MEMORANDUM
February 14, 2017

TO: NYS Legislators

FROM: Brian McMahon, Executive Director

RE: Economic development priority #4: Improving the 2 Percent Real Property Tax Cap

The New York State Economic Development Council (NYSEDC) requests your support for including in the State Budget provisions that would require assessed property under an IDA PILOT agreement to be made part of the calculation for determining a taxing jurisdiction’s tax levy, for purposes of the two percent real property tax cap.

The intent of the tax cap is to allow the tax levy to increase when the value of assessed property due to economic growth increases. However, new growth that is subject to an IDA PILOT agreement is excluded from the calculation for determining a jurisdiction’s Tax Base Growth Factor. Consequently, communities that are successful in attracting new economic growth through incentives provided by an IDA are penalized, thereby preventing taxing jurisdictions – especially school districts – from adding this growth into the calculation for determining the tax levy limit.

The impact to local taxing jurisdictions in a typical IDA transaction is considerable. Using a PILOT agreement that mirrors a 485-B exemption in the real property tax law for a $10 million project, the impact over 10 years can be more than $2 million. Recognizing that the average IDA project investment is $18 million and there are approximately 4,600 active IDA projects, the overall impact of this exclusion to taxing jurisdictions is significant.

Legislation has been introduced by Senator O’Mara and Assembly Majority Leader Morelle to resolve this.

Also, two years ago, the legislature included in the final state budget agreement a requirement for the Department of Taxation and Finance to, “...as appropriate, promulgate rules and regulations regarding the calculation of the quantity change factor which may adjust the calculation based on the development on tax-exempt land.” To date, no action has been taken.

Importantly, property subject to a 485-B exemption is not excluded from the tax cap calculation.

For all of these reasons, NYSEDC recommends amending the 2 percent RPT cap to require property subject to a PILOT to be included in the Tax Base Growth Factor, as contained in the O’Mara/Morelle legislation.