HAMBURG INDUSTRIAL DEVELOPMENT AGENCY (HIDA)
POLICY FOR RECAPTURE AND/OR TERMINATION AND/OR MODIFICATION OF FINANCIAL ASSISTANCE

Adopted: June 14, 2016, re-adopted as written February 27, 2020, re-adopted as written June 16, 2021, re-adopted as written April 20, 2022, re-adopted as amended June 21, 2023, re-adopted as written May 8, 2024, re-adopted as written April 9, 2025, re-adopted as written April 8, 2026

Purpose:
To establish and provide a fair procedure compliant with Sections 874 and 875 of the New York State General Municipal Law and Hamburg IDA (HIDA) policies establishing a policy for recapture and/or termination and/or modification of all or a portion of Agency Financial Assistance.

Annual Review:
The HIDA staff will review annual reports it receives from companies to determine compliance with the Material Factors or other Significant Factors set forth in the Inducement Resolution. If HIDA staff determines that a company appears to be in violation of a Material or Significant Factor, the project will be considered non-compliant and enter full review by the Executive Committee.

Non-Compliance Process:

1. The HIDA shall notify the company in writing that in the Agency's determination they are or have violated a Material or Significant Factor. The notification will include the Factor(s) violated and seek an explanation from the company that may include economic or natural factors that led to the default. These factors should be discussed and predetermined to the extent possible by the Board and may include items such as, natural disaster, industry dynamics, unfair competition or economic events that were outside the control of the company.
2. The company shall be given an opportunity to remedy the violation and will have thirty (30) days to provide a written response or seek an extension of such response.
3. Upon receipt of the company's response, HIDA staff will review with the Executive Committee. The company shall be provided the opportunity to present before the Executive Committee, any information in the written response outlined above regarding why the Factor was not achieved. The Executive Committee will have the option of entering into Executive Session should material evidence be deemed proprietary.
4. Upon hearing the company's position, the Executive Committee will make a recommendation for proposed action and forward the matter to the full HIDA Board of Directors. A written record will occur clearly stating the reason to, or not to, recapture and/or modify and/or reduce financial assistance.

5. Notwithstanding the foregoing, the HIDA Board of Directors, acting through its staff, retains the right to terminate Agency benefits for other significant factors. Cause for such termination of Agency benefits include, but are not limited to, failure to make PILOT payments, failure to make reports to the HIDA as detailed in transaction documents, failure to maintain insurance requirements, or other uncured breaches of HIDA transaction documents.

Compliance Period:

For projects that involve a PILOT, unless otherwise noted in the project's inducement resolution, each Material Factor will need to be maintained for the time period that a PILOT agreement is in effect. By way of illustration, if a project involves new construction, new equipment and the creation and retention of employment, once construction is complete, and the company has met its employment targets, it must maintain those Material Factors for the duration of the PILOT agreement.

For projects that do not involve a PILOT, unless otherwise note in the project's inducement resolution, each Material Factor will need to be maintained for three calendar years after employment goals are met. By way of illustration, projects where employment is a Material Factor are typically afforded two (2) years after project completion to hire new employees. The applicant would then have to maintain that employment for an additional three (3) years to maintain compliant with this policy.

Distribution of Recaptured Financial Assistance:

Any and all such returned/recaptured amounts of Agency Financial Assistance shall be redistributed to the appropriate tax jurisdiction unless agreed to otherwise by a local taxing jurisdiction.

STATE REQUIRED CRITERIA	MATERIAL TERMS	SIGNIFICANT FACTORS **List may vary based on project**
- Extent to which a project will create or retain permanent jobs - Estimated value of tax exemptions - Amount of private sector investment - Likelihood of project being accomplished in a timely fashion - Extent of new revenue provided to local taxing jurisdictions - Any other misc. public benefits	1. Create or Retain Jobs (If applicable) [i] 2. Private Sector Investment[ii] 3. Local Labor Construction	1. Exceeding Sales Tax Exemption 2. Failure to maintain Insurance requirements 3. Failure to make PILOT payments 4. Failure to submit reports – Annual Reporting, State Reporting, Etc.

[i] Employment Commitment – that there were to be at least a certain stated number of FTE employees located at, or to be located at the Facility as stated in the Company's application for Financial Assistance (the "Baseline FTE") with an additional stated number of FTE to be created by the Company and the Company fails to maintain employment at 85% of the total of the Baseline FTE and new FTE. The Company shall have the right to establish that the failure to comply with the Employment Commitment was due to circumstances beyond their control.

[ii] Investment Commitment, the total investment actually made with respect to the Project at the Project Completion Date must equal 85% of the project cost as set forth in the application for Financial Assistance. The Company shall have the right to establish that it did not meet the requirements due to cost savings achieved by the Company and that the benefits that the Company has received have been reduced proportionately in accordance with the reduction in investment.