

**CITY OF MOUNT VERON INDUSTRIAL DEVELOPMENT
AGENCY**

**Uniform Financial Assistance and Benefits Reimbursement Policy
(Applicable For Projects Induced in Calendar Year 2015
And Closing on or Prior to April 30, 2016)**

**ARTICLE I
FINANCIAL ASSISTANCE AVAILABLE**

Section 1.1. Mortgage Recording Tax Exemptions.

A. Exemption Amount. This exemption may be available for all State of New York ("State"), Westchester County ("County") and City of Mount Vernon ("City") mortgage recording tax that would otherwise be due.

B. Duration of Exemption. This exemption is a one-time up-front exemption for entire mortgage tax amount. The exemption does not include an exemption for re-financings of the original mortgage loan unless such re-financing was contemplated in the original application for financial assistance and approved by the Agency.

C. Types of Projects For Which Exemption May Be Claimed. This exemption may be available for all projects eligible for financial assistance under the IDA Act for which mortgage loan financing is being obtained and which is not otherwise exempt from payment of mortgage recording tax under applicable tax law.

Section 1.2. Sales Tax Exemptions.

A. Exemption Amount. This exemption may be available for all State, County and City sales and use taxes that would otherwise be due with respect to Eligible Items. Sales and use tax exemptions will not be granted for Ineligible Items. For a list of Eligible Items and Ineligible Items, see Schedule A attached hereto.

B. Duration of Exemption. Sales and use tax exemptions are available only during the period beginning with the execution and delivery of the Sales Tax Exemption Agreement by the Agency and ending upon the earlier to occur of (i) the third anniversary of the execution and delivery of the Sales Tax Exemption Agreement and (ii) the date of issuance of a temporary Certificate of Occupancy for the Project.

C. Types of Projects For Which Exemption May Be Claimed. This exemption may be available for all projects eligible for financial assistance under the IDA Act for which materials, goods, personal property and similar items and services subject to sales tax are to be purchased, leased or used in development of the Project and which is not otherwise exempt from paying sales or use tax under the tax law.

Section 1.3. Payments In Lieu of Taxes Benefits.

A. Payment In Lieu of Taxes Amount.

- *Commercial Properties* (excluding retail properties): \$1.85 per square foot of space, based on square footage as determined by the Certificate of Occupancy.
- *Industrial Properties*: \$1.85 per square foot of space, square footage as determined by the Certificate of Occupancy
- *Eligible Retail Properties*: \$1.85 per square foot of space, based on square footage as determined by the Certificate of Occupancy.
- *Multifamily Housing Properties*:
 - Affordable Housing: \$860 per studio unit
\$860 per one bedroom unit
\$1,000 per two bedroom unit
 - Senior Housing: \$860 per studio unit
\$860 per one bedroom unit
\$1,000 per two bedroom unit
- *Other Eligible Projects of a Type not Listed Above*: to be determined based on project characteristics, financing needs and projected benefits to the City and other affected taxing jurisdictions.

B. PILOT Payment Start Date. PILOT amounts are calculated on an annual basis. For properties that are currently on the tax rolls, PILOT payments begin being due and payable during the calendar year starting on the January 1 following the Taxable Status Date (May 1 of each year) that follows the delivery of a copy of an executed PILOT Agreement and applicable State tax form RP-412a to the City Assessor and other affected taxing jurisdictions. For properties that are currently exempt properties, PILOT payments begin immediately upon execution of the PILOT Agreement. In the Agency's discretion, PILOT payments with respect to new construction may include a period during construction when payments are based on valuation of land as undeveloped property until such time as a certificate of occupancy (whether temporary or final) is issued.

C. Escalation. PILOT amounts escalate at a rate of 3% each year; provided that for special hardship cases the Agency may reduce such escalation rate to 2.5% each year. Such hardship cases shall not be considered a deviation from this uniform policy.

D. Duration of Exemption (measured from when PILOT payments begin to be payable).

1. *Commercial Properties.* Not to exceed 10 years of PILOT benefits (subject to Section 1.3(E)).

2. *Industrial Properties.* Not to exceed 10 years of PILOT benefits (subject to subject to Section 1.3(E)).

3. *Retail Properties.* Not to exceed 10 years of PILOT benefits (subject to subject to Section 1.3(E)).

4. *Residential Properties*

(a) *Affordable Housing.* The period of exemption begins on the date determined as set forth in Section 1.3(B), and may extend for a term up to the greater of (i) 20 years, or (ii) the term of the applicable mortgage financing.

(b) *Senior Housing.* The period of exemption begins on the date determined as set forth in Section 1.3(B), and may extend for a term up to the greater of (i) 20 years, or (ii) the term of the applicable mortgage financing.

E. Extended PILOT Term For Certain Properties. A term of not to exceed 20 years of PILOT benefits may be granted for properties subject to leases: (i) either between the Agency and an applicant that agrees to invest not less than \$30 million in developing the property and to maintain operations at such location for the full 20 years; and (ii) between a developer applicant and an unrelated third party lessee that executes a lease agreement for a term of 20 years or more that is reasonably satisfactory to the Agency.

Section 1.4. Tax Exempt Bonds

A. Amount. Tax exempt bond financing will be made available to all projects that request such financing, are eligible projects under the IDA Act, and are approved by the Agency. The amount of tax exempt bond financing shall be in an amount not exceeding the capital cost of the Project approved by the Agency. Operating costs will not be financed by the Agency. The amount of tax exempt bond financing available for a project will be subject to applicable federal and state law requirements, including availability of state volume cap allocation, completion of a statutorily required notice and a public hearing, approval by the Mayor for tax purposes, and other typical financing requirements. *The project costs being financed must be eligible for tax exempt financing under federal tax law and will be subject to review by bond counsel to the Agency.*

B. Term of Bonds. The term of the bonds may not exceed the useful life of the assets being financed, and are subject to such other limitations may be applicable under federal tax law.

C. Redemption Provisions. The bonds will be subject to such redemption provisions as the Project proponent and the purchaser or underwriter of the bonds agree upon, subject to review and approval by the Agency. Tax exempt bonds may also be subject to mandatory redemption, at the discretion of the Agency,

upon the bonds becoming taxable. Bonds may be subject to redemption at the direction of the Agency upon the project lessee or operator being in default under the lease or sublease agreement, as applicable.

D. Offering of Bonds. Bonds may be offered to the public or privately placed, subject to compliance with applicable federal and state securities laws, and subject to such additional restrictions as may be directed by the Agency in its sole discretion.

E. Taxable Bonds. Bonds may be issued on a taxable basis, subject to the limitations as to amount, term, redemption and offering as are set forth above.

F. State Bond Issuance Charge. Bonds issued by the Agency shall be subject to a State bond issuance charge to the extent required by State law. Such charge shall be payable at closing by the lessee or operator, as applicable.

ARTICLE II CONDITIONS OF FINANCIAL ASSISTANCE GENERALLY

Section 2.1. Cost Benefit Analysis

A. Assessment of Costs and Benefits. The Project proponent must demonstrate to the Agency that the benefits to be derived from the Project justify the level of financial assistance being requested. The cost benefit analysis must weigh the costs to the affected taxing jurisdictions (including costs of lost tax revenues and additional burdens on the school district, fire, police, health services, waste collection services, sewer and water services and related governmentally provided services) against the benefits to be provided to the affected taxing jurisdictions (including construction jobs created by the project, permanent jobs directly provided by the project, tax revenues that will be generated by the project, benefits to the community from services provided by the project, impact of the project on the surrounding community, including usage of other businesses in the vicinity, indirect creation of jobs, and other matters affecting the surrounding economy).

B. Local Employment Opportunities. Project operators must agree that they will provide job opportunities to residents of the City (as is more fully described below).

1. Employment of City Residents. The Project operator must agree that it will (i) contact the City of Mount Vernon Human Resources Department and such other City departments as the Agency may direct, to obtain resumes of City residents who are seeking employment and who are likely to have such qualifications and skills as may be required by the Project operator for the category of job for which an employee is being sought, and (ii) offer interviews to such City residents as may reasonably meet the Company's qualifications. The Project operator must agree to make offers for such positions first to those City residents applying for the job position that meet the Project operator's requirements.

2. Quarterly Employment Reporting Requirements. Following completion of construction and issuance of a certificate of occupancy, within 30 days following the end

of each calendar quarter, the Company shall deliver to the Agency a report setting forth the number of persons employed at the Project (full time and full time equivalents) and identifying the number of full time equivalent employees that are City residents. If a Company quarterly report does not demonstrate that at least 30% of all employees working at the Project (on a full time equivalent basis) are City residents, the Company must also detail the efforts that it is undertaking to hire City residents.

ARTICLE III
BENEFITS REIMBURSEMENT POLICY

Section 3.1. Mortgage Recording Tax Exemptions.

A. Benefits Reimbursement Trigger.

- Sale of the mortgaged property before end of benefits term.
- Change in the nature or scope of the business occupying the mortgaged property from that approved by the Agency (subject to agency discretion).
- For mortgaged property occupied by unaffiliated or unrelated third party tenant, departure of tenant or change in the nature or scope of the tenant business and failure of owner to use good faith efforts to replace the tenant. Leases should have default provision for failure to maintain approved business activity.

B. Benefits Reimbursement Amount. Entire amount of exemption previously granted.

Section 3.2. Sales Tax Exemptions.

A. Benefits Reimbursement Trigger.

- The project realty is not maintained in useable condition and good repair.
- Equipment or furnishings, prior to the end of its useful life, is sold, abandoned, discarded, traded or given away, not maintained in useable condition or good repair, or is no longer maintained at the project site (collectively "Equipment Transfers").
- Default under the Lease Agreement.

B. Benefits Reimbursement Amount.

- For failure to maintain project realty in useable condition and good repair, the benefits reimbursement amount is, for all sales tax benefits claimed, 100% of such benefits until the fifth anniversary of the

issuance of a permanent certificate of occupancy, then declining thereafter over the next 10 years in 10 equal increments to zero at the end of 15 years (i.e. year 6 would require a reimbursement of 90% of benefits, year 7 would be reimbursement of 80% of benefits, etc.).

- For Equipment Transfers, for all sales tax benefits claimed on the equipment subject to the Equipment Transfer, 100% of such benefits until the fifth anniversary of the issuance of a certificate of occupancy (whether temporary or permanent) for the facility where the equipment is to be located, then declining over a period ending on the earlier to occur of the 15th anniversary of the issuance of such certificate of occupancy or the end of the useful life of the equipment (assuming the equipment is properly operated and maintained in accordance with general industry standards) in equal amounts over the applicable period. The recapture amount would be reduced to zero upon the 15th anniversary of the date of issuance of the certificate of occupancy or the end of the useful life of the equipment, whichever is earlier.

Section 3.3. Payment in Lieu of Taxes Benefits.

A. Benefits Reimbursement Trigger.

- the Lease Agreement is terminated prior to the originally stated termination date for any reason;
- the Company fails to cause the Project completion date to occur by the Project completion deadline;
- the Company liquidates all or substantially all of its operating assets or shall have ceased all or substantially all of its operations;
- the Company transfers all or substantially all of its employees to a location outside of the City;
- Change in the nature or scope of the business occupying the mortgaged property from that approved by the Agency (subject to agency discretion).; or
- The Company has sold, leased or otherwise disposed of all or substantially all of the Premises.
- Notwithstanding the foregoing, a benefits reimbursement requirement shall not occur if the trigger arose as a direct, immediate result of (i) a taking or condemnation by governmental authority of all or substantially all of the Project, or (ii) the inability of the Company to rebuild, repair, restore or replace the Project after the occurrence of a loss event.

- The Agency, in its sole discretion, may waive all or any portion of any payment owing by the Company for any reason.

B. Benefits Reimbursement Amount.

All PILOT benefits received with respect to the Project during the 5-year period preceding the date of the Benefits Reimbursement Trigger shall be subject to reimbursement. The amount of the benefits during any period of time shall be measured by the difference between the amount of property taxes (County, City and School District) that would have been due had the Project remained as taxable property on the tax rolls and the amount of PILOT Payments that were actually during the corresponding period.

ARTICLE IV

DEVIATIONS FROM POLICY

Section 4.1. Deviations From Policy.

The Agency may deviate from the policy set forth herein where circumstances warrant. In determining whether circumstances warrant a deviation from the policy, the Agency shall consider all the facts and circumstances, including: nature of benefits provided to the City by the project, needs to obtain financing for the project, nature and type of project, nature and type of employment provided by the project, impact of the project on the community, contributions of the project to the cultural, economic and social needs of the community, impact of the project on community-provided services, and such other factors as the Agency deems material.

Section 4.2. Notification of Affected Taxing Jurisdictions.

The Agency shall set forth in writing the reasons for deviation from the policy set forth herein, and shall notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

Section 4.3.

SCHEDULE A
SALES TAX EXEMPTIONS

Eligible Items

Eligible Items means the following items of personal property and services, but excluding any Ineligible Items, with respect to which the Company and any Subagent shall be entitled to claim a sales tax exemption in connection with the Project:

- (i) purchases of materials, goods, personal property and fixtures and supplies that will be incorporated into and made an integral component part of the Project;
- (ii) purchases or leases of any item of materials, goods, machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property having a useful life of one year or more and to be installed in or exclusively used in the Project;
- (iii) with respect to the eligible items identified in clause (ii) of this definition: purchases of freight, installation, maintenance, and repair services required in connection with the shipping, installation, use, maintenance or repair of such items; provided that maintenance shall mean the replacement of parts or the making of repairs;
- (iv) purchases of materials, goods and supplies that are to be used and substantially consumed in the course of construction or renovation of the Project (but excluding fuel, materials or substances that are consumed in the course of operating machinery and equipment or parts containing fuel, materials or substances where such parts must be replaced whenever the substance is consumed);
- (v) leases of machinery and equipment solely for temporary use in connection with the construction or renovation of the Project;
- (vi) certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam); and
- (vii) motor vehicle or tangible personal property installed in a qualifying motor vehicle, provided that such motor vehicle is garaged at the Project and is used exclusively for delivery of materials or products to and from the Project and has been identified by the Project proponent in the application for financial assistance and related materials and approved by the Agency.

Ineligible Items

Ineligible Items means the following items of personal property and services with respect to which the Company and any Subagent shall not be entitled to claim a Sales Tax Exemption in connection with the Project:

- (i) motor vehicles or tangible personal property installed in qualifying motor vehicles, other than those permitted by clause (vii) of the definition of 'Eligible Items';
- (ii) personalty having a useful life of one year or less;
- (iii) any cost of utilities, cleaning services or supplies or other ordinary operating costs;
- (iv) fine art and other similar decorative items;
- (v) plants, whether potted or landscaped;
- (vi) ordinary office supplies such as pencils, paper clips and paper;
- (vii) any materials or substances that are consumed in the operation of machinery;
- (viii) equipment or parts containing materials or substances where such parts must be replaced whenever the substance is consumed;
- (ix) replacement of parts that contain materials or substances that are consumed in the operation of such property where such parts must be replaced whenever the substance is consumed; and
- (x) inventory or items used in the trade or business.