COUNTY OF LEWIS IDA
UNIFORM TAX EXEMPTION POLICY AND GUIDELINES (UTEP)

i. Statement of Purpose

The general policy of the Lewis County Industrial Development Agency (LCIDA) in accordance with the New York State General Municipal Law (NYS GML), Section 874, is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The provision of tax abatements by the LCIDA in this manner shall be governed by the content of this policy statement.

ii. Policy & Process

1. The Agency shall assess and determine the economic impact of a project by use of market information, employment generation, taxation and assessment generation, economic generation, ancillary economic impact, and/or community support, and shall approve projects for Payment in Lieu of Taxes (PILOT) based upon this economic assessment. The assessment will include some or all of the following factors:

    a. Is the IDA financial assistance critical/essential to the applicant's pursuit of the contemplated project;
    b. The extent to which a project will create or retain permanent, private sector jobs;
    c. The estimated value of any tax exemptions to be provided;
    d. Whether affected tax jurisdictions will be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption is provided;
    e. The impact of a proposed project on existing and proposed business 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 extent of demonstrated public support for the proposed project;
    h. The likelihood of accomplishing the proposed project in a timely fashion;
    i. The effect of the proposed project upon the environment;
    j. The extent to which the proposed project will require the provision of additional services, including, but not limited to, educational, transportation, police, emergency medical or fire services;
    k. Does the proposed project generate new/additional tax, or payment in lieu of tax, or other revenues for taxing jurisdictions in Lewis County;
    l. If the project relates to the expansion, improvement or upgrade of an existing business enterprise within the County, assess whether the lost potential tax revenue to taxing jurisdictions within the County in consequence of IDA financial assistance is justified by other tangible and/or intangible benefits to the County and its residents, economic and otherwise, which would be realized as a result of the project
    m. The Nature of the proposed project;
    n. The condition of the real property where the project is to be located prior to commencement of the project;

   o. The economic condition of the vicinity in which the project will be located at the time of the application by the sponsor.

2. The LCIDA shall notify each affected taxing jurisdiction of a pending project in accordance with the GML-874 in advance of the date of the voting on a resolution of inducement by the LCIDA.

3. 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.

4. The LCIDA 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 the LCIDA.

5. 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 LCIDA 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. 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.

6. In instances where successive PILOT's are requested by a developer, company or organization, which has previously received a PILOT, the LCIDA will consider a renewal if sufficient economic impact exists.

7. Retail Limitations: Retail projects (defined as more than 1/3 of the persons that visit the facility are visiting for retail purposes) are not considered for exemption unless one of the following was satisfied:

   a. Tourism destination – "more likely than not to attract a significant number of visitors from outside the economic development region"
   b. Unique facility: provides a service that is not otherwise available.

8. Exemptions:

   a. Real Property Taxes

      The Agency maintains a policy for the provision of real property tax abatements for qualified projects. The abatement provided applies to value added by construction or renovation and the existing parcel involved. The period of the exemption will not exceed the period of the respective financing or lease and will be for a period of up to a maximum of fifteen (15) years. The Agency's policy results in a graduated schedule of abatement applicable to County, Municipal and School taxes. Eligible projects include any project which qualifies for financial assistance under General Municipal Law Article -18-A.

      Any deviations from the standard, policy will be made only with the specific approval of the Agency's members based on the factors listed in paragraph 1 and those described in the New York State General Municipal Law Section 874(4) (a). Additionally, the Agency shall notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefore.

      The Agency will use existing tax data to negotiate the payment in lieu of tax agreement and, therefore, appraisals will not normally be required.

   b. Payment in Lieu of Taxes

Each project receiving abatement will be subject to a Payment in Lieu Of Tax Agreement ('PILOT Agreement") in a form acceptable to the Agency. The Agency will consider project factors when determining the amounts to be paid under the PILOT Agreement. A copy of the PILOT Agreement will be forwarded to each of the affected taxing jurisdictions within fifteen (15) days of execution. Unless otherwise agreed by the Agency, with input from the affected taxing jurisdictions, such payments 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.

c. Exemption Schedules

The following two schedules will be the standard utilized for Property Tax Exemptions. Targeted Industries, manufacturing companies and other high priority projects will follow Schedule A. Commercial/Retail/Office/Community Facilities/Not-for-Profits will follow Schedule B.

Schedule A. Targeted Industries/Manufacturing
Year 1 – 5: 75%
Year 6 – 10: 50%
Year 11-15: 25%

This would result in a fifty (50%) percent total exemption during the 15 year period. Along with the Property Tax Exemption, Sales Tax Payments and Mortgage Recording Tax payments will also be abated unless determined otherwise on a case by case basis.

Schedule B. Commercial/Retail/Office/Community Facilities/Not-for-Profits
Year 1 – 50%
Year 2 – 45%
Year 3 – 40%
Year 4 – 35%
Year 5 – 30%
Year 6 – 20%
Year 7 – 10%
Year 8 & after – 0%

d. Sales and Use Tax Exemptions

1. 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 to include both New York State and Local portions.
2. Sales Tax Exemptions may be approved separate from a property tax exemption.
3. Eligible and Ineligible Items:
   i. Items Exempted. The sales and use tax exemption granted by the Agency with respect to an Applicant Project shall normally extend only to the following items: items incorporated into the real property, tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased by the Applicant as agency of the Agency; the rental of tools and other items necessary for the construction and/or equipping of the project, if rented by the Applicant as agency of the Agency; and office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the project, if purchased by the Applicant as agency of the Agency.
   ii. Items Not Exempted. A sales and use tax exemption with respect to an Applicant Project shall not be granted by the Agency for the following: repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-

type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or operation expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act.

4. 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.
5. **Period of Exemption:** The period of time for which a sales and use tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:
   i. Normal Termination: The Tax Exemption Period for an Applicant Project will normally end upon the completion of such project. On construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date which is six (6) months after the estimated date of completion of such project. On non- construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date which is three (3) months after the estimated completion of the project. If the Agency and the Applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

   ii. Later Termination: The Agency, for good cause shown, may adopt a resolution extending the period for completion of the project and/or extending the Tax Exemption Period.
6. **Required Filings:** The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales and use tax exemption. For example, TSB-M-87(7) outlines the materials that must be filed to establish entitlement to a sales and use tax exemption as an "agent" of the Agency. It is the responsibility of the Applicant and/or project occupant to ensure that the proper documentation is filed with each vendor to obtain any sales and use tax exemptions authorized by the Agency.
7. **Required Reports and Records:** Pursuant to Section 874(B) of the Act, the Applicant and/or project occupant is required to annually file with the New York State Department of Taxation and Finance a statement of the value of all sales and use tax exemptions claimed under the Act by the Applicant and/or the project occupant and/or all agents, subcontractors and consultants thereof. The project documents shall require that (1) a copy of such statement will also be filed with the Agency and (2) that the project occupant shall maintain, for a period ending seven (7) years after the last purchase made under the sales and use tax exemption, and make available to the Agency at the request of the Agency, detailed records which shall show the method of calculating the sales and use tax exemption benefit granted by the Agency.

e. Mortgage Recording Tax Exemptions

1. 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, whether or not the Agency has issued its bonds to finance the Project.

2. The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings, (e.g. second mortgages on the project to secure subordinated indebtedness of the project applicant). 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.

iii. Deviations

The Agency will reserve the right to deviate from the “General Policy” in special circumstances, on a case by case basis, to grant an exemption or 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 Agency. In determining whether special circumstances exist to justify such a deviation the Agency may consider the magnitude of the deviation sought and the factors that might make it unusual, which factors might include but not to be limited to the following factors: (1) the magnitude and/or the importance of any permanent private sector job creation and/or retention related to the proposed project in question; (2) the impact of such project on existing and proposed businesses and/or economic development projects; (3) the amount of private sector investment generated or likely to be generated by such project; (4) generated public support for the project; (5) the estimated value of the Tax Exemption requested; (6) the extent to which such project will provide needed services and/or revenues to the Affected Tax Jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874 (4)(a) of the Act; and (7) if the taxing entities in a particular area of the County ask the LCIDA to provide Real Estate Tax Abatements for a proposed project which would fall outside of the LCIDA policy, then this request would be considered.

Any deviations from the guidelines set forth above require the written notification by the Agency to the chief executive officer of each affected taxing jurisdictions.

iv. Forfeiture/Recapture

a. The LCIDA 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 of cancellation, the LCIDA 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:

   i. Sale or Closure of the Facility: The PILOT is terminated immediately, and the property deeded back to the operator.

   ii. 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 LCIDA and in consultations with the affected taxing jurisdictions.

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

v. Effective Date

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution after **January 1, 2017** and all refinancing of any project induced or closed before said date.

vi. Amendments

The Agency, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.