County of Jefferson
Office of the County Administrator

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October 22, 2010

TO: Members of Finance & Rules Committee

FROM: Robert F. Hagemann, III, County Administrator

SUBJECT: Finance & Rules Committee Meeting

Please let this correspondence serve as notification that the Finance & Rules Committee will meet on ***Tuesday, October 26, 2010 at 6:30 p.m.*** (or immediately following the conclusion of the budget work session discussions) in the Board of Legislators' Chambers for the special purpose of discussing the Uniform Tax Exemption Policy.

To that end, enclosed you will find a UTEP Major Points Comparison as well as a copy of the current policy. The proposed policy was mailed to you with the September 28th Finance & Rules Committee agenda materials, but if you need another copy let me know.

If you have any questions, please do not hesitate to contact me.

RFH:jdj

cc:	Audit	Information Services	Real Property Tax Services
	County Clerk	Insurance	County Treasurer
	Board of Elections	JCC	County Attorney
	Human Resources	Purchasing	

Jefferson County Industrial Development Agency
Proposed Uniform Tax Exemption Policy

UTEP MAJOR POINTS COMPARISON

Policy and Process	
Current Policy As a means to establish the PILOT program as a reliable economic development tool, and in accordance with the provisions of Article 18A of the NYS GMP, the JCIDA has the authority to implement a PILOT with an eligible project, provided such PILOT and its implementations conforms with the procedures and provisions of this policy.	**Proposed Policy** Policy remains the same
Current policy The JCIDA shall assess and determine the economic impact of a project by use of market analysis, employment generation, taxation and assessment generation, economic impact, and/or community support and shall approve projects for Payment in Lieu of Tax (PILOT) based upon this economic assessment.	**Proposed Policy** Policy remains the same
Current policy The JCIDA shall notify each affected taxing jurisdiction of a pending project.	**Proposed policy** Policy remains the same for industrial projects and some non-industrial projects including (warehouse, wholesale/distribution commercial, qualified retail, office building, hotel, qualified community and civic facilities). HOWEVER, the Agency **will not provide PILOT abatements to any commercial, qualified retail, office building, hotel, qualified community, civic, or Renewable Energy Facilities <u>without affirmative consent of the affected taxing jurisdictions.</u>** **Proposed Policy Enhances Disclosure to and Protections for ATJs:** **Enhanced Disclosure and Collaboration with ATJs. The proposed UTEP requires Agency staff to work closely with representatives of the ATJs to discuss a proposed project and shall provide each ATJ with the following materials: (i) a copy of the**

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UTEP MAJOR POINTS COMPARISON

	application submitted to the Agency, (ii) a cost-benefit analysis relating to the project, (iii) a summary of the terms and structure of financial assistance to be provided by the Agency (including proposed PILOT abatement or payment schedule(s); and (iv) whether the Agency is considering a deviation from this policy with respect to the proposed project.
Current policy The JCIDA will retain the ability to grant an exemption of PILOT greater than the schedules contained herein on projects which have unique significance based upon recommendations or agreement of the affected taxing jurisdictions or findings by JCIDA.	**Proposed policy** Any deviations from the foregoing standard policy shall require the affirmative consent of the affected taxing jurisdictions and will be made only with the specific approval of the Agency's members. Proposed Policy Enhances Deference to local project review and control: The proposed UTEP requires Agency to consider final approval of any PILOT Agreement after applicable local site plan and other necessary approvals have been secured by applicants to the Agency. This language in the proposed UTEP is included to provide broad deference and discretion to ATJs having jurisdiction or approval control over any Agency project. In essence, an Agency PILOT will not be approved for a project if a local board and/or ATJ does not support or refuses to allow a project to go forward. This language will also allow Agency to assist local boards and/or ATJs enforce locally-approved project conditions, including site plan restrictions, decommissioning agreements and other local project contingencies that must be met by project owners. The proposed UTEP also states that Agency's final consideration and approval of a PILOT Agreement shall take place after an applicable lead agency's completed review of the subject project pursuant to and in accordance with the State Environmental Quality Review Act ("SEQRA"). In practice, this requirement already exists, however, the

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	proposed language further recognizes and supports the lead role of local boards and/or ATJs that are or will be lead agency under SEQRA for Agency-sponsored projects. This is another self-imposed restriction the Agency has added above and beyond requirements contained within the IDA Act.
Current policy An exemption for sales tax on taxable items incorporated into a qualified and approved project shall be granted.	**Proposed Policy** Policy remains the same
Current policy No payment in lieu of mortgage recording tax shall be made for qualified projects.	**Proposed Policy** Policy remains the same
Real Property Tax Abatements	
Current Policy Qualified Industrial and non-industrial projects will be granted property tax abatement for a period not to exceed 15 years.	**Proposed Policy** Policy remains the same for most qualified projects, however, alternative energy projects maybe qualified for a tax abatement period not to exceed 20 years. PILOT payments may be based on a face-plate value of the project for real property assessment and may also include additional payments to ATJ's based on an income formula established by the JCIDA.
Current Policy Each project will be subject to a graduated schedule of abatement with an initial abatement not to exceed 75% with annual increases over life of project averaging no Less than 2.5% where more than 50% abatement is granted.	**Proposed Policy** Policy remains the same accepting Alternative energy projects.

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UTEP MAJOR POINTS COMPARISON

Current Policy Current policy does not specifically address alternative energy projects.	**Proposed Policy** The Agency will not provide PILOT abatements to any commercial, qualified retail, office building, hotel, qualified community or civic, or Renewable Energy Facilities without the affirmative consent of the affected taxing jurisdictions.
Current Policy The JCIDA will reserve discretion to deviate on a case-to-case considering all factors the JCIDA deems relevant. Any PILOT that represents a deviation from this policy shall require the consent of all affected taxing jurisdictions.	**Proposed Policy** Policy remains the same

JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY
Amended February 3, 2004

I. Statement of Purpose:

The Jefferson County Industrial Development Agency (JCIDA), in accordance with the New York State General Municipal Law (NYS GML) Section 874 is exempt from real property, sales and mortgage taxes. By obtaining a passive interest in the property title of economic development projects, the JCIDA can confer on those projects the advantages of such tax exemptions, thereby enhancing the projects' success and increasing its ability to provide a positive impact to the economy of the County and the residents thereof. It is the intention of the JCIDA that the operation of this policy will enhance the tax base of the County by facilitating projects that would have otherwise been deferred or located elsewhere. The provision of tax abatements by the JCIDA in this manner shall be governed by the content of this policy statement.

II. Policy and Process

A. The JCIDA shall assess and determine the economic impact of a project by use of market analysis, employment generation, taxation and assessment generation, economic impact, and/or community support, and shall approve projects for Payment in Lieu of Tax (PILOT) based upon this economic assessment. The impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity. The amount of private sector investment generated or likely to be generated by a proposed project. The likelihood of accomplishing a proposed project in a timely fashion. The extent to which a proposed project will require additional services such as education, transportation, police, emergency, medical or fire. The extent to which a project will provide additional sources of revenue for municipalities and school districts.

B. The JCIDA shall notify each affected taxing jurisdiction of a pending project. Said notification shall be in written form and include the economic assessment, in advance of the date of the voting on a resolution of inducement by the JCIDA.

C. The JCIDA will retain the ability to grant an exemption of PILOT greater than the schedules contained herein on projects which have unique significance based upon recommendations or agreement of the affected taxing jurisdictions or findings by JCIDA.

D. The assessed valuation of the facility and any improvement shall be the determination of the taxing and assessing jurisdictions for the applicable year, and shall be based upon the percentage of completion of the facility and improvements as established by the assessing jurisdiction.

E. The PILOT Agreement shall contain:

1. For Payment in lieu of Real Property Taxes, a combined schedule as warranted, consisting of "X" and "Y" payments as follows:

> a. The "X" payment shall consist of one hundred (100%) percent of the annual assessment and taxation applicable and due on the existing facility and property as of the date of transfer to the JCIDA.
>
> b. The "Y" payment shall consist of the percentage of applicable project exemption entitlement reflected herein for the applicable year, applied to the additional assessment resulting from new property acquisition, construction and/or facility improvements. The equivalent taxes shall be established by applying the actual annual tax rate for each taxing jurisdiction.

The procedure for governing a PILOT and instances in which real property appraisals are to be performed as part of an application for tax assessment. The procedure will provide for the statutory penalty of 5% of the amount due for delinquent PILOT payments.

2. An exemption for sales tax on taxable items incorporated into a project. No sales tax exemptions shall be given for the operation of a project.

3. No payment in lieu of mortgage recording tax shall be made.

4. A provision for the recapture of the benefits afforded by the agreement in the event that the economic activity pledged by the project operator does not occur to the satisfaction of the JCIDA. These provisions will be more particularly described elsewhere in this policy.

5. Each PILOT Agreement shall contain language that addresses the ability of the project operator to contest the assessment of the subject property. One of three approaches shall be utilized:

> a. A floating assessment as may be determined from time to time by the local assessor. In such cases, the assessor shall maintain the right to establish and adjust the assessment during the term of the PILOT agreement, and the operator shall maintain the right to contest the assessment as provided for in New York State Law.
>
> b. An alternative dispute resolution procedure that allows for a third party appraisal process to establish an assessment level.
>
> c. A fixed payment or fixed assessment approach that establishes the assessment level for the term of the PILOT agreement. In such cases, both the assessor and the operator agree to forfeit any rights to adjust

or contest the assessment level during the term of the PILOT agreement.

F. As a means to establish the PILOT program as a reliable economic development tool, and in accordance with the provisions of Article 18A of the NYS GML, the JCIDA has the authority to implement a PILOT with an eligible project, provided such PILOT and its implementation conforms with the procedures and provisions of this policy. However, staff of the Agency shall take the steps necessary to reasonably acquaint the affected taxing jurisdictions regarding the parameters of the proposed agreement, the project operator, the nature of the project and the extent of economic impact. The staff, in concert with the Agency Board of Directors shall attempt to address any concerns raised by the Affected Taxing Jurisdictions, and to overcome any objections prior to implementing a PILOT agreement. In any case, the JCIDA shall only directly implement PILOT agreements that conform to this uniform policy and, are for projects that benefit a manufacturer, or are projects that are located in the Watertown Empire Zone.

G. Except for Empire Zone Projects, no Commercial/Retail Facilities/Office Buildings/Community Facilities PILOT will be given without the consent of all affected taxing jurisdictions.

H. In instances where successive PILOT's are requested by a developer, company or organization, which has previously received a PILOT, the next lower entitlement from the original PILOT entitlement shall be applicable. When there is sufficient economic impact to warrant additional consideration, a greater exemption may be made available upon recommendation of the JCIDA or request of an affected taxing jurisdiction.

III. Real Property Tax Abatement Schedules

A. Definitions:

1. Industrial/Manufacturing.

Manufacturing or production means one or both of two processes: Transforming or fundamentally changing raw materials or personal property. Combining or assembling items of personal property to create another distinct item.

These terms include construction, reconstruction, or making of property out of scrap, salvage or junk material as well as from new or used raw material or items, whether solid, liquid, or other form by processing, manipulating, refining, mixing or changing the form of an article or by joining, combining or assembling two or more articles to produce tangible personal property.

2. Warehousing/Distribution Facilities.

These facilities constitute manufacturing operations if these facilities are subordinate to, and ancillary to, direct manufacturing operations.

3. Commercial/Retail Facilities/Office Buildings/Community Facilities/Not-for-Profit Facilities.

These facilities shall mean the construction of a new building or structure, or the modernization, rehabilitation, expansion, or improvement of an existing building or structure, or the acquisition of machinery and equipment to be used for the buying, selling or otherwise providing of retail goods or services to the general public, or any facility operated on a not-for-profit basis as defined in NYS GML Section 854 (13).

B. Exemption Schedules:

1. Manufacturing/Industrial Facilities. The Manufacturing/Industrial Facility exemption schedule shall have three alternative levels of abatement applicable, dependent upon the relative economic impact of the proposed project. The greater the economic benefit, the greater the recommended abatement. The recommended entitlement shall be reflected in the economic assessment prepared by the JCIDA (Attachment 1). The JCIDA shall select the appropriate schedule based on the economic impact expected by the project.

a. The levels of abatement, in order of largest to smallest exemption, are as follows:

(1) 15 years, 50%. This PILOT for real property taxes will be for a fifteen (15) year term. The project will be seventy-five (75%) percent exempt for years on through five, fifty (50%) percent for years six through ten, and twenty-five (25%) percent exempt for years eleven through fifteen. After year fifteen, the exemption would terminate. This would result in a fifty (50%) percent total exemption during the fifteen year period. No in lieu of sales tax payments shall be made during the construction and equipping of the project, nor will any in lieu of mortgage recording tax payments be made.

(2) 15 years, 35%. This PILOT will be for a fifteen (15) year term. In year one, the project would be seventy (70%) percent exempt. The exemption would decline five (5%) percent each year for the next fourteen years. At year fifteen, the exemption would be zero (0%) percent. This would result in a thirty-five (35%) percent exemption during the fifteen year period. No in lieu of sales tax payments shall be made during the construction and equipping of the project, nor will any in lieu of mortgage recording tax payments be made.

(3) 10 years, 28%. This PILOT will be for a ten year period. In year one, the project would be fifty (50%) percent exempt. The exemption would decline by (5%) percent each year for the next nine years. After year ten, the exemption would terminate; this would result in a twenty-eight (28%) percent total exemption during the ten year period.

2. Watertown Empire Zone Projects. This PILOT is intended to put into effect the regular EZ 485-e benefit. Where a project is located within the Empire Zone, and the operator is a Zone Certified Business, the business may elect to apply to the City or Town of Watertown to utilize a PILOT that reflects the exemption schedule provided for in Section 485-e of the Real Property Tax Law. There are no fees associated with the 485-e nor does it require the consent of any taxing jurisdictions. The 485-e schedule is as follows:

Year 1	100%
Year 2	100%
Year 3	100%
Year 4	100%
Year 5	100%
Year 6	100%
Year 7	100%
Year 8	75%
Year 9	50%
Year 10	25%
Year 11	0%

3. Commercial/Retail Facilities/Office Buildings/Community Facilities/Not-for-Profit Facilities.

A. The JCIDA shall only provide such assistance to retail facilities in accordance with the restrictions contained in NYS GML Section 862 (2).

B. Commercial/Retail Facilities/Office Buildings/Community Facilities/Not-for-Profit Facilities shall have the following exemption schedule:

Year of Exemption	Amount of Exemption
1	50%
2	45%
3	40%
4	35%
5	30%
6	20%
7	10%
8 and after	0%

IV. Recapture of Benefits

A. The JCIDA shall periodically review the economic impact of each of the projects to which it holds title. This will be done sooner where it is obvious that significant deviation from the original intent of the project is realized.

B. All PILOT agreements will contain provisions that allow for the recapture of past, and cancellation of future tax abatements. In determining the extent of recapture or cancellation, the JCIDA shall consider the extent to which the company has met its proposed economic impacts.

C. The following policy concerning recapture of the abated taxes shall apply.

1. Sale or closure of the facility. The PILOT is terminated immediately, and the property deeded back to the operator.

2. Significant employment reductions. If after careful examination, this is to be a temporary situation, no action will be taken. If the situation is deemed permanent, then the abatement will be reduced by up to 100%, and/or recapture of past tax benefits can be pursued, at the discretion of the JCIDA and in consultation with the affected taxing jurisdictions.

3. Significant change in the use of the facility. If the change still is consistent with acceptable JCIDA policy and there is insignificant job loss, no action will be taken. If this change falls outside acceptable JCIDA policy, then the withdrawal of entire abatement and/or recapture of past tax benefits can be pursued at the discretion of the JCIDA and in consultation with the affected taxing jurisdictions.

V. Deviations from Policy

A. There are several factors that the JCIDA will consider in determining whether to deviate from these policies. The JCIDA will reserve discretion to deviate on a case-to-case considering all factors the JCIDA deems relevant. These deviations from the standard policy will require written notification with reason to the Chief Executive Officer of each affected taxing jurisdiction. These factors include bur are not necessarily limited to the following:

B. If the project contains significant economic impact on the area such as major job retention or attraction.

C. Abatements for projects, which are extremely expensive but provide little in the way of new jobs, would be negotiated by the taxing jurisdictions and the developer with the JCIDA in attendance.

D. If the taxing entities in a particular area of the County ask the JCIDA to provide Real Estate Tax Abatements for a proposed project which would fall outside the JCIDA policy, then this request would be considered.

E. Any PILOT that represents a deviation from this policy shall require the consent of all affected taxing jurisdictions.

VII. Sales Tax Exemption

A. This exemption will apply only to the construction/renovation and equipping period when the original project is completed and will be for the full amount of the sales tax (now 7.25%).

B. This will be reported to the State Department of Taxation and Finance in its annual report/audit to this Agency.

C. There will be no recapture of benefits in cases of deviation or closure of the project.

D. Any deviations from this policy will be made on a case-to-case basis with notification and comments from the Chief Executive Officer of each affected taxing jurisdiction.

VII. Mortgage Recording Tax Exemption

A. This exemption (currently .0075) will apply only to projects where mortgages are established under the JCIDA title and will be for initial construction, additions, or equipping.

B. There will be no recapture of benefits in cases of deviation or closure of the project.

C. Any deviations from this policy will be made on a case-to-case with notification and comments from the Chief Executive Officer of each affected taxing jurisdiction.