



# Policy Committee

February 3, 2022  
9:00 a.m.

Via Conferencing & Livestreaming

1. Call Meeting to Order
2. Approval of the December 2, 2021 Policy Committee Meeting Minutes (Pages 2-7)
3. Project Matrix (Page 8)
4. Project Presentation (Staff – Company Q&A)
  - a) (None)
5. MWBE Update
6. UTEP Policy (Pages 9-18)
7. Adjournment – Next Meeting **March 3, 2022 at 9:00 a.m.**

**MINUTES OF A MEETING OF THE  
POLICY COMMITTEE OF THE  
ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

- DATE:** January 13, 2022
- LIVE STREAMED:** This meeting is being live-audio streamed and made accessible on the Agency's website at [www.ecidany.com](http://www.ecidany.com).
- PRESENT:** Denise Abbott; Hon. April Baskin; Rev. Mark Blue; Johanna Coleman; Hon. William Krebs; Richard Lipsitz; Brenda W. McDuffie; Hon. Glenn Nellis; Laura Smith; Lavon Stephens; Paul Vukelic and Maria Whyte
- EXCUSED:** Hon. Bryon W. Brown; Colleen DiPirro and David State
- OTHERS PRESENT:** John Cappellino, President & CEO; Beth O'Keefe, Vice President of Operations; Mollie Profic, Chief Financial Officer; Atiqah Abidi, Assistant Treasurer; Grant Lesswing, Director of Business Development; Andrew Federick, Business Development Officer; Robbie Ann McPherson, Director, Marketing & Communications; Brian Krygier, Director of Operations Technology; Carrie Hocieniec, Operations Assistant; and Robert G. Murray, Esq., General Counsel/Harris Beach PLLC
- GUESTS:** Peter Krog and Scott Fairbrother on behalf of 791 Washington Street LLC; Joan Gredys, Jeanette Foote on behalf of Arbor Multifamily Lending, LLC; Dr. Uzo Ihenko, Kelechi Chillis Ihenko on behalf of Broadway Development & Management Group, LLC; Suzanne Risman on behalf of Lactalis American Group, Inc.; Seth Piccirillo on behalf of Buffalo Niagara Partnership and Alex Carducci on behalf of the City of Buffalo

There being a quorum present at 9:03 a.m., the Meeting of the Policy Committee was called to order by Mr. Lipsitz.

**MINUTES**

The minutes of the November 18, 2021 Policy Committee meeting were presented. Upon motion made by Mr. Blue to approve of the minutes, and seconded by Mr. Vukelic, the aforementioned Policy Committee meeting minutes were unanimously approved.

The minutes of the December 2, 2021 Policy Committee meeting were presented. Upon motion made by Ms. McDuffie to approve of the minutes, and seconded by Mr. Nellis, the aforementioned Policy Committee meeting minutes were unanimously approved.

## **PROJECT MATRIX**

Mr. Cappellino reviewed the Agency's 2021 Project Matrix, noting 22 projects were induced. Mr. Lipsitz directed that the report be received and filed.

## **PROJECT PRESENTATIONS**

At this point in time, April Baskin and Johanna Coleman joined the meeting.

791 Washington Street LLC, 791 Washington Street, Buffalo, New York 14203. Mr. Cappellino presented this proposed sales tax and mortgage recording tax benefits project involving substantial renovation to convert the site into mixed-use including market rate housing addressing growth demands of medical campus employees, students and those interested in the community. The developer intends to create 243 housing units with 10% (25 units) committed to workforce housing at 80% AMI. In addition, 60,000 sq. ft. will be available to businesses looking to locate on the Buffalo Niagara Medical Campus.

Mr. Cappellino confirmed that 791 Washington Street LLC is seeking \$3.7M in incentives including sales tax exemption and mortgage tax exemption benefits. Total payroll is projected at \$70.7M for the direct and indirect jobs created including 571 construction jobs. The resulting cost benefit is 1:20 so for every \$1 of incentives the community benefit is \$20 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$38 in community benefits.

General discussion ensued. Ms. Whyte expressed her support for the project. Ms. McDuffie also expressed her support for the project. Ms. Baskin expressed support for the project and thanked the company for work-force housing component piece of the project and for committing to MWBE commitments.

Mr. Cappellino stated that in exchange for providing the sales and use tax and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

### **Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$107,950,000 85% = \$91,800,000

Employment	2 years following project completion	Create 85% of Projected Jobs Projected = 5 85% = 4 Recapture Employment = 4
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	2 years following project completion	Adherence to policy
Unpaid Tax	2 years following project completion	Adherence to policy
Recapture Period	2 years following project completion	Recapture of state and local sales taxes and mortgage recording tax

Ms. Whyte moved and Ms. Baskin seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Arbor Multifamily Housing LLC, 500 Colvin Woods, Tonawanda, New York 14150. Mr. Cappellino presented this proposed sales tax benefits project involving the purchase of equipment and furnishings associated with an inter-municipal move of the applicant from the Town of Lancaster to the Town of Tonawanda, and confirmed and described the Agency's compliance with both statutory intermunicipal move requirements and the Agency's Uniform Tax Exemption Policy Uniform intermunicipal move requirements.

Mr. Cappellino confirmed that Arbor Multifamily Housing LLC is seeking \$183,750 in incentives including sales tax exemption benefits. Total payroll is projected at \$12.8M for the direct and indirect jobs created including 0 construction jobs. The resulting cost benefit is 1:304 so for every \$1 of incentives the community benefit is \$304 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$533 in community benefits.

General discussion ensued. Ms. Whyte confirmed Arbor's efforts to find suitable office space in Lancaster. Ms. Gredys spoke on behalf of the company to review its efforts that were undertaken to secure new office space in Lancaster and elsewhere. Ms. Whyte confirmed her belief that here, incentives are being appropriately offered to grow jobs in the region and not to simply facilitate a move of the facility. Ms. Smith spoke in favor of the project and confirmed the value of utilizing a regional approach as opposed to a "municipal geographic line approach" for incentivizing economic growth. Mr. Krebs and Ms. Coleman also spoke in favor of the project.

Mr. Cappellino stated that in exchange for providing the sales and use tax benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$2,100,000 85% = \$1,785,000
Employment	2 years following project completion	Maintain Base = 168 Create 85% of Projected Jobs Projected = 25 85% = 21 Recapture Employment = 189
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	2 years following project completion	Adherence to policy
Unpaid Tax	2 years following project completion	Adherence to policy
Recapture Period	2 years following project completion	Recapture of state and local sales taxes

Ms. McDuffie moved and Mr. Blue seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Broadway Development & Management Group LLC, 343-345 Broadway, Buffalo, New York 14204. Ms. O’Keefe presented this proposed sales tax and mortgage recording tax benefits project involving an adaptive reuse project of an historic 3-story 44,000 sq. ft. commercial building located within a distressed census tract in the City of Buffalo. The first floor’s 20,000 sq. ft. uses include: common areas/tenant amenities as well as office, warehouse and retail space. Anchor tenants for this space include Uzo 1 International, Ltd. And The UPS Store. The UPS Store will be the first and the only center to be located within the inner-city. The 24,000 sq. ft. on the second and third floors will be converted into workforce housing with rents based on 80% of the Area Median Income (AMI).

Ms. O’Keefe confirmed that Broadway Development & Management Group LLC is seeking \$693,500 in incentives including sales tax exemption and mortgage tax exemption benefits. Total payroll is projected at \$60,000 for the direct and indirect jobs created including 56 construction jobs. The resulting cost benefit is 1:14 so for every \$1 of incentives the community benefit is \$14 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$24 in community benefits.

General discussion ensued. Ms. Baskin spoke in favor of the project. Ms. O’Keefe stated that in exchange for providing the sales and use tax and mortgage recording tax exemption benefits, the approval of this project will be conditioned upon adherence to certain material terms

and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$12,500,000 85% = \$10,625,000
Employment	Coincides with recapture period	Maintain Base = 2 Create 85% of Projected Jobs Projected = 8 85% = 7 Recapture Employment = 9
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with recapture period	Adherence to policy
Unpaid Tax	Coincides with recapture period	Adherence to policy
Recapture Period	2 years after project completion	Recapture of state and local sales taxes and mortgage recording tax

Ms. McDuffie moved and Ms. Baskin seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

Lactalis American Group, Inc., 2376 South Park Avenue, Buffalo, New York 14220. Ms. O’Keefe presented this proposed sales tax and real property tax abatement benefits project involving a proposed 5,660 sq. ft. addition to the company’s existing 26,865 sq. ft. office building to provide current and future employees with the space needed to support the company’s U.S. operations from the Buffalo, New York facility.

Ms. O’Keefe confirmed that Lactalis American Group, Inc. is seeking \$126,793 in incentives including sales tax exemption and real property tax exemption benefits. Total payroll over the 10 year term of the PILOT is projected at \$33.5M for the direct and indirect jobs created including 5 construction jobs. The resulting cost benefit is 1:9994 so for every \$1 of incentives the community benefit is \$9,994 in payroll & tax revenue. For Erie County, every \$1 of incentives provides \$13,000 in community benefits.

General discussion ensued. Mr. Blue queried about the types of jobs to be created. Ms. Risman spoke on behalf of the company and confirmed new jobs are computer technology and computer science jobs. Mr. Lipsitz and Mr. Krebs spoke in favor of the project as well as Ms. Abbott.

Ms. O’Keefe stated that in exchange for providing the sales and use tax and real property tax abatement benefits, the approval of this project will be conditioned upon adherence to certain material terms and conditions with respect to the potential modification, recapture and/or termination of financial assistance as follows:

**Draft Recapture Material Terms**

Condition	Term	Recapture Provision
Total Investment	At project completion	Investment amount equal to or greater than 85% of project amount. Total Project Amount = \$1,436,697 85% = \$1,221,192
Employment	Coincides with 10-year PILOT	Maintain Base = 334 Create 85% of Projected Jobs Projected = 27 85% = 22 Recapture Employment = 356
Local Labor	Construction Period	Adherence to policy including quarterly reporting
Pay Equity	Coincides with 10-year PILOT	Adherence to policy
Unpaid Tax	Coincides with 10-year PILOT	Adherence to policy
Recapture Period	Coincides with 10-year PILOT	Recapture of state and local sales taxes and real property taxes

Ms. Abbott moved and Mr. Blue seconded to recommend the project as proposed be forwarded to the members of the ECIDA for approval. Mr. Lipsitz called for the vote and the project was then unanimously approved.

**MWBE UPDATE**

Mr. Cappellino presented members with an update on the draft MWBE Policy.

**UNIFORM TAX EXEMPT POLICY AMENDMENT**

Mr. Cappellino presented members with an update on the proposed Countywide Uniform Tax Exemption Policy (“UTEF”) amendments and approval process.

There being no further business to discuss, Mr. Lipsitz adjourned the meeting at 10:16 a.m.

Dated: January 13, 2022

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Gerald Manhard, Assistant Secretary







**TO: ECIDA Policy Committee**  
**DATE: February 3, 2022**  
**RE: Amended and Restated Countywide Industrial Development Agency Uniform Tax Exemption Policy Draft**

Under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “GML”), as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended, the Erie County Industrial Development Agency (the “Agency”) was created and authorized (1) to promote the economic welfare, recreational opportunities and prosperity of the inhabitants of the Erie County (the “County”), and (2) to actively promote, attract, encourage and develop recreation and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration.

Section 874 of the General Municipal Law of the State of New York (the “GML”) requires that each industrial development agency (“IDA”) establish a uniform tax exemption policy (“UTEF”), with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to Section 859-a of the GML and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions (collectively, “Financial Assistance”).

In 2001, the Agency and the Town of Amherst IDA, the Town of Lancaster IDA, the Town of Clarence IDA, the Town of Hamburg IDA, and the Town of Concord IDA collectively adopted a Countywide Industrial Development Agency Uniform Tax Exemption Policy, which was subsequently amended in January of 2010 (the “Existing UTEF”). Related thereto, the Agency also approved two amendments to the Existing UTEF, the first being an amendment to the Hotel/Motel Policy in 2012 and the second being an amendment related to For-Profit Market Rate Rental Senior Citizen Housing Policy in 2015.

Since 2013, the GML has been amended several times by reinstating certain retail restrictions, and by establishing new procedural and transparency requirements and certain provisions allowing for the recapture, modification, and termination of IDA Financial Assistance. More recent GML amendments altered the types of projects eligible for Financial Assistance, for example, various renewal energy projects are now defined to be permissible projects. In consideration of the foregoing, it was determined that the best path forward would be to undertake a fresh rewrite of the Existing UTEF instead of otherwise amending the Existing UTEF.



**Several key principals of the overall UTEP rewrite (the “New UTEP”) included:**

- Maintaining a baseline “Countywide Policy” for all the IDAs within Erie County, that also allows for each IDA, if desired, to adopt unique requirements or policies specific to an individual IDA, i.e. pay equity policy, local labor policy, senior housing policy, by way of example.
- Simplifying the Existing UTEP making it easier to understand and implement.
- Referencing relevant sections of the GML, for specific requirements instead of reciting entire sections of the GML within the New UTEP, so that the New UTEP would not necessarily inadvertently outdate itself when the GML is amended going forward.
- Continuing the utilization of a Tiered PILOT structure requiring projects to be scored based on established criteria and assigned to a PILOT Tier, whereby projects scoring in the upper tier become eligible for a PILOT having a greater total abatement than a project scoring in a lower tier. Related thereto, the following elements drove the establishment of the various Tiered PILOT schedules:
  - PILOT Schedules would not have any 100% abatement years, so that there would be PILOT revenue realized by the taxing jurisdictions each year.
  - To the extent possible, establishing PILOT schedules having annual payment increases

**Summary of New UTEP Sections:**

**Section I: Eligible Applicants/Projects**

- A. The Eligible Applicants section was changed from a NAICS based system to a simplified business activities system, to include commercial business activities, manufacturing and advanced manufacturing activities, warehousing and distributive services activities, and back-office activities. The NAICS system was confusing and outdated due to amendments to the GML. As an example, many of the NAICS categories defined in the Existing UTEP as potentially eligible were no longer eligible due to the retail restrictions. A new “Renewable energy and electric energy storage” activity was added to conform with 2021 GML amendments specifying an IDA’s role in supporting these types of projects in furtherance of New York’s renewable energy goals.
- B. A new Retail Business section was added confirming that retail projects are generally ineligible and cites to Section 862 of the GML for specified exceptions.



- C. A new special projects section was added to outline requirements for mixed use projects containing a mix of retail and other non-retail uses citing to restrictions in Section 862 of the GML and allowing for additional requirements established by each individual IDA. Specifically, this section:
1. Maintains the Adaptive Reuse program and requirements under the existing terms and conditions; and
  2. Maintains the Continuing Care Retirement Community project category (for example, Canterbury Woods) as permitted under New York Law and cites to the applicable GML sections.

#### Section II: Exemption from Real Property Taxes: Payments in Lieu of Taxes

The Tiered PILOT incentive concept remains in the New UTEP, however the number of tiers, the PILOT schedules, and the tier scoring system are being amended. Major changes include:

1. Elimination of the Ten-Year Enhanced Jobs Plus PILOT schedule.
2. Addition of a new Five-Year PILOT schedule – intended for smaller redevelopment, potentially mixed-use projects.
3. Creation of a new Renewable Energy PILOT to support renewable energy projects, establishing a baseline PILOT framework but allowing for each IDA to adopt their own specific requirements (see, for example, the new ECIDA Community Solar Policy).
4. Adjustments to the various PILOT schedules to minimize multiple years with the same PILOT abatement percentage, and establishing new schedules, to the extent possible, having year over year increase in PILOT payments.
5. Updates to the Tiered PILOT scoring sheet used to score projects for the appropriate PILOT tier.

#### General Revisions:

Sections III, IV, V, VI and VII of the New UTEP, except for formatting and minor language modifications, remain the same as those provisions/concepts contained within the Existing UTEP.

There are some sections of the Existing UTEP that have been removed because such sections are now outdated and/or irrelevant due to changes to New York State law. The Existing UTEP had specific sections on Medical Projects, Hotel and Motels, and Neighborhood Enhancement Areas which were all rendered irrelevant due to the reinstatement of Retail Restrictions in 2013, having been theretofore eliminated in 2008 by certain sun-setting GML provisions.



In addition, the Adaptive Reuse policy was revised to allow each IDA to adopt its own Adaptive Reuse Policy program, as a separate addendum to the UTEP, if so desired. This will be the same approach to be used relating to some of the policies unique to the Agency, for example, the Pay Equity Policy, the Unpaid Real Property Tax Policy, the For-Profit Senior Housing Policy, and potentially the new MWBE Policy which will be added as addendums to this baseline New UTEP by the Agency upon the Agency's approval of this New UTEP, as so amended and restated and as briefly described herein.

The 2016 revisions to the GML also mandates certain specific requirements and information be included in IDA applications and IDA project agreements, some of which were already included within the Existing UTEP. These provisions were removed from the Existing UTEP but, as so required by the GML, are now included as component parts of the Agency's application and project agreement. This includes our material terms and conditions, our recapture policy language and applicant certification statement requiring applicants to certify to the truthfulness and accuracy of information disclosed within the application under penalty of perjury.

## **Countywide Industrial Development Agency Uniform Tax Exemption Policy**

**Town of Amherst Industrial Development Agency, the Town of Clarence Industrial Development Agency, the Town of Hamburg Industrial Development Agency, the Town of Lancaster Industrial Development Agency and the Erie County Industrial Development Agency**

**Amended and Restated as of \_\_\_\_\_, 202\_\_**

The declared policy of New York State is to promote the economic welfare, recreation opportunities and prosperity of its inhabitants, and to promote, attract, encourage and develop recreation, and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies (“IDA”). IDAs are empowered to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, and commercial facilities and thereby advance the job opportunities, health, and the general prosperity and economic welfare of the people of New York State and to improve their recreational opportunities, prosperity and standard of living.

IDAs are empowered to carry out these statutory purposes by providing for the claiming of real property tax abatements and exemptions from sales, use, and mortgage recording tax, and the issuance of tax exempt bonds (collectively, “Financial Assistance”). The IDAs in Erie County have adopted this Uniform Tax Exemption Policy (the “Policy”) to provide for uniform policies for the claiming of IDA Financial Assistance.

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, an IDA is authorized to establish guidelines and policies for the evaluation and selection of projects for which Financial Assistance will be provided, the suspension, discontinuance, or modification of real property tax abatements, and the recapture of all or part of the Financial Assistance as a consequence of job creation/retention shortfalls or other material violations of the terms and conditions established for the provision of Financial Assistance. Each applicant for Financial Assistance should consult with the appropriate individual IDA to confirm such an IDA’s relevant guidelines and policies.

### **I. Eligible Applicants/Projects**

A. By way of example only, Applicants involved in the following business activities may be eligible to apply for Financial Assistance:

1. Commercial activities
2. Manufacturing/Advanced Manufacturing
3. Warehousing/Distributive Services
4. Back office (headquarters, data and call centers)
5. Renewable energy and/or electric energy storage<sup>1</sup>

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<sup>1</sup> Renewable energy and/or electric energy storage projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creations goals.

**B. Retail Business.** Only certain Retail Business projects may be eligible to receive Financial Assistance in compliance with Section 862 of the New York General Municipal Law (“GML”). Applicants are strongly encouraged to consult Section 862 of the GML and the appropriate individual IDA if a proposed project involves the sale of goods or services to customers who personally visit the project site.

**C. Special Projects.** Applications which contain a mix of retail uses and other non-retail uses (a mixed use project) must comply with Section 862 of the GML and meet additional requirements, if any, as established by each such IDA.

**1. Adaptive Reuse Project/Neighborhood Enhancement Area Project.** Adaptive Reuse Projects/Neighborhood Enhancement Area Projects will be evaluated based upon consideration of evaluative criteria which are appropriate for such projects particularly where the goals of the project may be broader than typical job retention and creation goals. IDA Financial Assistance may be provided to an Adaptive Reuse Project that involves adapting old structures or sites for new purposes, including but not limited to, potentially a mix of retail uses (in compliance with Section 862 of the GML) and commercial uses, and/or market rate or below market rate housing, and/or as otherwise permitted under any exception or amendment to this Policy for each individual IDA. An Adaptive Reuse Project is one that will benefit the host municipality and Erie County by redeveloping a blighted site or structure, promoting infill development utilizing existing infrastructure, creating new economic activity at difficult sites and buildings thus helping to eliminate neighborhood slum and blight, promoting re-use of existing buildings and sites, and helping to maintain a neighborhood’s fabric. Adaptive Reuse Projects prevent economic deterioration and promote employment opportunities. IDAs may also provide Financial Assistance, as determined by each such IDA, to projects that are retail or have retail components, in compliance with Section 862 of the GML, if the project is located in or contemplating relocating to areas within Erie County that are designated, by the respective municipal legislatures, as Neighborhood Enhancement Areas.

**2. Additional Commercial Special Projects.** Continuing Care Retirement Community Project as permitted under Sections 854(19) and 859-b of the GML.

## **II. Exemption from Real Property Taxes: Payments in Lieu of Taxes**

The IDAs maintain a policy for the provision of real property tax exemptions with a corresponding Payment In Lieu Of Tax Agreement (“PILOT Agreement”) to provide a real property tax abatement for qualified projects. Each project receiving an abatement from real property tax will be subject to a PILOT Agreement in a form proscribed by the IDA. Such PILOT Agreement will also require payment of any and all special district assessments.

The calculation of the amount of the PILOT payments, and the amount of such payments, is not set forth in statute. The PILOT Agreement payment schedules contained within this Policy establish a varied real property tax abatement schedule to incentivize certain investments over others. In this manner, projects that meet all or some of the region’s planning and economic development goal criteria will be rewarded with a more beneficial real property tax abatement schedule in comparison to those projects that meet less of the region’s planning and economic development goal criteria. To meet this goal, a four-tiered PILOT incentives schedule will be utilized. Consideration of the following “PILOT Tier Criteria” will be utilized in analyzing and selecting the appropriate

tiered PILOT schedule to be utilized for each particular project: (i) capital investment, (ii) employment creation and employment retention, (iii) consistency with regional and community based planning, and (iv) overall community benefit.

Below is a listing of the current tiered PILOT schedules:

**A. Tier 1: Five Year PILOT Schedule**

A five year PILOT Schedule will be applied to projects that score at the Tier 1 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5
% Abatement	75%	65%	55%	45%	35%

**B. Tier 2: Seven Year PILOT Schedule**

A seven year PILOT Schedule will be applied to projects that score at the Tier 2 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7
% Abatement	95%	90%	85%	80%	75%	70%	65%

**C. Tier 3: Ten Year PILOT Schedule**

A ten year PILOT Schedule will be applied to projects that score at the Tier 3 level based upon application of the PILOT Determination Scoring Worksheet.

Year	1	2	3	4	5	6	7	8	9	10
% Abatement	95%	90%	85%	85%	80%	80%	75%	75%	70%	65%

**D. Tier 4: Renewable Energy PILOT Schedule**

A PILOT Schedule unique to renewable energy projects that may or may not also have an electric energy storage component is available to support statewide renewable energy production goals, currently established at achieving 70% renewable electricity production by 2030. With respect to a renewable energy project, an IDA, in its sole discretion, may authorize a payment in lieu of taxes agreement for up to a twenty-five (25) year benefit period, and shall calculate such payments based upon a formula expressed as a dollar value per Mega Watt (MW) multiplied by the total MW(s) to be generated by such a project. A determination to grant a Renewable Energy PILOT containing terms consistent with the provisions described within this section shall not be considered a deviation from this Policy.

**III. Exemption from Sales and Use Taxes**

The IDAs maintain a policy for the provision of sales and use tax exemptions, being a 100% exemption from the New York State and local sales and use taxes related to the acquisition, construction, re-construction and equipping of any approved project, inclusive of rentals and all other elements of the Project qualifying for exemption. In coordination with an IDA, an Applicant must

confirm the amount of sales and use tax exemption in connection with a qualified project. Operating and maintenance expenses are not eligible for a New York State and local sales and use tax exemption benefit.

#### **IV. Exemption from Mortgage Recording Taxes**

The IDAs maintain a policy for the provision of a mortgage recording tax exemption that permits a mortgage recording tax exemption on a portion of the New York State Mortgage Recording Tax in Erie County, statutorily limited to .0075% on any commercial mortgage or security instrument arising out of or related to the financing or refinancing of an approved project.

#### **V. Deviation from the Uniform Tax Exemption Policy**

The following constitutes the procedure for deviation from this Policy, as required pursuant to Section 874(4)(b) of the GML. An IDA may authorize a deviation from the Policy after it: (i) provides prior written notification to the affected taxing jurisdiction(s) of the proposed deviation from the Policy and the reasons for the deviation from this Policy including articulated consideration of the issues identified in Section 874(4)(a) of the GML, and (ii) sets forth in writing the reasons for deviating from the Policy.

#### **VI. Intermunicipal Movement of Facility or Plant**

If a project involves the removal or abandonment of a facility or plant within the state, adherence to Section 862 of the GML is required prior to making a Financial Assistance determination.

If a project involves the relocation from one municipality within Erie County (the “Current Municipality”) to a different municipality also within Erie County (the “Proposed Municipality”), the IDAs in Erie County set forth the following additional procedures:

A. Upon receipt of a draft application or sufficient materials from a prospective applicant, the relevant IDA with jurisdiction over the Proposed Municipality shall notify the designated economic development representative from the Current Municipality of the pending project unless there is reason the project remain confidential. Upon receipt of a completed Application for Financial Assistance, the IDA will forward a written notice to the chief elected officer of the Current Municipality and the Proposed Municipality (along with their respective economic development designees), which notice shall include (i) said Application, (ii) sites located in the Current Municipality that were considered by the applicant, along with the reasons for rejecting those sites, and (iii) such other information or documentation with regard to the proposed relocation as the IDA may be in possession of.

B. If the applicant declines to respond to such questions regarding its proposed move or indicates that it has not met with representatives of the Current Municipality or reviewed/considered alternative sites within the Current Municipality, the applicant will be strongly urged by IDA representatives to do so prior to final submission of the application, and a determination of said application being considered complete, for consideration of Financial Assistance.

C. A written response or acknowledgement from the chief elected officer of the Current Municipality will be sought with regard to the application for Financial Assistance, and any such



response or acknowledgement will be included in the record to be considered by the IDA which has jurisdiction over the Proposed Municipality. This need not be a “sign-off” or an approval of the intermunicipal move. The chief elected officer of the Current Municipality and the Proposed Municipality (and their respective economic development designees) will be invited to address the IDA Board when it considers any such application for Financial Assistance.

#### **VII. IDA Leadership Council**

On an as needed basis, a leadership council meeting of the IDAs may be convened to encourage further collaborative efforts, to facilitate the uniform implementation of this Policy, and to provide a forum to address other common concerns with regard to economic development in Erie County. Each IDA signatory to this Policy may permit a representative to attend such a meeting, when such a meeting is convened, provided that such individual represents an IDA, a municipality for whose benefit an IDA was created, and/or any other economic development/community organization. The leadership council will, through the consensus of its members, consider and resolve any concerns raised by an IDA with regard to the interpretation of the Policy, and will coordinate other joint activities of the IDAs to promote a countywide program of economic development.

#### **VIII. Effective Date**

This Uniform Tax Exemption Policy shall be effective as of *insert adoption date*, and shall apply to all projects for which an IDA has adopted or adopts an Inducement Resolution after *insert adoption date*, however, it shall not apply to projects for which an IDA, through issuance of its bonds, execution of leases, or the passage of an Inducement Resolution, has authorized any assistance prior to *insert adoption date*, whether or not such projects are thereafter refinanced or modified.

#### **IX. Amendments**

An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify this Policy as it may, from time to time, in its sole discretion determine.

#### **X. Policy Addendums**

An IDA, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may approve a policy or policies unique to each such IDA as Policy Addendums that may be attached hereto and made a part hereof.

#### **XI. Changes in Law**

This Policy has been developed consistent with the applicable provisions of Article 18-A of the GML existing as of the Effective Date. In the event of a change in law, rule or regulation affecting any provision of this Policy, this Policy shall be interpreted consistent with such law, rule or regulation, without giving effect to any provision in the Policy to the contrary.

## PILOT DETERMINATION SCORING WORKSHEET

### Baseline Requirements (Must Achieve All)

- Application Complete  
 Eligible Project Per Countywide UTEP  
 Local Labor Compliance  
 Planning Approval (If Applicable)

### PILOT Scoring Metrics

1 Point Per Checked Box Except Where Noted  
 Investment, Employment, and Construction Employment are Cumulative Categories

- |  |   |  |
|--|---|--|
| <input type="radio"/> <u>Location</u>                  | <input type="radio"/> <u>Investment *(Cumulative)</u> | <input type="radio"/> <u>Community</u>                             |
| <input type="radio"/> Distressed Census Tract          | <input type="radio"/> Under \$10 Million              | <input type="radio"/> Out of Region Sales > 30%                    |
| <input type="radio"/> Designated Development Area      | <input type="radio"/> \$10 Million - \$20 Million     | <input type="radio"/> In Region Purchase > 50%                     |
| <input type="radio"/> Historic Preservation            | <input type="radio"/> Over \$20 Million               | <input type="radio"/> Average Wage > Median                        |
| <input type="radio"/> Building Re-use                  |   | <input type="radio"/> ROI Ratio > 15 to 1                          |
| <input type="radio"/> Infill Development               | <input type="radio"/> <u>Employment *(Cumulative)</u> | <input type="radio"/> Local Revenue/Abatement Ratio > 2 to 1       |
| <input type="radio"/> Transit                          | <u>New Jobs</u>                                       | <input type="radio"/> Workforce Housing                            |
| <input type="radio"/> Green Building                   | <input type="radio"/> 1-15                            | <input type="radio"/> MWBE   |
| <input type="radio"/> Brownfield                       | <input type="radio"/> 16-40                           | <input type="radio"/> Out of Area Option(s)                        |
|  | <input type="radio"/> 41-85                           |  |
|  | <input type="radio"/> 86-150                          |  |
|  | <input type="radio"/> 151+                            |  |
| <input type="radio"/> <u>Strategic Industry (2pts)</u> | <input type="radio"/> <u>Retained Jobs</u>            | <input type="radio"/> <u>Construction Employment *(Cumulative)</u> |
| <input type="radio"/> Advanced Manufacturing           | <input type="radio"/> 1-75                            | <input type="radio"/> 1-50   |
| <input type="radio"/> Back Office                      | <input type="radio"/> 76-150                          | <input type="radio"/> 51-100                                       |
| <input type="radio"/> Life Sciences                    | <input type="radio"/> 151+                            | <input type="radio"/> 101+   |
| <input type="radio"/> Technology                       |   |  |
| <input type="radio"/> Distribution/Logistics           |   |  |
| <input type="radio"/> Agriculture                      |   |  |
| <input type="radio"/> Renewable Energy                 |   |  |
| <input type="radio"/> Regional Tourism/Arts            |   |  |

- 5-Year PILOT = 1-6 Points (75,65,55,45,35)  
 7-Year PILOT = 7-12 Points (95,90,85,80,75,70,65)  
 10-Year PILOT = 13+ Points (95,90,85,85,80,80,75,70,65)