,683</b>	<b>\$ 42,440</b>



## Changes in Net Position

The IDA's revenue was \$171,184 (see Table A-2).

The total cost of all programs and services amounted to \$128,744 for 2023. The expenses are comprised predominantly of salaries and benefits costs (27.3%), and professional fees (54.3%).

Net position for the year increased by \$42,440.

**Table A-2**

### Changes in Net Position from Operating Results

	<u>2023</u>	<u>2022</u>	<u>Dollar Change Increase/ (Decrease)</u>
<b>Revenues</b>			
<b>Program Revenues</b>			
Charges for services	\$ 9,940	\$ 31,456	\$ (21,516)
<b>General Revenues</b>			
Interest income	16,543	3,304	13,239
Administrative fee	800	1,800	(1,000)
Gain on sale of land	500	37,800	(37,300)
Option revenue	99,970	0	99,970
Realized and unrealized gain on securities	41,468	7,015	34,453
Miscellaneous revenue	1,963	1,650	313
<b>Total Revenues</b>	<u>171,184</u>	<u>83,025</u>	<u>88,159</u>
<b>Expenses</b>			
Development project costs	14,265	2,031	12,234
Miscellaneous expense	7,520	6,694	826
Salaries and benefits	35,149	33,450	1,699
Memberships	1,850	1,850	0
Professional fees	69,960	66,787	3,173
<b>Total Expenses</b>	<u>128,744</u>	<u>110,812</u>	<u>17,932</u>
<b>(Decrease) in Net Position from Operations</b>	<u>\$ 42,440</u>	<u>\$ (27,787)</u>	<u>\$ 70,227</u>

**A. LONG-TERM DEBT:**

As of December 31, 2023, the IDA had \$514,708 in long-term debt outstanding. More detailed information about the IDA's long-term debt is included in the notes to basic financial statements.

**Table A-3**

**Outstanding Long-Term Debt**

	<u>2023</u>	<u>2022</u>
City of Gloversville	\$ 150,267	\$ 150,267
Board of Water Commissioners	89,124	89,124
Community Development Agency	74,961	74,961
Promote Gloversville Development Agency	50,089	50,089
Fulton County Economic Development Corporation	150,267	150,267
<b>TOTALS</b>	<u><u>\$ 514,708</u></u>	<u><u>\$ 514,708</u></u>

**IV. CONTACTING THE IDA'S FINANCIAL MANAGEMENT**

If you have questions about this report or need additional financial information, please contact:

Fulton County Industrial Development Agency  
1 East Montgomery Street  
Johnstown, NY 12095  
Phone: 518-736-5660

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**STATEMENT OF NET POSITION**

**DECEMBER 31, 2023**

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**ASSETS**

**CURRENT ASSETS:**

Cash in bank	\$ 298,794
Cash - restricted	967
Investments	1,547,954

<b>Total current assets</b>	<b>1,847,715</b>
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<b>DEVELOPMENT PROJECTS</b>	<b>3,134,083</b>
-----------------------------	------------------

<b>TOTAL ASSETS</b>	<b>4,981,798</b>
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**LIABILITIES**

**CURRENT LIABILITIES:**

Due to City of Johnstown	967
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<b>Total current liabilities</b>	<b>967</b>
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<b>LONG-TERM DEBT</b>	<b>514,708</b>
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<b>TOTAL LIABILITIES</b>	<b>515,675</b>
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**NET POSITION**

Net investment in capital assets	2,619,375
Unrestricted	1,846,748

<b>TOTAL NET POSITION</b>	<b>\$ 4,466,123</b>
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See notes to basic financial statements.

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**STATEMENT OF ACTIVITIES**

**YEAR ENDED DECEMBER 31, 2023**

	<b>Program Revenue</b>			<b>Changes in Net Position</b>
	<b>Expenses</b>	<b>Charges for Services</b>	<b>Operating Grants and Other Program Revenues</b>	
<b>FUNCTION/PROGRAMS</b>				
Development projects	\$ 14,265	\$ 0	\$ 0	\$ (14,265)
Miscellaneous expense	7,520	0	0	(7,520)
Memberships	1,850	0	0	(1,850)
Professional fees	69,960	(9,940)	0	(60,020)
Salaries and benefits	35,149	0	0	(35,149)
<b>Total function/programs</b>	<b>\$ 128,744</b>	<b>\$ (9,940)</b>	<b>\$ 0</b>	<b>(118,804)</b>
<b>GENERAL REVENUE</b>				
Interest income				16,543
Administrative fee				800
Gain on sale of land				500
Option revenue				99,970
Realized and unrealized gain on securities				41,468
Miscellaneous revenue				1,963
<b>Total general revenue</b>				<b>161,244</b>
<b>CHANGE IN NET POSITION</b>				<b>42,440</b>
<b>TOTAL NET POSITION - BEGINNING OF YEAR</b>				<b>4,423,683</b>
<b>TOTAL NET POSITION - END OF YEAR</b>				<b>\$ 4,466,123</b>

See notes to basic financial statements.

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**STATEMENT OF CASH FLOWS**

**YEAR ENDED DECEMBER 31, 2023**

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**CASH FLOWS PROVIDED BY OPERATING ACTIVITIES:**

Change in net position	\$ 42,440
Adjustments to reconcile change in net position to net cash:	
Net realized and unrealized (gains) on long-term investments	(41,468)
(Decrease) in due to City of Johnstown	<u>(369,622)</u>
<b>Net cash (used) by operating activities</b>	<b>(368,650)</b>

**CASH FLOWS PROVIDED BY INVESTING ACTIVITY:**

Purchase of investments	<u>(500,000)</u>
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<b>NET (DECREASE) IN CASH</b>	<b>(868,650)</b>
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<b>CASH - BEGINNING OF YEAR</b>	<b><u>1,168,411</u></b>
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<b>CASH - END OF YEAR</b>	<b><u>\$ 299,761</u></b>
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**RECONCILIATION TO STATEMENT OF NET POSITION**

<b>CASH</b>	<b>\$ 298,794</b>
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<b>CASH - RESTRICTED</b>	<b><u>967</u></b>
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<b>TOTAL CASH AND CASH EQUIVALENTS</b>	<b><u>\$ 299,761</u></b>
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See notes to basic financial statements.

# FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

## NOTES TO BASIC FINANCIAL STATEMENTS

DECEMBER 31, 2023

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### **NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

The financial statements of the Fulton County Industrial Development Agency (Agency) have been prepared in conformity with U.S. generally accepted accounting principles. Significant accounting policies are:

#### **Organization**

The Agency is an Industrial Development Agency duly established under Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 665, Section 895C, of the Laws of 1970 of the state and is a public benefit corporation of the state.

The Agency was formed for the purpose of encouraging economic growth in the County of Fulton. The Agency is exempt from federal, state and local income taxes. The Agency, although established by the Fulton County Board of Supervisors, is a separate entity and operates independently of the County of Fulton.

#### **Basis of Accounting**

The Agency is required by New York State to maintain its books on the accrual basis of accounting.

#### **Budgetary Accounting**

In accordance with Section 861 of the General Municipal Law, the Agency prepares and adopts annual budgets.

#### **Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make certain estimates and assumptions. Those estimates and assumptions may affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities and the reported revenues and expenses. Actual results could differ from those estimates.

#### **Advertising Costs**

The Agency's advertising costs are expensed as incurred. There was no advertising expense for the year ended December 31, 2023.

#### **Fair Value of Financial Instruments**

Unless otherwise indicated, the fair values of all reported assets and liabilities which represent financial instruments (none of which are held for trading purposes) approximate the carrying values of such amounts.

#### **Cash and Cash Equivalents**

For purposes of the statement of cash flows, management considers all investment instruments purchased with a maturity of three months or less to be cash equivalents.

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**NOTES TO BASIC FINANCIAL STATEMENTS**

**DECEMBER 31, 2023**

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**NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (CONTINUED)**

**Development Project Assets**

Development project assets, consisting of land and site improvements acquired by the Agency, are stated at cost (or estimated historical cost) and include interest capitalized during construction where applicable. Contributed assets are recorded at fair market value at the date received. Major additions and betterments are capitalized, while maintenance and repairs, which do not appreciably extend the useful lives of the related assets, are charged to expense as incurred. There are no reversionary interests by the grantor in the assets (see also Notes 2 and 4 following).

**Lot Sales**

Certain lot sales are capitalized lease purchase agreements. The leases are structured to receive full payment at lease inception and are recorded as sales by the Agency at that time. Other lot sales are direct sales in which title to the property transfers to the purchaser. There was one direct lot sale in 2023:

1. .251 acre of land to DJF Motorsports

**NOTE 2 – CASH – RESTRICTED/DUE TO CITY OF JOHNSTOWN**

- A. The Agency entered into an agreement with the City of Johnstown whereby the Agency is to develop the Johnstown Industrial Park (Park). The City of Johnstown (City) conveyed title to 175 acres of land to the Agency pursuant to Local Law No. 2 of 1989.

The Agency is to develop, operate and manage the Park. All revenues generated from the lot sales in the Park are to be allocated between the City and the Agency as follows:

1. Seven percent of gross revenues are to be retained by the Agency for administrative costs.
2. Of the remaining balance:
  - a. Fifty percent shall be paid to the City; and
  - b. Fifty percent shall be retained by the Agency and deposited in an interest-bearing account dedicated solely for the use in future industrial and economic development-type projects within the City, or outside the City with their approval.

- B. Restricted cash balances at December 31, 2023, are as follows:

City of Johnstown (a. above)	\$ <u>967</u>
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- C. During the year, the Agency received a request from the City of Johnstown for a payment from this account. The total amount paid to the City was \$376,619.

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**NOTES TO BASIC FINANCIAL STATEMENTS**

**DECEMBER 31, 2023**

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**NOTE 3 – DEVELOPMENT PROJECTS**

The Agency's development projects at December 31, 2023, are as follows:

Crossroads Industrial Park	\$ 120,000
Crossroads Business Park	1,925,000
Johnstown Industrial Park	305,629
Tryon Technology Park	<u>783,454</u>
<b>TOTAL</b>	<b><u>\$ 3,134,083</u></b>

The development projects consist of land acquisition costs and site improvements; i.e., roads, water and sewer lines and landscaping.

**NOTE 4 – LONG-TERM DEBT**

As part of the Crossroads Business Park project, the Agency entered into an agreement with five local governmental and nonprofit entities. Each entity, including the Agency, provided funds necessary to meet the \$665,000 local match requirement of the EDA grant. The agreement provides that the Agency retain the first \$100,000 received for sale of lots of the Crossroads Business Park. Thereafter, the Agency, after deducting an administrative fee and any other customary sale or lease expenses, shall repay the project participants (including the Agency) at the percent of participation that each entity provided to the total \$665,000 local match.

Interest was accrued at 5½% on the unpaid balances for a maximum of seven years (ending in 2005). Therefore, for the year ended December 31, 2023, interest expense totaled \$-0-.

This balance is comprised of amounts due to the following entities:

City of Groversville	\$ 150,267
Board of Water Commissioners	89,124
Community Development Agency	74,961
Promote Groversville Development Agency	50,089
Fulton County Economic Development Corporation	<u>150,267</u>
<b>TOTAL</b>	<b><u>\$ 514,708</u></b>

**NOTE 5 – FAIR VALUE MEASUREMENTS**

As required by FASB ASC, *Fair Value Measurement*, the Agency is required to value investment and debt securities based on the valuation measurement techniques and hierarchy established by the FASB ASC.

There are three general valuation techniques that may be used to measure fair value, as described below:

- A) Market approach – Uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities. Prices may be indicated by pricing guides, sales transactions, market trades or other sources.
- B) Cost approach – Based on the amount that currently would be required to replace the service capacity of an asset (replacement cost); and



FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

NOTES TO BASIC FINANCIAL STATEMENTS

DECEMBER 31, 2023

**NOTE 5 – FAIR VALUE MEASUREMENTS – (CONTINUED)**

- C) Income approach – Uses valuation techniques to convert future amounts to a single present amount based on current market expectations about the future amounts (includes present value techniques and option-pricing models). Net present value is an income approach where a stream of expected cash flows is discounted at an appropriate market interest rate.

Fair values of assets and liabilities measured on a recurring basis at December 31, 2023, are as follows:

<b><u>Fair Value Measurements Using</u></b>				
		<b>Quoted Prices in Active Markets for Identical Assets/Liabilities (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>
	<b><u>Fair Value</u></b>			
<b><u>December 31, 2023</u></b>				
Long-term debt	\$ 514,708	\$ 0	\$ 514,708	\$ 0

**NOTE 6 – CIVIC FACILITY BONDS AND NOTE TRANSACTIONS**

Certain industrial development revenue bonds and notes issued by the Agency are secured by property which is leased to companies and is retired by lease payments. The bonds and notes are not obligations of the Agency or the state. The Agency does not record the assets or liabilities resulting from completed bond and note issues in its accounts since its primary function is to arrange the financing between the borrowing companies and the bond and note holders and funds arising there from are controlled by trustees or banks acting as fiscal agents. For providing this service, the Agency receives bond administration fees from the borrowing companies. Such administrative fee income is recognized immediately upon issuance of bonds and notes. As a result of the COVID-19 Pandemic, the YMCA applied for and received two 3-month deferrals of its principal and interest payments from NBT Bank. This deferral extended the maturity date of the bonds to January 1, 2031. At December 31, 2023, the original issue value of bonds issued aggregated was \$5,450,000 and the outstanding balance was \$1,126,034. Refer to the Schedule of Civic Facility Bonds on page 27.

**NOTE 7 – INVESTMENTS**

The Agency's investment policies are governed by state statutes. Agency monies must be deposited in Federal Deposit Insurance Corporation (FDIC) insured commercial banks or trust companies located within the state. The Agency is authorized to use demand accounts and certificates of deposit. Permissible investments include obligations of the U.S. Treasury and obligations of New York State or its localities.

**FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**NOTES TO BASIC FINANCIAL STATEMENTS**

**DECEMBER 31, 2023**

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**NOTE 7 – INVESTMENTS – (CONTINUED)**

Collateral is required for demand deposits and certificates of deposit at 100% of all deposits not covered by federal deposit insurance. Obligations that may be pledged as collateral are obligations of the United States Government and its agencies and obligations of any state and its municipalities and school districts.

At December 31, 2023, all deposits are fully collateralized.

**NOTE 8 – SUBSEQUENT EVENTS**

The Agency has evaluated subsequent events through the issuance date of the report. None were considered material to the issued financial statements.



**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL  
OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER  
MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED  
IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

To the Chairperson and Board of the  
Fulton County Industrial Development Agency  
Johnstown, New York

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Fulton County Industrial Development Agency, a public benefit corporation, as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the Agency's basic financial statements, and have issued our report thereon dated March 12, 2024.

**Report on Internal Control Over Financial Reporting**

In planning and performing our audit of the financial statements, we considered Fulton County Industrial Development Agency's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Fulton County Industrial Development Agency's internal control. Accordingly, we do not express an opinion on the effectiveness of the Fulton County Industrial Development Agency's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Agency's financial statements will not be prevented, or detected and corrected on a timely basis. *A significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

### **Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether Fulton County Industrial Development Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Agency's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

WEST & COMPANY CPA PC

Gloversville, New York  
March 12, 2024

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

SCHEDULE OF CIVIC FACILITY BONDS

DECEMBER 31, 2023

<u>PROJECTS</u>	<u>CURRENT INTEREST RATE</u>	<u>OUTSTANDING BEGINNING OF YEAR</u>	<u>ISSUED</u>	<u>PRINCIPAL PAID</u>	<u>INTEREST PAID</u>	<u>DECEMBER 31,</u>
						<u>2023 BALANCE</u>
Fulton County YMCA, Inc.	3.25%	\$ 1,266,048	\$ 5,450,000	\$ 140,014	\$ 39,620	\$ 1,126,034

See accompanying notes.

## FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

### **POLICY 04: CODE OF ETHICS**

#### 1. Introduction:

This Code of Ethics shall apply to all members, staff and other employees of the Fulton County Industrial Development Agency (AGENCY). These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the AGENCY's directors and employees and to preserve public confidence in the AGENCY's mission.

#### 2. Responsibility of Directors and Employees:

- (i) Directors and employees shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one's official duties.
- (ii) Directors and employees shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the director's or employee's official position that could create any conflict between their public duties and interests and their private interests.
- (iii) Directors and employees shall not accept or receive any gift in excess of seventy-five dollars (\$75), whether it be in the form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the AGENCY.
- (iv) Directors and employees shall not use or attempt to use their official position with the AGENCY to secure unwarranted privileges for themselves, members of their family or others, including employment with the AGENCY or contracts for materials or services with the AGENCY.
- (v) Directors 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.
- (vi) Directors and employees may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
- (vii) Directors and employees shall manage all matters within the scope of the AGENCY's mission independent of any other affiliations or employment. Members, staff and employees employed by more than one government shall strive to fulfill their professional responsibility to the AGENCY without bias and shall support the AGENCY's mission to the fullest.
- (viii) Directors and employees shall not use AGENCY property or resources or disclose information acquired in the course of their official duties in a manner inconsistent with State or local law and the AGENCY's mission and goals.
- (ix) Directors and employees shall also comply with the provisions of Section 74 of Public Officers Law.

3. Implementation of Code of Ethics:

- (a) This Code of Ethics shall be provided to all Directors and employees upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.
- (b) The AGENCY may designate an Ethics Officer, who shall report to the AGENCY and shall have the following duties:
  - i. Counsel in confidence AGENCY members, staff and employees who seek advice about ethical behavior.
  - ii. Receive and investigate complaints about possible ethics violations.
  - iii. Dismiss complaints found to be without substance.
  - iv. Prepare an investigative report of their findings for action by the Executive Director or the board.
  - v. Record the receipt of gifts or gratuities of any kind received by the director or employee, who shall notify the Ethics Officer within 48 hours of receipt of such gifts and gratuities.

4. Penalties:

- (a) In addition to any penalty contained in any other provision of law, an AGENCY, Directors or employee who knowingly and intentionally violates any of the provisions of this code may be removed in the manner provided for in law, rules or regulations.

5. Reporting Unethical Behavior:

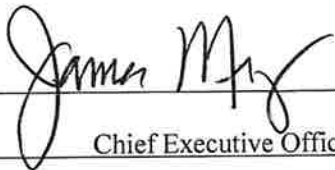
- (a) Directors and employees are required to report possible unethical behavior by a member, staff or employee of the AGENCY to the Ethics Officer. Ethics complaints may be filed anonymously and are protected from retaliation by the policies adopted by the AGENCY.

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Adopted: September 30, 2008  
Revised: June 14, 2022

### **CERTIFICATION OF CHIEF EXECUTIVE OFFICER**

I, James Mraz, certify that I am the Chief Executive Officer of Fulton County Industrial Development Agency and that this report, to the best of my knowledge, information and belief, is a true and correct statement of the financial transactions and fiscal condition for the year ended December 31, 2023.

Signature:   
Title: Chief Executive Officer

### **CERTIFICATION OF CHIEF FINANCIAL OFFICER**

I, Carol Ellis, certify that I am the Chief Financial Officer of Fulton County Industrial Development Agency and that this report, to the best of my knowledge, information and belief, is a true and correct statement of the financial transactions and fiscal condition for the year ended December 31, 2023.

Signature:   
Title: Chief Financial Officer