

**NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**  
**Program Proposal**  
**Meeting of June 13, 2017**

**Approval of the Amendment and Restatement of the Agency's**

**Uniform Tax Exemption Policy**

**Summary**

The Uniform Tax Exemption Policy ("UTE") provides the New York City Industrial Development Agency (the "Agency") with policy guidelines for the providing and recapturing Financial Assistance in connection with projects of the Agency. The Amendment and Restatement of the Agency's Uniform Tax Exemption Policy, attached herein, provides for, inter alia, the following:

- (i) Inclusion of existing programs, including the Industrial Program, and the Food Retail Expansion to Support Health (FRESH) Program
- (ii) The addition of a new Commercial Program, to assist with the development of commercial office space in Bronx, Brooklyn, Queens, Staten Island, as well as highly-distressed areas of Manhattan
- (iii) The exclusion of the requirement that the facility must be owned as well as occupied by the applicant.
- (iv) The removal of provisions related to completed or inactive programs or projects, including Liberty Bond projects, ARRA Bond projects; PlanNYC Energy Program projects, Civic Facility projects (including Private School projects), Commercial Growth projects, and Industrial Developer projects
- (v) All programs (other than the Hudson Yards Commercial Construction Project Program, which remains unmodified as originally adopted) a description of program criteria, policies and procedures, including modifications to current policy, for the provision of Financial Assistance in the form of real property tax exemptions, sales and use tax exemptions and mortgage recording tax exemptions, and policies and procedures for the recapture of Financial Assistance, and related modifications and requirements.

**Action Requested**

Approval by the Board of Directors for the Amended and Restated Uniform Tax Exemption Policy for the Agency with an effective date of October 1, 2017.

**AMENDMENT AND RESTATEMENT  
OF  
NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY  
UNIFORM TAX EXEMPTION POLICY  
DATED: JUNE 13, 2017**

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NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY  
UNIFORM TAX EXEMPTION POLICY  
DATED: JUNE 13, 2017**

**WHEREAS**, the Board of Directors of the Agency (as hereinafter defined) adopted a Uniform Tax Exemption Policy at its meeting held on November 9, 1993;

**WHEREAS**, the Policy has been amended from time to time, with the last amendment effective on November 9, 2010;

**WHEREAS**, in order to approve certain programmatic and other changes to the Agency's current Policy, it is proposed that the Agency amend and restate the Policy;

**NOW, THEREFORE**, as approved by the Agency's Board of Directors on June 13, 2017, this Amendment and Restatement of the Policy shall be effective on October 1, 2017, as follows:

**ARTICLE I. DEFINITIONS**

“Affected tax jurisdiction” has the same meaning as is provided for such term in the Statute.

“Agency” means the New York City Industrial Development Agency.

“Board” means the Board of Directors of the Agency.

“City” means The City of New York.

“Financial Assistance” has the same meaning as is provided for such term in the Statute.

“PILOT” has the same meaning as is provided for the term “payments in lieu of taxes” in the Statute.

“Policy” means this Uniform Tax Exemption Policy, as the same may be amended and restated from time to time.

“Program(s)” means a Financial Assistance program of the Agency described in this Policy including the appendices hereto.

“Project(s)” has the same meaning as is provided for such term in the Statute.

“Recipient” means a person or entity that has been approved by the Board to receive Financial Assistance in connection with a proposed Project, and any affiliated operating companies and/or affiliated real estate holding companies of such person or entity that are involved in the proposed Project.

“Staff” means staff of the New York City Economic Development Corporation or any successor thereto that has entered into a contract with the Agency for the purpose of providing administrative and operating services to the Agency.

“State” means The State of New York.

“Statute” means the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, together with Section 917 of Title 2 of Article 18-A of the General Municipal Law, as in effect at any given time.

## **ARTICLE II. PRINCIPLES OF GENERAL APPLICATION**

**A. Statement of Purpose; Previous Policies Amended and Restated.** This Policy (i) is established in accordance with Section 874(4)(a) of the Statute; (ii) is applicable to the provision of Financial Assistance pursuant to Section 859-a of the Statute, and (iii) amends and restates all previous uniform tax exemption policies of the Agency (except as otherwise noted in the appendices hereto) and shall apply to Agency Projects initially induced and approved on or after October 1, 2017, the effective date of this Policy.

**B. Policy Guidelines and Considerations.** In adopting this Policy, it is the intent of the Agency to establish guidelines for the provision of Financial Assistance with respect to its Programs and Projects, including: (a) the period of exemption; (b) the percentage of exemption; (c) the type of Projects for which exemptions can be claimed; (d) specific industries which may receive Financial Assistance, if applicable; (e) geographic eligibility, if applicable; and (f) procedures for PILOT. For all Programs and Projects, real property appraisals will not be required as a part of an application for Financial Assistance unless otherwise required by law. These guidelines may also be addressed in each Program description within the various appendices to the Policy annexed hereto. This Policy will also describe the purposes of each Program and why the Agency has established such Programs in furtherance of its broader economic development goals. Such purposes are also described in further detail in the appendices annexed hereto. To the extent that with respect to a particular Program there is a conflict between the guidelines and purposes of this Policy and the guidelines and purposes described in the appendix hereto describing such Program, the guidelines and purposes set forth in such appendix shall govern.

The provision of Financial Assistance in accordance with this Policy to a Recipient for the Recipient’s Project shall be a discretionary act on the part of the Board. In connection with each Project, the Agency shall determine that but for the Financial Assistance being offered by the Agency to a Recipient for the Recipient’s Project, (i) such Project would most likely not be undertaken by the Recipient; or, if undertaken at all by such Recipient, the Project might occur at a substantially reduced level or it might occur outside of the State; (ii) the loss of a vital service to the City might occur, or (iii) a vital City-supported project or initiative may be delayed or otherwise adversely affected. In addition, in adopting this Policy or in determining whether or not to approve a proposed Project in accordance with this Policy, the Agency shall consider variously the following factors:

1. the extent to which the Project will create or retain permanent, private-sector jobs;
2. whether the Affected tax jurisdiction(s) will be reimbursed by the Recipient if the Project does not fulfill the purposes for which Financial Assistance was provided;
3. the impact of the Project on existing and proposed businesses and economic development projects in the vicinity;
4. the financial feasibility of the Project;
5. the demonstrated public support for the Project;
6. the effect of the Project upon the environment;
7. the extent to which the Project will require the provision of additional services, including, but not limited to, additional educational, transportation, police, emergency medical or fire services;
8. whether the Project involves an industry or activity which the City seeks to retain and foster;
9. the extent to which the Project will create additional sources of revenue for the City; and
10. the extent to which the Project complies with the requirements, and promotes the purposes and economic development objectives, of the Agency and the City, including the purposes, objectives and requirements identified in City local law or Mayoral executive orders.

**C. Procedures for PILOT.** With respect to procedures for PILOT, the Agency will turn over PILOT to each Affected tax jurisdiction within 30 days of receipt or as otherwise required by the Statute, unless otherwise agreed to by the Affected tax jurisdiction. In addition, in all matters relating to the applicability, calculation, billing, collection and payment of PILOT with respect to property exempted from real property taxes by the Agency, including, but not limited to, the determination of assessed value and qualification for as-of-right tax program benefits, the Agency may rely upon the City and the methods and procedures customarily used by the City's Department of Finance.

**D. Amendment.** This Policy may be amended from time to time by action of the Board provided that (i) the Agency must consider any input from each Affected tax jurisdiction; (ii) a public hearing on the proposed amendment to this Policy must be held prior to the Board meeting to which such amendment will be brought for a vote; (iii) notice of public hearing setting forth the date, time and place of the public hearing and a summary of the proposed amendment must be published in at least one newspaper of general circulation at least thirty (30) days prior to the public hearing; (iv) the notice of public hearing referred to above must be posted on the Agency's website at or about the time of newspaper publication; and (v) the text of the proposed amendment must be posted on the Agency's website no later than twenty (20) days prior to the public hearing.

### **ARTICLE III. POLICY AND PROGRAMS**

The Agency's Programs under this Policy are described in this Article III and the appendices hereto. To the extent that there is a conflict between the policies and requirements of Articles I through V of this Policy and the policies and requirements described in an appendix hereto with respect to a particular Program, the policies and requirements set forth in such appendix shall govern. From time to time, the Board, in accordance with the amendment procedures set forth in Article II.D hereof, may approve additional Programs or changes to existing Programs. Unless elsewhere specified in this Policy, if a proposed Project falls under more than one Program, then it shall be in the Agency's sole discretion as to which Program shall be applicable.

In addition to the Programs described in the appendices hereto, the Agency shall have the discretion to provide Financial Assistance in the form of tax-exempt or taxable bonds or notes, including refunding bonds or notes, in connection with any Project and without the application of forfeiture or recapture requirements to such form of Financial Assistance. In addition, mortgages securing PILOT shall be exempt from mortgage recording taxes to the extent permitted by law and the value of any such exemption shall not be subject to forfeiture or recapture. The Financial Assistance term for any tax-exempt or taxable bond or note financing shall comply with all applicable laws, rules and regulations.

The Agency will not provide Financial Assistance to any proposed Project located in a zone established by the City for the purpose of dedicating taxes or payments in lieu of taxes from property located within such a zone in order to support a City or City-controlled entity financing or project unless the Program complements the purposes and objectives of the City and/or any such City-controlled entity in creating the zone.

### **ARTICLE IV. FORFEITURE AND RECAPTURE OF FINANCIAL ASSISTANCE**

**A.** With respect to each Project approved by the Agency under this Policy, the Project documentation will include, if applicable pursuant to Program requirements, a description of: (i) each event the occurrence of which will entitle the Agency to require the forfeiture and/or recapture of Financial Assistance; (ii) the period during which such forfeiture and/or recapture applies; (iii) the type and amount of Financial Assistance to be forfeited and/or recaptured, and (iv) whether or not interest or other amounts may be charged for any such recapture. For all Projects, Financial Assistance recaptured by the Agency shall be paid to each Affected tax jurisdiction to the extent required by the Statute.

1. Unless otherwise described herein with respect to a particular Program, the Financial Assistance forfeiture and recapture requirements for each Program shall be the following:

a) **Forfeiture and Recapture of Financial Assistance.** Upon the occurrence of a Recapture Event during the Recapture Period, as such terms are described below, the Agency shall require the forfeiture of unrealized Financial Assistance and the recapture of Financial Assistance previously realized by the Recipient, calculated as set forth below. Notwithstanding the foregoing, in the case of recapture, the Agency may waive all or a portion of the recapture amount due if it determines, in its sole discretion, that

such recapture will constitute an undue financial hardship for the Recipient. The recapture provisions set forth herein are subject to the provisions of the Statute, pursuant to which additional requirements may be imposed with respect to the recapture of Financial Assistance.

b) **Recapture Period.** The “Recapture Period” is the period commencing on the date on which the Agency and the Recipient enter into the definitive Project documents and ending on the tenth anniversary of the operations commencement date. For purposes hereof, the “operations commencement date” means the date by which the Recipient has demonstrated to the satisfaction of the Staff in its sole discretion that the Recipient has (i) completed the Project improvements, and (ii) lawfully commenced use and occupancy of the Project facility for the operations intended under the definitive Project documents.

c) **Recapture Events for Non-Developer Project.** For Projects other than those described in d) below, the occurrence of any of the following events as set forth in the Project documents will constitute a “Recapture Event” if it occurs during the Recapture Period:

(1) failure to complete the Project improvements or the transfer by the Recipient or its affiliates of a controlling interest in the Project facility to unrelated persons or entities prior to completion of the Project improvements;

(2) the liquidation of all or substantially all of the Recipient’s operating assets at the Project facility and/or cessation of all or substantially all of the Recipient’s operations at the Project facility;

(3) the transfer of all or substantially all of Recipient’s employees to a location outside of the City;

(4) the relocation of all or substantially all of Recipient’s operations to another site, provided that if the Recipient relocates its operations at the Project facility to a site located within the City, such relocation shall not be a Recapture Event if (i) the Recipient maintains, for the remaining balance of the Recapture Period, an employment level equal to at least 90% of the number of employees employed by the Recipient before the time it relocated its operations (which determination will be made by the Agency in its sole discretion), and (ii) the Recipient satisfies such other additional conditions as the Agency may in writing impose;

(5) the sublease of all or part of the Project facility in violation of the definitive Project documents; or

(6) a substantial change in the scope and nature of the Recipient’s operations at the Project facility.

d) **Recapture Events for Developer Projects.** For Projects primarily involving the sublease of the Project facility by a developer to third parties for certain uses approved by the Agency the occurrence of any of the following events as set forth in

the Project documents will constitute a Recapture Event if it occurs during the Recapture Period:

(1) failure to complete the Project improvements or the transfer by the Recipient or its affiliates of a controlling interest in the Project facility to unrelated persons or entities prior to completion of the Project improvements;

(2) the sublease of all or part of the Project facility in violation of use or other similar restrictions, if any, in the definitive Project documents; or

(3) failure to initially sublease the Project facility to third parties in accordance with the requirements, if any, of the definitive Project documents.

e) **Financial Assistance to be Recaptured.** The Financial Assistance to be recaptured by the Agency upon the occurrence of a Recapture Event during the Recapture Period shall equal an amount calculated as the sum of the following clauses (1) through (3), multiplied by the relevant recapture percentage specified in f) below:

(1) an amount equal to the difference between (i) real property taxes that would have been assessed by the City in the absence of the Agency's involvement in the Project, taking into account any non-discretionary, statutory, as-of-right real property tax incentives that the Recipient received approval for in connection with the Project real property and (ii) the real property tax PILOT amounts which the Recipient paid to the Agency pursuant to the definitive Project documents;

(2) the amount of the City and State mortgage recording tax exemption provided by the Agency in connection with the Project; and

(3) the amount of the State and City sales and use tax exemption provided by the Agency in connection with the Project.

f) **Recapture Percentage.** The relevant recapture percentage will be determined based on the date that the Recapture Event occurs:

(1) if the Recapture Event occurs during the period commencing on the date on which the Agency and the Recipient enter into the definitive Project documents and ending on the day before the third anniversary of the operations commencement date, 130%;

(2) if the Recapture Event occurs during the period commencing on the third anniversary of the operations commencement date and ending on the day before the fourth anniversary of the operations commencement date, 120%;

(3) if the Recapture Event occurs during the period commencing on the fourth anniversary of the operations commencement date and ending on the day before the fifth anniversary of the operations commencement date, 110%;



(4) if the Recapture Event occurs during the period commencing on the fifth anniversary of the operations commencement date and ending on the day before the sixth anniversary of the operations commencement date, 100%; or

(5) if the Recapture Event occurs during the period commencing on the sixth anniversary of the operations commencement date and ending on or before the tenth anniversary of the operations commencement date, the percentage equal to 100% minus the product of 1.666% and the number of months elapsed since the sixth anniversary of the operations commencement date.

g) **Interest on Recaptured Financial Assistance.** Recapture amounts shall accrue interest, to the extent permitted by law, from the date that the Recapture Event occurred until the date of repayment to the Agency of the amount due at a rate equal to the higher of nine percent (9%) per annum or the amount of interest and penalties imposed by the Statute or other law.

## **ARTICLE V. POLICY DEVIATIONS**

### **B. Requirements for Deviation.**

1. Statute. The Agency may deviate from the provisions of this Policy, provided that each such deviation (except as provided in Section B.2 below) shall be in accordance with the requirements of this Article V and the requirements of the Statute.

2. Board Approval. The Staff must obtain the Board's approval for all deviations, and, in order to provide a basis for deliberating the necessity and advisability of a proposed deviation, the Staff must present to the Board, in writing, the following information and conclusions for its consideration:

- a) the content of the deviation;
- b) the reason why the deviation is needed; and
- c) the disadvantage to the City if the deviation is not approved and the proposed Project does not proceed.

### **C. Deviation from this Policy.**

1. Generally. A deviation from this Policy is a substantive departure from any one or more of the following standards set forth in any Program adopted by the Agency pursuant to this Policy:

- a) the requirements and conditions for obtaining Financial Assistance; and/or
- b) the extent to which Financial Assistance is available and its amount.

2. Deviations Not Subject to this Article V. The Agency may, without fulfilling the requirements of this Article V, deviate from the recapture requirements of Article IV when the

deviation in question is (i) necessitated by law; (ii) minor in nature; or (iii) the result of a settlement of a recapture demand or claim approved by the Board.

3. Diminished Financial Assistance Not a Deviation. Offering less Financial Assistance to a Recipient for a particular Project than the maximum amount that is available under this Policy with respect to any specific Program shall not constitute a deviation from this Policy, unless otherwise provided for in connection with any specific Program approved by the Board.

4. Additional Conditions Not a Deviation. Imposing conditions to the receipt of Financial Assistance that are in addition to those explicitly imposed by this Policy shall not constitute a deviation from this Policy.

5. Modification of Recapture Not a Deviation. None of the following shall constitute a deviation from this Policy: (i) any increase in (a) the Recapture Percentage, (b) the amount of interest to be charged with respect to recapture of Financial Assistance, or (c) the duration of the Recapture Period, and (ii) any decrease in the term of the Recapture Period so that it does not exceed the term during which Financial Assistance is provided for a particular Project.

**APPENDIX A**  
**INDUSTRIAL PROGRAM**

<b>Policy Objective:</b>	The Agency recognizes the importance of the industrial sector in New York City, by virtue of the sector’s ability to create living wage job opportunities for City residents. By preserving, enhancing and building industrial space throughout the five boroughs, the Agency can diversify the City’s economy, help support advanced manufacturers, incentivize and spark innovation, and create pathways to the middle class for City residents with the goal of maximizing job creation relative to the amount of Financial Assistance provided. Through the Industrial Program, the Agency will provide incentives to industrial companies and developers of industrial space in order to achieve the aforementioned goals.
<b>Type of Project:</b>	In order to be eligible for Financial Assistance under the Industrial Program, the Project facility must be intended for use in the pursuit of manufacturing, assembling, processing, recycling, disposing, warehousing and/or distributing of tangible property; and/or the creation of an intangible asset. As used herein, an intangible asset means any patent, copyright, formula, process, design, pattern, knowhow, format or other similar item. The Recipient of the Financial Assistance must make improvements on the Project land at a cost at least equal to the greater of (i) \$1,000,000 or (ii) 15% of the combined assessed valuation of Project land and Existing Improvements (as defined below).
<b>Financial Assistance Term:</b>	For purposes of the Industrial Program, “ <u>Financial Assistance Term</u> ” means, subject to earlier termination in accordance with the definitive Project documents, a period (i) commencing on the date on which the Project facility becomes exempt from City real property taxes and subject to PILOT, which date shall never be earlier than the July 1 <sup>st</sup> following the taxable status date (currently January 5 <sup>th</sup> ) that follows the date on which the Agency and the Recipient enter into the definitive Project documents (the date described in this clause (i) is referred to herein as the “ <u>PILOT Commencement Date</u> ”), and (ii) ending up to twenty-five years after the PILOT Commencement Date, with such term to be determined by the Agency at its sole discretion.
<b>Exemption from City Real Property Taxes and Payment of PILOT:</b>	Upon the PILOT Commencement Date, a Project facility will be exempted from City real property taxes by virtue of the Agency’s involvement with the Project. Once the Project facility is so exempted, the Recipient must pay PILOT in accordance with the provisions described herein.

**PILOT in respect of Land**

With respect to the Project land, if the Project is located within an Industrial Business Zone (“**IBZ**”) designated pursuant to Section 22-626 of the New York City Administrative Code, or any successor provision, the Recipient will not pay any PILOT, except that the Financial Assistance in respect of Project land will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project land at the end of the Financial Assistance Term.

If the Project is not located within an IBZ, the Recipient will be required to pay PILOT during the Financial Assistance Term in an amount equal to the below percentages of City real property taxes in respect of such Project land that would have been payable (at the tax rate and assessed valuation as of the closing date of the Project) by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions as to the Project land and unrelated to the Project Improvements for which the Recipient has applied and qualified), except that the Financial Assistance in respect of Project land will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project land at the end of the Financial Assistance Term.

- For Projects for which the Recipient agrees to invest less than \$5.0 million in Project Improvements prior to the Project Completion Date (as defined in the Project documents for each Project), the Recipient will pay a PILOT equal to full City real property taxes on the Project land.
- For Projects for which the Recipient agrees to invest \$5 million or more but less than \$10 million in Project Improvements prior to the Project Completion Date, the Recipient will pay a PILOT equal to 75% of City real property taxes on the Project land.
- For Projects for which the Recipient agrees to invest \$10 million or more but less than \$15 million in Project Improvements prior to the Project Completion Date, the Recipient will pay a PILOT equal to 50% of City real property taxes on the Project land.
- For Projects for which the Recipient agrees to invest \$15 million or more but less than \$20 million in Project Improvements prior to the Project Completion Date, the Recipient will pay a PILOT equal to 25% of City real property taxes on the Project land.
- For Projects for which the Recipient agrees to invest \$20 million or more in Project Improvements prior to the Project Completion Date, the Recipient will not be required to pay any PILOT for the Project land.

<p><b>PILOT in respect of Existing Improvements:</b></p>	<p>With respect to any improvements existing at the time of application to the Agency and not demolished (“Existing Improvements”), the Recipient will, unless otherwise determined by the Agency at its sole and absolute discretion, be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such Existing Improvements that would have been payable (at the tax rate and assessed valuation as of the closing date of the Project) by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions, unrelated to the Project Improvements, for which the Recipient has applied and qualified), except that the Financial Assistance in respect of Existing Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Existing Improvements at the end of the Financial Assistance Term.</p>
<p><b>PILOT in respect of Project Improvements:</b></p>	<p>Unless otherwise determined by the Agency, in its sole and absolute discretion, the Recipient will not be required to pay any PILOT in respect of new Project improvements that are induced with the Agency’s Financial Assistance (“Project Improvements”) during the Financial Assistance Term, except that the Financial Assistance in respect of Project Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project Improvements at the end of the Financial Assistance Term.</p>
<p><b>PILOT in respect of Additional Improvements:</b></p>	<p>With respect to additional improvements on the Project land that are not Existing Improvements or Project Improvements, the Recipient will be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such additional improvements that would have been payable by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions unrelated to the Project Improvements for which the Recipient has applied and qualified).</p>
<p><b>Exemption from Recording and Filing Fees:</b></p>	<p>The documents and instruments necessary to provide Financial Assistance to a Recipient shall be exempt from recording and filing fees.</p>
<p><b>Exemption from Mortgage Recording Taxes:</b></p>	<p>With respect to a mortgage on the Project facility that secures indebtedness incurred to finance or refinance all or part of the costs of the Project Improvements, the Agency may, to the extent permitted by law, exempt City and State mortgage recording taxes payable in respect of the initial recording of a Project mortgage to the extent that aggregate Project expenditures equal or exceed the maximum amount of such</p>

	<p>Project mortgage.</p> <p>In connection with the loan refinancing of a Project mortgage, the Agency may, at its sole discretion, consent to the assignment by the mortgagee of the original Project mortgage to secure the refinancing loan.</p>
<p><b>Exemption from Sales and Use Taxes:</b></p>	<p>The purchase or lease of materials, fixtures, furnishings, machinery and/or equipment, as well as certain services that may relate to the installation of any of the foregoing, to be incorporated in or otherwise related to a Project facility may be exempted from City and State sales and use taxes to the extent permitted by law for the period commencing on the date that the Agency and the Recipient enter into the definitive Project documents and ending on the date specified in the definitive Project documents as the completion deadline for Project Improvements.</p>
<p><b>Recapture:</b></p>	<p>The Industrial Program will be subject to the Financial Assistance Recapture requirements described in Article IV of the Policy.</p>

**APPENDIX B**  
**FOOD RETAIL EXPANSION TO SUPPORT HEALTH (FRESH) PROGRAM**

<p><b>Policy Objective:</b></p>	<p>The Agency recognizes that access to affordable, high-quality food – especially fresh fruits and vegetables – is an essential component of neighborhood development and is necessary in order to achieve healthy outcomes in all communities within the five boroughs. Limited access to affordable, healthy food options is a problem many underserved communities continue to encounter, and the Financial Assistance under the Food Retail Expansion to Support Health program (the “<u>FRESH Program</u>”) is an effective tool to provide New Yorkers with healthy food options. However, the development of supermarkets in underserved communities is often hindered by high acquisition, development and operating costs. In today’s climate of rapidly escalating commercial rents, market interventions such as the FRESH Program are necessary to ensure that every community in the five boroughs of New York City has access to affordable, nutritious foods as well as adequate supermarket capacity. By looking at localized metrics of food retail capacity, poverty rates, and unemployment, the FRESH Program targets and delivers Financial Assistance to distressed communities in need of additional supermarket development.</p>
<p><b>Type of Project:</b></p>	<p>In order to be eligible for the FRESH Program, the Project must meet all of the following conditions: (A) the Recipient is a grocery store operator who is constructing new or renovating existing retail space, or the Recipient is a developer seeking to construct or renovate retail space that will be leased to a full-line grocery store operator; (B) the post-renovation/construction grocery store provides: (1) a minimum of 5,000 square feet of retail space for a general line of food and non-food grocery products intended for home preparation, consumption and utilization; (2) at least 50% of retail space for a general line of food products intended for home preparation, consumption and utilization; (3) at least 30% of retail space for perishable goods that may include dairy, fresh produce, fresh meats, poultry, fish and frozen foods, and (4) at least 500 square feet of retail space for fresh produce; (C) the grocery store must be located within an area determined by the Agency to be eligible to participate in the FRESH Program, and (D) the Project must comply with the requirements of Section 862(2) of the Statute, which applies to certain retail Projects.</p>

<p><b>Financial Assistance Term:</b></p>	<p>For purposes of the FRESH Program, “<u>Financial Assistance Term</u>” means, subject to earlier termination in accordance with the definitive Project documents, a period (i) commencing on the date on which the Project facility becomes exempt from City real property taxes and subject to PILOT, which date shall never be earlier than the July 1<sup>st</sup> following the January 5<sup>th</sup> that follows the date on which the Agency and the Recipient enter into the definitive Project documents (the date described in this clause (i) is referred to herein as the “<u>PILOT Commencement Date</u>”), and (ii) ending up to twenty-five years after the <u>PILOT Commencement Date</u>, with such term to be determined by the Agency at its sole discretion.</p>
<p><b>Exemption from City Real Property Taxes and Payment of PILOT:</b></p>	<p>Upon the <u>PILOT Commencement Date</u>, a Project facility will be exempted from City real property taxes by virtue of the Agency’s involvement with the Project. Once the Project facility is so exempted, the Recipient must pay PILOT in accordance with the provisions described herein.</p>
<p><b>PILOT in respect of Land:</b></p>	<p>Unless otherwise determined by the Agency, in its sole and absolute discretion, the Recipient will not be required to pay any PILOT in respect of Project land during the Financial Assistance Term, except that the Financial Assistance in respect of Project land will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project land at the end of the Financial Assistance Term.</p>
<p><b>PILOT in respect of Existing Improvements:</b></p>	<p>With respect to any improvements existing at the time of application to the Agency and not demolished (“<u>Existing Improvements</u>”), the Recipient will, unless otherwise determined by the Agency at its sole and absolute discretion, be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such Existing Improvements that would have been payable (at the tax rate and assessed valuation as of the closing date of the Project) by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions unrelated to the Project Improvements for which the Recipient has applied and qualified), except that the Financial Assistance in respect of Existing Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Existing Improvements at the end of the Financial Assistance Term.</p>
<p><b>PILOT in respect of Project Improvements:</b></p>	<p>Unless otherwise determined by the Agency, in its sole and absolute discretion, the Recipient will not be required to pay any PILOT in respect of new Project Improvements that are induced with the Agency’s Financial Assistance (“<u>Project Improvements</u>”) during the Financial Assistance Term, except that the Financial Assistance in respect of</p>



	Project Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project Improvements at the end of the Financial Assistance Term.
<b>PILOT in respect of Additional Improvements:</b>	With respect to additional improvements on the Project land that are not Existing Improvements or Project Improvements, the Recipient will be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such additional improvements that would have been payable by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions unrelated to the Project Improvements for which the Recipient has applied and qualified).
<b>Exemption from Recording and Filing Fees:</b>	The documents and instruments necessary to provide Financial Assistance to a Recipient shall be exempt from recording and filing fees.
<b>Exemption from Mortgage Recording Taxes:</b>	<p>With respect to a mortgage on the Project facility that secures indebtedness incurred to finance or refinance all or part of the costs of the Project Improvements, the Agency may exempt City and State mortgage recording taxes payable in respect of the initial recording of a Project mortgage to the extent that aggregate Project expenditures equal or exceed the maximum amount of such Project mortgage.</p> <p>In connection with the loan refinancing of a Project mortgage, the Agency may, at its sole discretion, consent to the assignment by the mortgagee of the original Project mortgage to secure the refinancing loan.</p>
<b>Exemption from Sales and Use Taxes:</b>	The purchase or lease of materials, fixtures, furnishings, machinery and/or equipment, as well as certain services that may relate to the installation of any of the foregoing, to be incorporated in or otherwise related to a Project facility may be exempted from City and State sales and use taxes to the extent permitted by law for the period commencing on the date that the Agency and the Recipient enter into the definitive Project documents and ending on the date specified in the definitive Project documents as the completion deadline for Project Improvements.
<b>Recapture:</b>	The FRESH Program will be subject to the Financial Assistance Recapture requirements described in Article IV of the Policy.

**APPENDIX C**  
**COMMERCIAL PROGRAM**

<b>Policy Objective:</b>	<p>The Agency recognizes that, in order to allow for economic development in areas outside of Manhattan’s commercial core, additional office capacity must be brought online. Transit-rich, proximate neighborhoods in boroughs outside of Manhattan create opportunities to attract high quality companies in growth sectors and to allow for City residents to live and work in their own neighborhoods. However, several obstacles stand in the way of the construction and renovation of office space outside of well-developed areas of Manhattan. Office rents in commercial office buildings outside of Manhattan’s commercial core are lower, and anchor tenants are harder to attract to these buildings, making it difficult to finance office construction and renovation in these areas. Private commercial office development is also hampered by the scarcity of available development sites and intense competition from residential development. Home-grown businesses that have found initial success in boroughs outside of Manhattan now find that their options are limited in terms of existing office space capacity for their expanding commercial office needs. To achieve the goal of bringing online additional citywide office capacity to address the aforementioned challenges, and to maximize job creation relative to the amount of Financial Assistance provided, the Agency desires to use its power to confer Financial Assistance on commercial office Projects outside of Manhattan’s commercial core in order to accelerate the pace of commercial office development.</p>
<b>Type of Project:</b>	<p>A Project may be eligible for discretionary Financial Assistance in accordance with the Commercial Program if the Project is a commercial office development that will assist in new construction or major renovation of commercial office facilities primarily targeted for use by high-growth industries, including but not limited to, technology, advertisement, media, information technology, engineering, life sciences and fashion, and is in an area of the City which lacks adequate commercial office facilities to meet market demand for such facilities, <u>provided</u>, that if the Project is located in Manhattan, it must be located in a highly distressed area as defined in §854 of the Statute. Project improvements that are intended to be used for retail purposes (including hotel uses) are not eligible for Financial Assistance under the Commercial Program. The Recipient of the Financial Assistance must make Project Improvements at a cost at least equal to the greater of (i) \$5,000,000, or (ii) 25% of the combined assessed valuation of the Project land and Existing Improvements (as defined below) and must submit to the Agency binding expressions of interest, which may be conditioned</p>

	upon the availability of Financial Assistance for the Project, from one or more anchor tenants for the Project acceptable to the Agency.
<b>Financial Assistance Term:</b>	For purposes of the Commercial Program, “ <u>Financial Assistance Term</u> ” means, subject to earlier termination in accordance with the definitive project documents, a period (i) commencing on the date on which the Project facility becomes exempt from City real property taxes and subject to PILOT, which date shall never be earlier than the July 1 <sup>st</sup> following the January 5 <sup>th</sup> that follows the date on which the Agency and the Recipient enter into the definitive project documents (the date described in this clause (i) is referred to herein as the “ <u>PILOT Commencement Date</u> ”), and (ii) ending up to twenty-five years after the PILOT Commencement Date, with such term to be determined by the Agency at its sole discretion.
<b>Exemption from City Real Property Taxes and Payment of PILOT:</b>	Upon the PILOT Commencement Date, a Project facility will be exempted from City real property taxes by virtue of the Agency’s involvement with the Project. Once the Project facility is so exempted, the Recipient must pay PILOT in accordance with the provisions described herein.
<b>PILOT in respect of Land and Existing Improvements:</b>	With respect to the Project land and any improvements existing at the time of application to the Agency and not demolished (“ <u>Existing Improvements</u> ”), the Recipient will, unless otherwise determined by the Agency at its sole and absolute discretion, be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such Project land and Existing Improvements that would have been payable (at the tax rate and assessed valuation as of the closing date of the Project) by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions unrelated to the Project Improvements for which the Recipient has applied and qualified), except that the Financial Assistance in respect of Project land and Existing Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project land and Existing Improvements at the end of the Financial Assistance Term.
<b>PILOT in respect of Project Improvements:</b>	Unless otherwise determined by the Agency, in its sole and absolute discretion, the Recipient will not be required to pay any PILOT in respect of new Project Improvements that are induced with the Agency’s Financial Assistance (“ <u>Project Improvements</u> ”) during the Financial Assistance Term, except that the Financial Assistance in respect of Project Improvements will be phased out by not more than 20% per year until it reaches the equivalent of actual real property taxes for such Project Improvements at the end of the Financial Assistance Term.

<b>PILOT in respect of Additional Improvements:</b>	With respect to additional improvements on the Project land that are not Existing Improvements or Project Improvements, the Recipient will be required to pay PILOT during the Financial Assistance Term in an amount equal to the City real property taxes in respect of such additional improvements that would have been payable by the Recipient in the absence of the Agency’s involvement with the Project (after giving effect to any statutory, non-discretionary, as-of-right tax abatements or exemptions unrelated to the Project Improvements for which the Recipient has applied and qualified).
<b>Exemption from Recording and Filing Fees:</b>	The documents and instruments necessary to provide Financial Assistance to a Recipient shall be exempt from recording and filing fees.
<b>Exemption from Mortgage Recording Taxes:</b>	<p>With respect to a mortgage on the Project facility that secures indebtedness incurred to finance all or part of the costs of the Project Improvements, the Agency may exempt City and State mortgage recording taxes payable in respect of the initial recording of a Project mortgage to the extent that aggregate Project expenditures equal or exceed the maximum amount of such Project mortgage.</p> <p>In connection with the loan refinancing of a Project mortgage, the Agency may, at its sole discretion, consent to the assignment by the mortgagee of the original Project mortgage to secure the refinancing loan.</p>
<b>Exemption from Sales and Use Taxes:</b>	The purchase or lease of materials, fixtures, furnishings, machinery and/or equipment, as well as certain services that may relate to the installation of any of the foregoing, to be incorporated in or otherwise related to a Project facility may be exempted from City and State sales and use taxes to the extent permitted by law for the period commencing on the date that the Agency and the Recipient enter into the definitive Project documents and ending on the date specified in the definitive Project documents as the completion deadline for Project Improvements.
<b>Recapture:</b>	The Commercial Program will be subject to the Financial Assistance Recapture requirements described in Article IV of the Policy.

**APPENDIX D**  
**TAX EXEMPTION POLICY FOR THE HUDSON YARDS UTEP AREA**

Those provisions of the Policy that establish policies and requirement for the provisions and recapture of Financial Assistance for qualifying commercial projects within the Hudson Yards UTEP Area (as defined in the 2006 UTEP) shall remain unmodified and in full force and effect and shall be incorporated fully herein as the same were originally adopted by the Agency on August 8, 2006, pursuant to Section 874(a) of the General Municipal Law, and as amended and restated by the Agency on December 12, 2006 (the “2006 UTEP”).