



RECOVERY ZONE FACILITY BOND ALLOCATION

WAIVER FORM

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, added Sections 1400U-1 and 1400U-3 of the Internal Revenue Code of 1986 (the “Code”), authorizing counties and large municipalities to issue recovery zone facility bonds (“RZFBs”). Section 1400U-1(a) of the Code provides that the Secretary of the Treasury shall allocate the national recovery bond limitation among counties and large municipalities pursuant to specific guidelines. Code Section 1400U-1(a)(3)(A) provides in part that a county or large municipality may waive any portion of its limitation.

The Secretary of the Treasury allocated such limitation (an “Allocation”) among counties and large municipalities and set forth substantive guidance on recovery zone bonds in Notice 2009-50 (the “Notice”).

Alternative 1 (to be used in a full waiver situation) [Pursuant to the Notice, [Name of County/City/Town] received an Allocation in the amount of [\$] for RZFBs. As of the date hereof, the [Name of County/City/Town] has not issued RZFBs using such Allocation or otherwise transferred such Allocation to another party authorized to issue such bonds.]

Alternative 2 (to be used in a partial waiver situation) [Pursuant to the Notice, [Name of County/City/Town] received an Allocation in the amount of [\$] for RZFBs. As of the date hereof, the [Name of County/City/Town] has not issued RZFBs in an amount in excess of [\$] using such Allocation or otherwise transferred the remaining portion of such Allocation to another party authorized to issue such bonds.]

As the Authorized Representative of the [Name of County/City/Town], I hereby represent to the Urban Development Corporation (dba Empire State Development Corporation), which is the duly authorized New York State government entity responsible for recovery zone bond reallocations, that the [Name of County/City/Town] will be unable to use all or a portion of its designated Allocation as set forth below.

Pursuant to Code Section 1400U-1(a)(3)(A) and Section 4.05 of the Notice, the [Name of County/City/Town] HEREBY EXPRESSLY, IRREVOCABLY AND AFFIRMATIVELY WAIVES its right to use its Allocation in the amount of \$_____ with respect to RZFBs. In connection with this waiver, the [Name of County/City/Town] acknowledges that ESDC will reallocate such RZFB Allocation to another eligible issuer within the State as it shall determine in its discretion.

Signature of Authorized Government Official for RZFB Allocation Recipient:

Date:

Print: Name _____ Title _____

Contact information: phone (____) _____ email _____

New York State Department of Economic Development

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