

**FULTON COUNTY  
INDUSTRIAL  
DEVELOPMENT AGENCY**

**2023 ANNUAL REPORT**

**MARCH 12, 2024**

**PREPARED BY:**

**FULTON COUNTY INDUSTRIAL DEVELOPMENT  
AGENCY**

## **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 IDAs 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 on 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 no longer be making “PILOT payments.”

As discussed on page 7 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	2032
Hoffmans Carwash	237 S. Kingsboro Avenue Extension, Gloversville, NY	12/2032

The PILOT the IDA had with CG Roxane expired in November of 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:

<b>Company</b>	<b>Address</b>	<b>Date Sales Tax Exemption Expires</b>
Benjamin Moore	155 Union Avenue Extension, Johnstown	6/30/23
Vireo Health of NY, LLC	256 CR117, Johnstown	3/31/24

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:

<b>Company</b>	<b>Address</b>
YMCA	213 Harrison Street, Gloversville, NY
Vireo Health of NY	256 CR117, Johnstown, NY
Hoffmans Carwash	342 S. Kingsboro Avenue Extension, Gloversville, NY
Benjamin Moore	155 Union Ave Extension, 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 (WE), LLC 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. #	Estimated 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 to 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 the IDA executed an amendment to the Option Agreement modifying the annual payment in the Option Agreement.

c. Back-up 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 the Tryon Technology Park. The 29+/- acres leased to Nexus was not part of the Tryon. The Leases are for 25 years with three (3) five (5) year options. The IDA executed leases with four (4) separate LLC's 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 high 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 Tryon:

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 sf 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 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 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 \$3,450,000 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 Comptrollers 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 Development 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 of 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:**

<b>Tax Year</b>	<b>Exemption</b>
1-7	100%
8	75%
9	50%
10	25%
11	Pilot Ends

2. **Adaptive Reuse Projects:**

<b>Tax Year</b>	<b>Exemption</b>
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 development 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:
  - Industrial
  - Manufacturing
  - Warehousing
  - Commercial
  - Research and recreation facilities
  - Industrial pollution control facilities
  - Educational or cultural facilities
  - Railroad facilities
  - Horse racing facilities
  - Automobile racing facilities
  - Continuing care retirement communities
  - 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 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 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.