ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY AND GUIDELINES
(Revised December 6, 2024)

The general policy of the Orange County Industrial Development Agency ("***Agency***") is to grant applicants real property tax abatements (or exemptions) and exemptions from sales, use and mortgage recording taxes as described below and in accordance with the Agency's Project Approval Policy. The Agency may grant additional benefits outside the guidelines set forth herein on a case-by-case basis for a project expected to have a significant economic impact on Orange County as determined by the Agency at its discretion and in accordance with the with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "***Enabling Act***").

This written policy shall constitute the Agency's uniform tax exemption policy ("***UTEP***") and shall provide guidelines for the granting of real property, mortgage recording, and State and local sales and use tax exemptions for qualified projects (a "***Project***") undertaken in accordance with the Agency's Project Approval Policy (as same may be amended from time to time), this UTEP policy and the Enabling Act.

A. Real Property Tax Abatements.

If the Project qualifies, and the Agency approves exemptions from certain real property taxes, the Agency and the project owner shall enter into a payment in lieu of taxes ("***PILOT***") agreement, which describes and provides for payments in lieu of taxes to the taxing jurisdictions. Project owners shall pay to the Agency, or its designee, the amount calculated pursuant to the applicable PILOT agreement according to a schedule approved by the Agency. Unless otherwise agreed by the Agency, with written consent from the affected taxing jurisdictions, payments made under the PILOT Agreement shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the project not been tax exempt due to the status of the Agency involved in the project. The approved schedule under the PILOT agreement shall take effect during the tax year immediately following the taxable status date.

The abatement provided applies to value added by construction or renovation upon the existing parcel involved; and unless otherwise approved by the Agency, the abatement does not apply to the current land valuation.

Projects seeking a PILOT agreement must fall into one of the following project categories:

(i) **Standard**: Projects which may be eligible under the Agency's Project Approval Policy that are determined to be of importance to the local economy by the Agency but do not fall into any of the other categories.

(ii) **Priority Industry**: Projects must be engaged in a priority industry or NAICS sector, as identified in the Agency's Project Approval Policy.

(iii) **Priority Commercial & Residential**: Mixed use and residential projects that consent to incorporate and rent, either: (i) at least 20% of the project's residential units to tenants earning at or below 80% of the Area Median Income (AMI) rent limit rates for the location in which the project is located, as designated by the US Department of Housing and Urban Development at the time of closing; or (ii) at least 10% of the project's residential units to tenants earning at or below 60% of the current local AMI.

(iv) **Job Creation**: Any project that retains or creates at least one hundred (100) full-time equivalent quality jobs providing industry leading salaries and related benefits (healthcare, retirement, education, for example).

Additional Abatement: If a project within any of the foregoing is also located within a historically designated or protected site (meeting minimally the requirements of Section 444-a of the NYS Real Property Tax Law), as well as properties eligible to be listed, or listed individually, or as part of a district on the National Register of Historic Places; or is a demonstrated brownfield site, such project will receive an additional five (5) years of real property tax abatement as reflected below.

PILOT Deviations: The Agency may deviate, on a case-by-case basis, from the Agency's policies described above for a project expected to have significant impact in the locality where the project will be located, or as otherwise determined by the Agency as warranting enhanced financial assistance. Any deviations from this Policy shall require a written notification by the Agency to the chief executive officer of each taxing jurisdiction in advance of the meeting at which the proposed deviation will be considered all in accordance with the Enabling Act.

PILOT Abatement Schedules for Project Categories:

ABATEMENT YEAR	**STANDARD % of Abatement**	STND W/ add'l 5 yr Abatement	**PRIORITY INDUSTRY % of Abatement**	PRIORITY INDUSTRY add'l 5 yr Abatement	**PRIORITY COMM & RES % of Abatement**	PRIORITY COMM & RES W/ add'l 5 yr Abatement	**JOB CREATION % of Abatement**	JOB CREATION w/ add'l 5 yr Abatement
1	100%	100%	95%	100%	100%	100%	100%	100%
2	90%	90%	90%	95%	95%	95%	100%	100%
3	80%	80%	85%	90%	90%	90%	95%	100%
4	70%	70%	80%	85%	85%	85%	95%	95%
5	60%	65%	75%	80%	80%	80%	90%	95%
6	50%	60%	70%	75%	75%	75%	85%	85%
7	40%	55%	65%	70%	70%	70%	80%	85%
8	30%	50%	60%	65%	65%	65%	75%	75%
9	20%	45%	55%	60%	60%	60%	70%	75%
10	10%	40%	50%	55%	55%	55%	65%	70%
11		35%	40%	50%	50%	50%	60%	70%
12		30%	30%	45%	45%	45%	55%	65%
13		25%	20%	40%	35%	40%	50%	65%
14		20%	10%	35%	25%	35%	45%	55%
15		10%	10%	30%	10%	30%	40%	50%
16				25%		25%	35%	45%
17				20%		20%	30%	40%
18				15%		15%	25%	35%
19				10%		10%	20%	30%
20				5%		5%	10%	25%
21								20%
22								15%
23								10%
24								5%
25								5%

Each of the foregoing abatement periods shall be preceded by a length of time equivalent to the construction period for the project as set forth in the application for financial assistance; but in no event shall the construction period exceed three (3) years. During the construction period, the company shall continue to pay real property taxes as if privately owned.

Notwithstanding the execution of any PILOT agreement, no project shall be exempt from special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district and library district charges) levied or assessed against the property, or shall the project be exempt from any water or sewer charges, all of which are to be paid in full in accordance with normal billing practices

For certain projects that would otherwise qualify for the Agency's Standard abatement schedule, the Agency may, in its sole discretion based upon factors considered under its Project Approval Policy, elect to provide a real property tax abatement schedule equivalent to NYS Real Property Tax Law Section 485-b (as reflected on **Exhibit "A"** attached hereto) as opposed to the Standard Schedule.

At the discretion of the Agency, an appraisal may be required of the applicant if the parties disagree on either the initial or ending property values.

B. Sales and Use Tax Exemptions.

(i) Purchases of construction materials and equipment rentals and purchases of project related equipment, furnishings and services are made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e., certificate of occupancy), or such other period of time as approved by the Agency. Operating and maintenance expenses of projects are not incurred as agent of the Agency, and no sales tax exemption is provided thereof.

(ii) All project applicants must agree in writing to file with the New York State Department of Taxation, in form and at times required, an annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 874(8) of the General Municipal Law.

(iii) The Agency shall comply with New York State General Municipal and any other applicable law requiring recapture of sales and use tax exemptions and in accordance with the Agency's policies.

C. Mortgage Recording Tax Exemptions.

(i) The Agency's Policy is to permit mortgage recording tax exemptions on all project-related financing to the full extent permitted by New York State Law.

(ii) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings (eg. second mortgages on the project to secure subordinated indebtedness of the project applicant, or re-financings of existing mortgages.) In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including but not limited to the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

D. Amendments.

The Agency, by resolution of its members and upon compliance with all applicable laws, may amend or modify the foregoing policy from time to time as they determine.

E. Effective Date.

This Uniform Tax Exemption Policy shall be effective as of ______________ and it shall apply to all projects for which the Agency adopts resolutions to undertake and provide financial assistance to a project after the effective date of this policy and to any project that may be re-induced by subsequent Agency resolution in order to obtain the benefits provided herein. Unless a new resolution is sought, any project for which financial assistance was previously awarded, but where the project has not yet closed on the financial assistance, and provided it has been no more than one year since the Agency adopted such resolutions, then the UTEP in existence immediately preceding the effective date of this UTEP shall apply.

EXHIBIT "A"

ABATEMENT YEAR	**485b equivalent % of Abatement**	**485b equivalent w/add'l 5 yr Abatement**
1	50%	50%
2	45%	45%
3	40%	40%
4	35%	35%
5	30%	35%
6	25%	30%
7	20%	30%
8	15%	25%
9	10%	25%
10	5%	20%
11		20%
12		15%
13		10%
14		5%
15		5%

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S PROJECT APPROVAL POLICY

I. STATEMENT OF PURPOSE.

The Orange County Industrial Development Agency ("***Agency***") has adopted this Project Approval Policy (the "***Policy***") in accordance with Section 859-a (5) of the New York State General Municipal Law. This Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "***Enabling Act***") and Chapter 390 of the Laws of 1972 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the "***Act***"), and any other applicable law. A version of this policy previously appeared within the Agency's uniform tax exemption policy.

II. PROJECT APPROVAL.

Projects for consideration hereunder shall comply with the Act. Each of the following must occur *prior* to the adoption of a resolution approving the grant of financial assistance for a project:

1. <u>Project Assessment</u>

The members shall assess all material information included in connection with the application for financial assistance (the "***Application***") submitted by or on behalf of the company seeking such financial assistance (the "***Company***") in order to afford a reasonable basis for the decision by the Agency to provide financial assistance for a proposed project (the "***Assessment***").

As one part of their Assessment, the members shall consider the following:

(a) the extent to which a project will create or retain permanent full-time equivalent private sector jobs, including the number of jobs, the quality of and salary for such jobs and any related benefits (healthcare and retirement, for example);

(b) the extent to which the project will provide onsite child daycare facilities

(c) whether the project falls within one of the identified priority industries and/or the North American Industry Classification System ("***NAICS***") sectors, and to what extent does the project meet the considerations for each, all as set forth in Exhibit "A" attached hereto.

(d) the estimated value of any tax exemptions and abatements to be provided;

(e) the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity;

(f) the amount of private sector investment generated or likely to be generated by the proposed project;

(g) the demonstrated public support for the proposed project;

(h) the effect of the proposed project on the environment;

(i) use of LEED/renewable resources or other green technology/infrastructure;

(j) the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency, medical or fire services;

(k) the likelihood of the proposed Project being completed in a timely fashion;

(l) the extent to which the proposed project will provide additional sources of revenue for municipalities and school district;

(m) other public and community benefits that might occur as a result of the proposed Project; and

(n) consider the Cost-Benefit Analysis (as set forth below).

No one factor qualifies a project for approval or conferral of any specific financial assistance. It is up to the Agency, in its sole and absolute discretion, to review, analyze and weigh all factors and policy initiatives when considering projects for approval.

2. <u>Cost-Benefit Analysis:</u>

The members shall prepare, or cause to be prepared, a written cost-benefit analysis, including a ratio of abatement to new community investment (the "***Cost-Benefit Analysis***"). The board shall consider the Cost-Benefit Analysis when determining if a project is eligible for financial assistance.

Adopted: ____________________, 2025

Effective: Immediately

EXHIBIT "A"

PRIORITY INDUSTRIES AND NAICS SECTORS

Manufacturing, High Tech

1. Wage rates (as compared to median wage for area and within industry)
2. Regional wealth creation
3. Regional purchases (% of overall purchases)
4. Research and development activities
5. Investments in energy efficiency
6. Location, land use, including use of brownfields or locally designated development areas
7. Support of existing local businesses
8. Use of LEED/renewable resources
9. Retention/flight risk
10. North American Industry Classification System (NAICS) Sectors:

Sector #	Description
22	Utilities
31-33	Manufacturing
51	Information

Professional Services, Back Office, Data, Call Centers

1. Wage rates (as compared to median wage for area)
2. Regional wealth creation (% sales/customers outside area)
3. Regional purchases (% of purchases from local vendors)
4. Support of local business
5. Retention/flight risk
6. Use of LEED/renewable resources
7. North American Industry Classification System (NAICS) Sectors:

Sector #	Description
52	Finance and Insurance
54	Professional, Scientific & Technical Services
55	Management of Companies & Enterprises
61	Educational Services
62	Health Care & Social Assistance
81	Other Services

Adaptive Reuse, Community Development

1. Location within distressed census tract
2. Age of structure
3. Elimination of slum and blight
4. Building or facility vacancy
5. Redevelopment supports local community development plan
6. Environmental or safety issues
7. Use of LEED/renewable resources
8. Building or site has historic designation
9. Site or structure has delinquent property or other local taxes
10. Ability to obtain conventional financing

Tourism

1. Meets all requirements of General Municipal Law Section 862
2. Impact on existing businesses
3. Proximity to and/or support of regional tourism attractions/facilities
4. Support of local official(s), convention visitor's bureau
5. Regional purchases, support of local vendors
6. Use of LEED/renewable resources
7. Generation of additional local revenues (such as room occupancy taxes)
8. Regional wealth creation
9. North American Industry Classification System (NAICS) Sectors:

Sector #	Description
71	Arts, Entertainment & Recreation

Housing

1. Alignment with local planning and development efforts
2. Impact on existing businesses
3. Wealth creation
4. Elimination of blight
5. Redevelopment supports local housing need
6. Use of LEED/renewable resources
7. Location promotes walkable community areas

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The Orange County Industrial Development Agency (the "Agency") has adopted this Recapture Policy (the "Recapture Policy") in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

a) To which the project was not entitled;

b) In excess of the amounts authorized by the Agency;

c) For property or services not authorized by the Agency; and/or

d) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a "State Mandated Recapture Event") and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

a) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
b) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).

c) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a "Local Sales Tax Benefit Violation");

b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention ("Job Deficit");

c) the total investment actually made with respect to the project at the project's completion date is less than 85 percent of its investment requirement ("Investment Deficit");

d) the company fails to provide annually to the Agency certain information, including but not limited to certified payroll records, to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project ("Reporting Failure"); or

e) there otherwise occurs any event of default under any project document (each, an "Event of Default") or a material violation of the terms and conditions of any project document (a "Material Violation").

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually, or at any time information is brought to the Agency's attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a "Noncompliance Event") has occurred. Each company shall provide the necessary and appropriate documentation for the Agency to conduct its evaluation for the previous calendar year by no later than February 15th. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

a) Whether the company has proceeded in good faith.

b) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.

c) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency's rights were not exercised.

d) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of Orange County.

e) The assessment prepared in accordance with the Agency's Annual Assessment Policy.

f) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the "Determination"). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement and/or straight lease transaction entered into between the Agency and the company (the "Agreement") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: ______________________