

**Wyoming County**

**Industrial Development Agency**

**Lease/Leaseback Assistance Application**

# **Wyoming County**

## **INDUSTRIAL DEVELOPMENT AGENCY**

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# Wyoming County

## Industrial Development Agency

### Introduction

The applicant is responsible for the submission of a complete financial assistance package, which includes:

1. Completed Lease/Leaseback Assistance Application and all supporting Documents.
2. Completed Full Environmental Assessment Form (see page 11)
3. Completed APPENDIX A: EMPLOYMENT IMPACT (page 12)

### Please note

The Wyoming County Industrial Development Agency (WCIDA), in its discretion, may require an environmental audit with respect to the proposed site of this project. If such an audit is prepared for others, including the Company or a lender, such an audit shall be provided to the WCIDA.

**ANY APPLICATION WHICH IS INCOMPLETE OR CONTAINS INSUFFICIENT INFORMATION AND SUPPORTING DOCUMENTATION WILL BE RETURNED TO THE APPLICANT**

**AN ADMINISTRATION FEE IS PAYABLE TO THE WYOMING COUNTY IDA AT A LATER DATE. THE FEE IS CALCULATED AS FOLLOWS:**

**Sales Tax Exemption Only-** If a project applicant receives sales tax exemption only incentive, the fee will be 1% on the value of the items that are subject to sales tax.

**Sales and Mortgage Recording Tax Exemption-** If a project applicant receives both sales and mortgage tax incentives the fee will be 1% of the highest value receiving an exemption.

**Sales and mortgage tax exemption and real property tax abatement (PILOT)-** If the applicant receives all three incentives the fee will be 1% of the total project cost.

**WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
APPLICATION FOR LEASE/LEASEBACK ASSISTANCE

**Applicant Information**

Company Name SUNEAST HIGHVIEW SOLAR LLC  
Address 110 PHOENIXVILLE PIKE, MALVERN, PA 19355  
Phone number 484-983-3130  
Fax number 610-900-6067  
Contact Person MICHAEL D. BECKNER  
E-mail of contact mike.beckner@suneastpower.com  
Federal ID 83-2842250  
Type of Business: LIMITED LIABILITY COMPANY  
NAICS Code: N/A

Incentives Applying for:  Sales Tax  Mortgage Recording  Real Property  
(Check all that apply)

**Corporate Structure**

Corporation

Partnership:      general                       limited

Number of general partners \_\_\_\_\_ and, if applicable,

Number of limited partners \_\_\_\_\_

Limited Liability Company /Partnership

Number of members/partners 1

Sole Proprietorship

Date of establishment/incorporation 11/30/2018 Place of organization DELAWARE

Is the applicant authorized to do business in the State of New York? YES

Names and titles of principal officers and owners:

SED NY HOLDINGS LLC - PARENT CORP.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicant's Counsel**

Name JAMES MUSCATO  
Address EXECUTIVE WOODS, FIVE PALISADES DRIVE  
ALBANY, NY 12205  
Phone number 518.438.9907 x 243 e-mail: jmuscato@youngsommer.com

## Project Information

**PROJECT TYPE**

- New building and/or equipment
- Refinancing
- Transfer
- Additional facility
- Amendment
- Second mortgage
- Other \_\_\_\_\_

Describe the proposed acquisition, construction or reconstruction, purchase of equipment and other project items. Explain the reason for the project and the benefits for the applicant. Explain how the project will be used. (Attach an additional page if necessary.)

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Project Address: \_\_\_\_\_  
\_\_\_\_\_

Municipalities and school district: \_\_\_\_\_  
Tax map number: \_\_\_\_\_ Current assessed value: \_\_\_\_\_  
Present record owner of the site: \_\_\_\_\_  
Proposed record owner of the site: \_\_\_\_\_  
Site zoning: Current \_\_\_\_\_ Proposed \_\_\_\_\_  
Necessary variances: \_\_\_\_\_  
\_\_\_\_\_

Principal use of project upon completion: \_\_\_\_\_  
Size of building/addition: \_\_\_\_\_  
Type of building: \_\_\_\_\_  
If project site is not presently owned, is it under purchase contract/option? \_\_\_\_\_  
Explain: \_\_\_\_\_

Will the project be subleased? \_\_\_\_\_ If so, please attach a copy of such sublease, if available.

Please explain, including relationship of sublessee to applicant:

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Is there likelihood that the project would not be undertaken but for the financial assistance provided by the Agency? **YES** or NO



If "No" and project could be undertaken without financial assistance provided by the Agency include a statement indicating why the project should be undertaken by the Agency  
N/A

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Will the project result in the removal of a plant or facility of the applicant's or another proposed occupant of the project from one area of New York to another area of the state? No

Will the project result in the abandonment of one or more plants or facilities of the applicant or other occupant of the project located in New York State? No

If the answer to either of the proceeding two questions was "yes", please answer the following two questions:

1. Has the applicant or another proposed occupant of the project considered removing such other plant or facility to a location outside of New York State?

If yes, please explain in detail:

N/A

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2. Is the project reasonably necessary to preserve the competitive position of the applicant or another proposed occupant of the project in its respective industry? N/A

If yes, please explain in detail:

N/A

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Does the project include facilities or property which will be primarily used in making the following sales to customers who personally visit such facilities: (i) sales of personal property which are subject to sales tax or (ii) sales of services? No

If the answer is "yes", is the cost of the facilities or property more than one-third (1/3) of the total project cost? N/A

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If the answer to both questions was "yes", please answer the following two questions:

1. Is the project a "tourism destination" which is likely to attract a significant number of visitors from outside the region? N/A

If yes, please explain in detail:

N/A

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2. Is the predominate purpose of the project to make available goods or services which would not otherwise be reasonably accessible to residents of the municipality in which the project is located? N/A

If yes, please explain in detail:

N/A

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## Employment Information

Estimate the number of jobs to be created by this project, and the annual payroll, over the next three years.

	Jobs	Annual Payroll
A.) Current in County:	_____	\$ _____
Project: Year 1 in County	_____	\$ _____
Year 2 in County	_____	\$ _____
Year 3 in County	_____	\$ _____

B.) Projected Employment : Applicant or principal user(s) must complete Appendix A: (attached)

## Project Costs and Financing and Estimated Exemptions Sought

**A. Estimate the costs necessary for the construction. Acquisition, rehabilitation, improvement and/or equipping of the project by the applicant:**

### Estimated Costs Eligible for Sales Tax Exemption Benefits

Building Construction or Renovation	\$ _____
Site-work	\$ _____
Non-manufacturing equipment	\$ _____
Furniture, Fixtures	\$ _____
Other: (Specify) _____	\$ _____
<b>Subtotal:</b>	<b>\$ _____</b>

### Estimated Costs Not Subject to Sales Tax

Land and/or building purchase	\$ _____
Manufacturing Equipment	\$ _____
<b>Soft costs:</b>	
Engineering	\$ _____
Architect	\$ _____
Fees/permits	\$ _____
Other : Specify _____	\$ _____
<b>TOTAL PROJECT COST</b>	<b>\$ _____</b>

\* Total Cost does not include WCIDA Administrative and/or Legal Fees.

### B. Indicate how the project will be financed

Bank Financing (Name of Bank) _____	\$ _____
Equity	\$ _____
Public Financing	\$ _____
Tax Exempt Bond	\$ _____
<b>TOTAL SOURCES</b>	<b>\$ _____</b>

Expected mortgage, if any, necessary to finance this project: \$ \_\_\_\_\_



**C. Estimated Value of Exemptions Sought**

Sales and Use Tax	\$ 1,227,200
Real Property Tax (to be provided by the Agency)	\$ 10,261,000
Mortgage Tax	\$ 163,875

**REPRESENTATIONS BY THE APPLICANT**

The Applicant understands and agrees with the Agency as follows:

**A) Job Listings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the Federal Job Training Partnership Act (Public Law 97-300) (or any successor legislation) in which the project is located.

**B) First Consideration for Employment.** In accordance with Section 858-b(2) of the New York State General Municipal Law, the Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, then except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in Workforce Investment Board (WIB) programs who shall be referred by the WIB entities for new employment opportunities created as a result of the Project.

**C) Annual Sales Tax Filings.** In accordance with Section 874(8) of the New York State General Municipal Law, the applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the financial assistance from the Agency, the Applicant will file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of the sales tax exemptions claimed by the Applicant and all consultants or sub contractors retained by the Applicant. In addition, the Applicant shall be required to report to the Agency, at such times as the Agency may require (or as otherwise prescribed by the Department of Taxation and Finance), the value of all sales tax exemptions claimed by the Applicant and all consultants and subcontractors retained by the Applicant. If the Applicant claims an exemption from sales taxes for property or services not approved by the Agency, or for Project Costs in excess of the costs approved by the Agency, or fails to comply with the terms of any agreements entered into with the Agency, the Applicant will be required to pay the Agency the New York State portion of any sales tax for which an exemption was improperly claimed.

**D) New York State Department of Taxation and Finance Form ST-60.** In accordance with Section 874(9) of the New York General Municipal Law, the Applicant understands that the Applicant and each agent, subagent, contractor and/or sub contractor appointed by the Applicant and claiming a sales tax exemption in connection with the Project must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form St-60 must be delivered to the Agency within five (5) days of the appointment of the Applicant or any such agent, subagent, contractor and/or subcontractor as agent of the Agency for purposes of completing the Project. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project.



**E) Annual Employment Reports.** The Applicant understands and agrees that, if the Project receives any financial assistance from the Agency, the Applicant will file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the Project site, including job categories and average annual salaries with benefits.

**F) Absence of Conflicts of Interest.** The Applicant has received from the Agency a list of the members, officers and employees of the Agency. No members, officers or employee of the Agency has an interest, whether direct or indirect, in any transaction completed by the Applicant, except as hereinafter described:

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**G) State Environmental Quality Review Act Compliance.** The Agency, in granting financial assistance to the Applicant, is required to comply with the New York State Environmental Quality Review Act ("SEQR") and must complete necessary determinations required thereunder. Consequently, the Applicant has completed and attached hereto appropriate Environmental Assessment Forms, with respect to the Project. The Applicant understands that, at its sole expense, it is required to take all necessary action in order for the Agency to comply with the requirements of SEQR, and including through a lead agency other than the Agency in the case of a coordinated review.

**The Applicant and, if applicable, the individual executing this Application on behalf of the Applicant, acknowledges that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading. The Applicant acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or any part of any tax exemptions claimed by reason of involvement of the Agency in the Project.**

**The Applicant certifies that the Applicant and any proposed occupant of the Project or other party receiving financial assistance in connection with the Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental law, rules and regulations.**

**This Application is subscribed and affirmed by the Applicant under penalties of perjury.**

\_\_\_\_\_  
By: Michael D Beckner  
(Applicant) Name: Michael D Beckner  
Title: Vice President

This application should be submitted to the Wyoming County Industrial Development Agency, 36 Center Street, Suite D, Warsaw, New York 14569.

NOTE: PLEASE DO NOT SIGN THE FOLLOWING CERTIFICATION UNTIL THE WCIDA STAFF HAS VERIFIED THAT THE APPLICATION IS COMPLETE.

**Certification**

Michael D. Beckner (*name of representative of entity submitting application, or name of individual submitting application*) deposes and says that she/he (*choose and complete one of the following two options*) (i) is a/the Vice President (*title*) of SED NY Holdings LLC (*company name*), the entity named in the attached application, or (ii) is the individual named in the attached application; that she/he has read the foregoing application and knows the contents thereof; and that the same is true to his/her knowledge.

Deponent further says that s/he is duly authorized to make this certification on behalf of her/himself or on behalf of the entity named in the attached application. The grounds of deponent's belief relative to all matters in said application which are not stated upon his/her own personal knowledge are investigations which deponent has caused to be made concerning the subject matter of this application as well as, if deponent is not an individual applicant, information acquired by deponent in the course of his/her duties in connection with said entity and from the books and papers of said entity.

As (i) the representative of said entity, or (ii) the individual applicant (such entity or individual applicant hereinafter referred to as the "Applicant"), deponent acknowledges and agrees that the Applicant shall be and is responsible for all costs incurred by the Wyoming County

Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the Applicant in connection with this application and all matters relating to the provision of financial assistance to which this application relates. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper or requested action or withdraws, abandons, cancels or neglects the application, then upon presentation of an invoice, the Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application up to that date and time, including fees to transaction counsel for the Agency and fees of general counsel for the Agency. Upon the successful conclusion of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in affect of the date of the foregoing application, which amount is payable at closing.

Name: Michael D. Beckner

Title: Vice President

Sworn to before me this 24 day of March, 2021. [Signature]

(seal)

My Commission Expires  
July 31, 2024



**Wyoming County**  
**Industrial Development Agency**  
**Environmental Assessment Form**

Internet link address:

This form is immediately available as either a printable version via the Internet or filled out entirely online via the Internet.

**PRINTABLE VERSION**

To download a PDF (Portable Document Format) to your computer go to:

**New York State Website:** <http://www.dec.ny.gov/permits/6191.html>

Be certain to select the **Full Environmental Assessment Form** and download to your computer.

**ONLINE VERSION**

To fill out this form online:

- Go to the New York State website
- <http://www.dec.ny.gov/permits/6191.html>  
Be certain to select the **Full Environmental Assessment Form** and download to your computer
- Read and follow the instructions on how to fill out this form online
- **NOTE:** This form contains many questions. Even though many are comprised of simple check boxes, be advised that this form may take an hour or more to complete online.

Please complete and sign the State form and submit it, along with your finished application to the Wyoming County IDA office.

	Full Time	Part Time	Total	Total Payroll
<b>CURRENT EMPLOYMENT</b>				
Number of employees within Wyoming County at the date of application	0	+ 0	= 0	\$ 0
<b>PROPOSED EMPLOYMENT</b>				
ADD: Number of jobs created within Wyoming County during first year after completion	1	+ 0	= 1	
<b>Total end of First Year</b>	1	+ 0	= 1	\$ 76,000
ADD: Number of jobs created within Wyoming County during second year after completion	1	+ 0	= 1	
<b>Total end of Second Year</b>	1	+ 0	= 1	\$ 76,000
ADD: Number of jobs created within Wyoming County during third year after completion	1	+ 0	= 1	
<b>Total end of Third Year</b>	1	+ 0	= 1	\$ 76,000

**Current Job Categories: Positions within Wyoming County at the date of application**

# Management jobs <u>0</u>	Average annual salary Including benefits	\$ <u>0</u>
# Non- management jobs <u>0</u>	Average annual salary Including benefits	\$ <u>0</u>
# Other category <u>0</u>	Average annual salary Including benefits	\$ <u>0</u>

**Job Categories to be Created: Positions created after Agency involvement**

# Management jobs <u>0</u>	Estimated Average annual salary Including benefits	\$ <u>0</u>
# Non- management jobs <u>1</u>	Estimated Average annual salary Including benefits	\$ <u>76,000</u>
# Other category <u>      </u>	Estimated Average annual salary Including benefits	\$ <u>      </u>

Expected High Salary of NEW jobs created: 76,000  
 Expected Low Salary of NEW jobs created: 70,000

Please indicate the expected percentage of positions to be filled by residents within a 50 mile radius of your project location: 100 %

Applicant or Principal user(s)

Print Name: Michael D Beckner

Michael D. Beckner  
Signature

3-23-26  
Date



**SCHEDULE "A"**

**WCIDA**

**Uniform Tax Exemption Policy**

**"UTEP"**

## UNIFORM TAX EXEMPTION POLICY

The purpose of the Wyoming County Industrial Development Agency (The "Agency") is to promote economic development, prevent economic deterioration, and advance job opportunities and the general prosperity and economic welfare of the people of Wyoming County through the creation or retention of jobs and the expansion and diversification of the County's tax base.

It is the policy of the Agency to grant exemptions from sales taxes, mortgage recording taxes and provide real property tax abatement for qualified projects which create or retain private sector jobs and provide economic benefits. The Agency may also consider other factors as appropriate in fulfilling its purposes under the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the New York General Municipal Law, as the same may be amended from time to time (the "Act").

For projects reviewed and approved by the Agency's Board of Directors the following tax exemptions will apply.

1. Sales and Use Tax Exemptions.

a.) The Agency's policy is to permit project applicants, as agents of the Agency, full exemption from sales and use taxes on the construction and equipping of a project to the full extent permitted by New York State Law.

b.) All project applicants must agree in writing to file with the NYS Department of Taxation an annual statement of the value of all sales and use tax exemptions claimed in connection with the project in full compliance with Section 874 (8) of the New York General Municipal Law, in the form and at the times required, and to comply with such other reporting requirements as may be imposed under the Act or by policies of the Agency adopted from time to time.

c.) Sales and use tax exemptions are not available for Small Alternate Energy Facility Projects.

2. Mortgage Recording Tax Exemptions.

a.) The Agency's policy is to permit full exemption from mortgage recording tax on all project related financings to the full extent permitted by New York State Law.

b.) The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financing, (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.

c.) Mortgage recording tax exemptions are not available for Small Alternate Energy Facility Projects.

3. Real Property Tax Abatements.

a.) 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, renovations or other improvements which constitute a part of the project, and the existing parcel involved; provided, however, in no event will the involvement by the Agency result in revenue to the affected tax jurisdictions in any tax year, to be less than the revenues received with respect to the tax parcel which is subject to the abatement in the tax year preceding involvement by the Agency.

b.) The standard period of abatement will be ten (10) years for qualified projects and fifteen (15) years for qualified projects that are also Adaptive Re-Use Projects, Tourism Destination Projects, Small Alternate Energy Facility Projects and Commercial Wind Energy or Energy Storage Projects.

c.) The abatement will be applicable to County, Municipal and School taxes for the period of abatement. Special district taxes and user fees are not abated. Unless a deviation is approved in accordance with Section 5 of this Policy, a payment-in-lieu of tax (PILOT) agreement entered into with respect to a qualified project shall provide for payments in accordance with the standard schedules set forth below.

Payment-In-Lieu-Of-Tax (PILOT) Policy

In an effort to be competitive with other areas for business investments that create/retain jobs and provide tax revenues, the Agency has adopted the following PILOT schedules.

The Schedule of Abatement for Qualified Projects not included in any category set forth below:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1-5	100 %
6	80 %
7	60 %
8	40 %
9	20 %
10	10 %
11 and thereafter	0 % (Full Taxes Paid)

The Schedule of Abatement for Adaptive Reuse Projects:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 5	100%



6 - 10	50%
11 - 15	25%
16 and thereafter	0% (Full Taxes Paid)

The Schedule of Abatement for qualified Tourism Destination Projects:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 5	100%
6 - 10	75%
11 -15	50%
16 and thereafter	0% (Full Taxes Paid)

The Schedule of Abatement for Small Alternate Energy Facility Projects:

<u>Year</u>	<u>Real Property Tax Exemption</u>
1 - 15	100%
16 and thereafter	0% (Full Taxes Paid)

The Schedule for Commercial Wind Energy or Energy Storage Projects:

The Agency has determined that its regular PILOT schedule is unsuitable for wind energy projects through research of other wind projects in New York State. Therefore, the Agency has added the following provisions to its Uniform Tax Exemption Policy.

- a.) The payment-in-lieu-of-tax amount will be negotiated on a project-by-project basis. The payment will be based on the production capacity of the wind turbines as measured in megawatts and then be calculated as dollars per megawatt.
- b.) When determining the PILOT amount per megawatt, the Agency will consider any payments made through host community agreements or any other methods in which payments are made to taxing jurisdictions. However, the PILOT payment should be at least 20% of any monies paid to local governments in order assure an equitable distribution to all affected taxing jurisdictions.
- c.) The Agency will not become involved in a wind power project if a Town Board chooses to exercise its right to negotiate a PILOT agreement under Section 487 of NYS Real Property Tax Law or any other means provided by NYS Law.
- d.) The Agency will not take any action to promote or discourage any wind energy project. The IDA believes that developers of such projects must obtain the support of residents and the local governing body prior to PILOT approval.



#### 4. Definitions

“Qualified projects” include projects which are eligible for financial assistance (as defined in Section 854 (14) of the New York General Municipal) in accordance with the Act, and shall include industrial projects (i.e. manufacturing, re-manufacturing, assembly, processing, product research and development, etc.) and non-industrial projects (i.e. warehouse, wholesale/distribution, qualified retail, office, hotel, housing, etc.)

“Adaptive Re-Use Projects” are qualified projects that involve adapting old sites or structures for new purposes, including potentially a mix of business, commercial and qualified retail uses, or market-rate housing. Adaptive Re-Use Projects are those that will benefit Wyoming County by redeveloping a blighted site or structure, promoting development using existing infrastructure, and creating new economic activity at troubled sites or structures to assist in eliminating neighborhood blight. In contemplating whether a qualified project is an Adaptive Re-Use Project, the Agency may consider such things as: (i) the age of the building or structure and the challenges involved with its redevelopment, (ii) the time period during which the structure has been vacant, (iii) whether the site or structure presents a public safety hazard in its existing state, (iv) whether redevelopment of the site or structure would involve significant environmental remediation costs, including brownfield sites and (v) the proximity of the site or structure to a distressed census tract or an area of extensive redevelopment.

“Tourism Destination Projects” are qualified projects in Wyoming County that are likely to attract a significant number of visitors from outside the economic development region, as established by Section 230 of the New York Economic Development Law, in which the project is located. In addition, for the purposes of this Policy, qualified projects which do not constitute Tourism Destination Projects but which are significantly linked to, or provide support for, a Tourism Destination Project, shall be eligible for the Tourism Destination abatement schedule.

“Small Alternate Energy Facility Projects” are qualified projects in Wyoming County that involve the construction and operation of a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and a farm waste energy system), and (2) that is installed or to be installed in a residence, a farm or small business located within Wyoming County.

“Commercial Wind Energy or Energy Storage Projects” are qualified projects in Wyoming County that involve the construction and operation of a facility that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including commercial wind energy equipment, commercial wind energy systems or commercial wind energy storage systems) and is installed within Wyoming County.

The Agency will have the right, in its sole discretion and in accordance with applicable provisions of the New York State General Municipal Law, to determine whether a project is a qualified project and, if so, whether it is also a Tourism Destination Project, an Adaptive Re-Use Project, a Small Alternate Energy Facility Project or a Commercial Wind Energy or Energy Storage Project.



Any deviations from the Agency's standard policy will be made only with the specific approval of the Agency's members based on the factors listed in section 5, and those, if any, described in the New York State General Municipal Law Section 874. Additionally, the Agency will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefor.

The Agency will use existing tax data, or building values as established by the assessor of the municipal jurisdiction within which the project is located, or by the Agency, as the basis to negotiate the payment in lieu of tax agreement. Therefore, appraisals will not normally be required.

## **5. Deviations.**

a.) In addition to or in lieu of the foregoing the Agency may determine, on a case-by-case basis, to deviate from the guidelines described above or provide enhanced benefits for a project expected, in the Agency's judgment, to have significant impact in the locality where the project will be located. Any deviations from the guidelines set forth above requires the written notification by the Agency to the chief executive officer of each affected tax jurisdiction and their input will be sought in advance of adoption of any deviation, and any sales tax exemption policy deviation will be noted in a required Public Hearing.

b.) In determining whether a project is expected to have a significant impact in the locality where the project is located, the Agency may consider any or all of the following factors in making such determination, no single one of which is determinative:

- 1) The nature of the proposed project (e.g. manufacturing, commercial, etc.).
- 2) The nature of the property before the project begins (e.g. vacant land, vacant building, Brownfield site, etc.).
- 3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.
- 4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained and/or the salary ranges of such jobs.
- 5) The estimated value of tax exemptions to be provided.
- 6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- 7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.

- 8) The amount of private sector investment generated or likely to be generated by the proposed project.
- 9) The likelihood of accomplishing the proposed project in a timely fashion.
- 10) The effect of the proposed project upon the environment and surrounding property.
- 11) The extent to which the proposed project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services.
- 12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- 13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.

**6. Recapture of Benefits.**

a.) The Agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and to require the recapture by the Agency of the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement, or to modify the terms of the Project Agreement or "PILOT". Events that the Agency may determine will trigger recapture may include, but are not limited to:

- 1) Sale or closure of facility within the time period the applicant receives Agency benefits;
- 2) Material shortfalls in the stated job creation or retention;
- 3) Significant change in use in facility;
- 4) Significant change in business activities of project applicant or operator; or
- 5) Material noncompliance with the Project Agreement or breach of terms of Agency transaction documents, or of zoning or land use laws or regulations, or federal, state or local environmental laws or regulations.
- 6) Circumstances in which the benefits were received based on fraud or intentional misrepresentations as to material facts regarding the project.

b.) If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

c) Any recapture pursuant to this Section 6 shall be in addition to any recapture required pursuant to the Act or other statutory provisions, including Section 875 of the General Municipal Law.

**7. Effective Date.**

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted or adopts an Inducement Resolution on or after November 12, 2015.

**8. Amendments.**

The Agency, by resolution of its members, and upon notice to all affected tax 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.