

**UNIFORM TAX EXEMPTION POLICY AMENDMENTS  
APPROVING RESOLUTION**

A regular meeting of the Albany County Industrial Development Agency (the “Agency”) was convened in public session in Suite 100 at 111 Washington Avenue in the City of Albany, Albany County, New York on November 19, 2024 at 8:30 o’clock a.m., local time.

The meeting was called to order by the (Vice) Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

Hon. William M. Clay	Chairperson
Michael Paparian	Vice Chairperson
Marlene McTigue	Secretary
Anton Dreslin	Assistant Secretary
William Murphy	Treasurer
Paul Nylin	Member
Hon. Wanda Willingham	Member

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Kevin O’Connor	Chief Executive Officer
Amy Thompson	Chief Financial Officer
Lucas Rogers	Senior Policy Analyst
Christopher C. Canada, Esq.	Agency Counsel
A. Joseph Scott, III, Esq.	Agency Counsel

The following resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_, to wit:

Resolution No. 1124-\_\_\_\_

**RESOLUTION APPROVING CERTAIN AMENDMENTS TO THE UNIFORM  
TAX EXEMPTION POLICY OF ALBANY COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY.**

WHEREAS, Albany County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 178 of the 1975 Laws of New York, as amended, constituting Section 903-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, subsection (4) of Section 874 of the Act, as added by Chapters 356 and 357 of the Laws of 1993 of the State of New York, requires that the Agency establish a uniform tax exemption policy, with input from affected tax jurisdictions, providing for guidelines for the claiming of real property, mortgage recording and sales tax exemptions; and

WHEREAS, after soliciting input from the affected tax jurisdictions within Albany County, New York, the Agency adopted a uniform tax exemption policy, as amended (as so amended, the “Existing UTEP”); and

WHEREAS, members and staff of the Agency conducted a review of the Existing UTEP related to the current needs and expectations of the Agency (the “Review”); and

WHEREAS, as provided in the Agency’s Governance Committee Charter, the members of the Governance Committee reviewed the Existing UTEP and made certain recommendations to the full board of the Agency regarding amending the Existing UTEP; and

WHEREAS, in connection with the Review and the Governance Committee’s recommendation, the Agency desired to consider making certain revisions to its Existing UTEP (the “Proposed Amendments”); and

WHEREAS, a description of the Proposed Amendments is attached hereto as Exhibit A; and

WHEREAS, by resolution adopted by the members of the Agency on June 5, 2024 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 874(4) of the Act with respect to the Proposed Amendments; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 874(4) of the Act (the “Public Hearing”) to hear all persons interested in the Proposed Amendments being contemplated by the Agency with respect to the Existing UTEP, to be posted on July 17, 2024 on a bulletin board located at the Town of New Scotland Town Hall located at 2029 New Scotland Road in the Town of New Scotland, Albany County, New York and on July 12, 2024 on the Agency’s website, (B) caused notice of the Public Hearing to be published on July 12, 2024 in the Times Union, a newspaper of general circulation available to the residents of the Albany County, New York, (C) conducted the Public Hearing on July 24, 2024 at 5:30 o’clock p.m., local time at the Town of New Scotland Town Hall located at 2029 New Scotland Road in the Town of New Scotland, Albany County, New York, and (D) prepared a report of the Public Hearing (the “Report”) which fairly summarized the views presented at said public hearing and distributed same to the members of the Agency; and

WHEREAS, the Agency made certain revisions to the Proposed Amendments based on comments received at the Public Hearing and in writing subsequent to the Public Hearing; and

WHEREAS, the members of the Agency desire to approve the Proposed Amendments to the Existing UTEP, as revised following the Public Hearing and as more particularly described on Exhibit A attached hereto (the Existing UTEP, as amended, the “Amended UTEP”);

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY, AS FOLLOWS:

Section 1. The Agency makes the following findings and determinations with respect to the Amended UTEP:

(A) The adoption by the Agency of the Amended UTEP constitutes continuing agency administration and management (not new programs or a major reordering of priorities), and is therefore a “Type II action” under Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”), and the regulations adopted pursuant thereto by the Department of Environment Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations”) (the SEQR Act and the Regulations being collectively referred to as “SEQRA”) and, according, no further action by the Agency under SEQRA is required;

(B) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(C) The Agency has reviewed a copy of the Amended UTEP. The Agency believes that adoption of the Amended UTEP will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Albany County, New York and the State of New York and improve their standard of living;

(D) It is desirable and in the public interest for the Agency to adopt the Amended UTEP; and

(E) The Agency has taken the steps described below in connection with the adoption of the Amended UTEP:

(i) The Agency has conducted the Public Hearing on ten (10) days notice to the public and the Affected Tax Jurisdictions (as defined in the Act).

(ii) The Agency has reviewed all comments received at the Public Hearing and all written comments received by the Agency from the Affected Tax Jurisdictions regarding the Amended UTEP; and

(iii) The Agency has given all representatives from any Affected Tax Jurisdictions in attendance at this meeting the opportunity to address the members of the Agency regarding the Amended UTEP.

Section 2. The form, terms and substance of the Amended UTEP are hereby approved in all respects.

Section 3. The Agency hereby authorizes the Chairperson, Vice Chairperson and the Chief Executive Officer of the Agency to take all steps necessary to implement the Amended UTEP.

Section 4. All action taken by the Chief Executive Officer of the Agency with respect to the Amended UTEP prior to the date of this resolution is hereby ratified and confirmed.

Section 5. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Hon. William M. Clay	VOTING	_____
Michael Paparian	VOTING	_____
Marlene McTigue	VOTING	_____
Anton Dreslin	VOTING	_____
William Murphy	VOTING	_____
Paul Nylin	VOTING	_____
Hon. Wanda Willingham	VOTING	_____

The foregoing resolution was thereupon declared duly adopted.

[Remainder of the page left blank intentionally]



STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALBANY                 )

I, the undersigned (Assistant) Secretary of Albany County Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on November 19, 2024 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 19<sup>th</sup> day of November, 2024.

---

(Assistant) Secretary

(SEAL)

EXHIBIT A

PROPOSED AMENDMENTS TO THE AGENCY'S  
UNIFORM TAX EXEMPTION POLICY

- SEE ATTACHED –

PART 18

UNIFORM TAX EXEMPTION POLICY

SECTION 1801. PURPOSE AND AUTHORITY. Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the “Act”), Albany County Industrial Development Agency is required to establish a uniform tax exemption policy applicable to the provision of any financial assistance of more than one hundred thousand dollars to any project.

SECTION 1802. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

(A) “Administrative fee” shall mean a charge imposed by the Agency to an applicant or project occupant for the administration of project.

(B) “Affected Tax Jurisdiction” shall have the meaning ascribed to it in Section 854(16) of the Act.

(~~BC~~) “Agency fee” shall mean the normal charges imposed by the Agency on an applicant or a project occupant to compensate the Agency for the Agency’s participation in a project. The term “Agency fee” shall include not only the Agency’s normal Administrative fee, but also may include (1) reimbursement of the Agency’s expenses, (2) rent imposed by the Agency for use of the property of the Agency, and (3) other similar charges imposed by the Agency.

(~~ED~~) “Applicant” shall mean an applicant for financial assistance.

(~~DE~~) “City” shall mean any city located in the County.

(~~EE~~) “County” shall mean the County of Albany.

(~~EG~~) “PILOT” or “Payment in Lieu of Tax” shall mean any payment made to the Agency or an affected tax jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an affected tax jurisdiction with respect to a project but for tax exemption obtained by reason of the involvement of the Agency in such project, but such term shall not include Agency fees.

(~~EH~~) “School District” shall mean any school district located in the County.

(~~HI~~) “Tax exemption” shall mean any financial assistance granted to a project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency.

(~~II~~) “Town” shall mean any town located in the County.

(~~JK~~) “Village” shall mean any village located in the County.

SECTION 1803. GENERAL PROVISIONS. (A) General Policy. The general policy of the Agency is to grant tax exemption as hereinafter set forth to any project which has been or will be (1) financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto or (2) otherwise assisted by the Agency pursuant to a straight lease transaction (as defined under Section 854(15) of the Act).

(B) Exceptions. The Agency intends to follow the general policy enunciated under subsection (A) of this Section absent special circumstances. The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider factors which make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to project; (2) whether the ~~affected-tax-jurisdictions~~Affected Tax Jurisdictions will be reimbursed by the project occupant if the project does not fulfill the purposes for which tax exemption was granted; (3) the impact of the project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by the project; (5) demonstrated public support for the project; (6) the estimated value of the tax exemptions requested; and (7) the extent to which the proposed project will provide needed services and/or revenues to the ~~affected-tax-jurisdictions~~Affected Tax Jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

(C) Application. No request for a tax exemption shall be considered by the Agency unless an application and environmental assessment form are filed with the Agency on the forms prescribed by the Agency pursuant to the rules and regulations of the Agency. Such application shall contain the information requested by the Agency, including a description of the proposed project and of each tax exemption sought with respect to the project, the estimated value of each tax exemption sought with respect to the project, the proposed financial assistance being sought with respect to the project, the estimated date of completion of the project, an analysis of the costs and benefits of the project, and whether such financial assistance is consistent with this part.

SECTION 1804. SALES AND USE TAX EXEMPTION. (A) General. State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales taxes applicable only to the initial acquisition, construction, reconstruction and/or equipping of each project with respect to which the Agency grants financial assistance. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of a project from sales and/or use taxes applicable to the initial acquisition, construction, reconstruction and/or equipping of such project, except (1) as described in subsection (E) below or (2) in the circumstance where (a) a project is offered sales tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (b) such event does not occur, in which case the Agency may require that the applicant make payments in lieu of sales tax to the New York State Department of Taxation and Finance.

(B) Period of Exemption. Except as set forth in subsection (A) above, the period of time for which a sales tax exemption shall be effective (the "tax exemption period") shall be determined as follows:

(1) General. Unless otherwise determined by the Agency, the tax exemption for sales and use taxes shall be for the tax exemption period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to the project and ending on the date of completion of the project.

[65012650v5.012014.00006](#)

(2) Early Commencement. The tax exemption period may, at the discretion of the Agency, commence earlier than (i) the date of issuance by the Agency of the Agency's debt relating to the project or (ii) the execution and delivery of the straight lease transaction, provided that (a) the Agency has complied with the requirements of Section 859-a of the Act, (b) the Agency thereafter adopts a resolution determining to commence such period earlier, said resolution to be substantially in the form of Appendix 18A attached hereto, (c) the applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (d) the Chairman of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.

(3) Normal Termination. The tax exemption period will normally end upon the completion of the project. On construction projects, the parties shall agree on the estimated date of completion of the project, and the 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 such project. On non-construction project, the parties shall agree on the estimated date of completion of the project, and the 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 date of 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.

(4) 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.

(C) Items Exempted. The sales and use tax exemption granted by the Agency shall normally extend only to the following items acquired during the tax exemption period described in subsection (B) above:

- (1) items incorporated into the real property;
- (2) tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased as agent of the Agency;
- (3) the rental of tools and other items necessary for the construction, reconstruction and/or equipping of the project, if rented as agent of the Agency; and
- (4) office supplies, fuel and similar items consumed in the process of acquiring, constructing, reconstructing and/or equipping the project, if purchased as agent of the Agency.

(D) Items Not Exempted. A sales and use tax exemption shall not be granted for the following:

- (1) purchases occurring beyond the tax exemption period described in subsection (B) above;
- (2) 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



(3) operating 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.

(E) Percentage of Exemption. Unless otherwise determined by resolution of the Agency, the sales and use tax exemption shall be equal to one hundred percent (100%) of the sales and/or use taxes that would have been levied if the project were not exempt by reason of the Agency's involvement in the project. If an exemption of less than one hundred percent (100%) is determined by the Agency, then the applicant shall be required to pay a PILOT to the Agency equal to the applicable percentage of sales and/or use tax liability not being abated. The Agency shall remit such PILOT within thirty (30) days of receipt by the Agency to the ~~affected tax jurisdictions~~ Affected Tax Jurisdictions in accordance with Section 874(3) of the Act.

(F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Such confirmation letter shall be in the form of either Appendix 18B (where the exemption is permanent, because the Agency is satisfied that any conditions precedent to such tax exemption, such as the issuance of bonds by the Agency, have been satisfied) or Appendix 18C (where such exemption is tentative, because there remain conditions precedent to such tax exemption which have not been satisfied). Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

(G) Required Filings. (1) 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 tax exemption. For example, TSB-M-87(7) outlines the materials that must be filed to establish entitlement to sales tax exemption as "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 tax exemptions authorized by the Agency.

(2) Pursuant to Section 874(9) of the Act, the Agency is required to file within thirty (30) days of the date that the Agency designates an applicant to act as agent of the Agency a New York State Department of Taxation and Finance form ST-60. The form identifies the agent of the Agency, provides a brief description of the project and an estimate of the value of the sales tax exemption and certain other information. The project documents shall require the applicant to assist the Agency in completing the form.

(H) Required Reports and Records. Pursuant to Section 874(8), 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.

SECTION 1805. MORTGAGE RECORDING TAX EXEMPTION. (A) General. State law provides that mortgages recorded by the Agency are exempt from mortgage recording taxes imposed pursuant to Article 11 of the Tax Law. The Agency has a general policy of abating mortgage recording taxes for the initial financing obtained from the Agency with respect to each project with respect to which the Agency issues debt which will be secured by a mortgage upon real property. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing

[65012650v5 012014.000006](#)

of the Agency immediately upon the completion of the project, the Agency's general policy is to abate the mortgage recording tax on both the construction financing and the permanent financing.

(B) Refinancing. In the event that the Agency retains title to a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt issued by the Agency for the purpose of refinancing prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to the same have been paid.

(C) Non-Agency Projects. In the event that the Agency does not hold title to a project, it is the policy of the Agency not to join in a mortgage relating to that project and not to abate any mortgage recording taxes relating to that project.

(D) Non-Agency Financings. Occasionally, a situation will arise where the Agency holds title to a project, the project occupant needs to borrow money for its own purposes (working capital, for example), and the lender will not make the loan to the project occupant without obtaining a fee mortgage as security. In such instances, the policy of the Agency is to consent to the granting of such mortgage and to join in such mortgage, so long as the following conditions are met:

(1) the documents relating to such proposed mortgage make it clear that the Agency is not liable on the debt, and that any liability of the Agency on the mortgage is limited to the Agency's interest in the project;

(2) the granting of the mortgage is permitted under any existing documents relating to the project, and any necessary consents relating thereto have been obtained by the project occupant; and

(3) the payment of the Agency fee relating to the same.

(E) Exemption Affidavit. The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto. A sample exemption affidavit is attached as Appendix 18D.

(F) PILOT Payments. If the Agency is a party to a mortgage that is not to be granted a mortgage recording tax exemption by the Agency (a "non-exempt mortgage"), then the applicant and/or project occupant or other person recording same shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a party to said mortgage (the "normal mortgage tax"). Such mortgage recording taxes are payable to the County Clerk of the County, who shall in turn distribute same in accordance with law. If for any reason a non-exempt mortgage is to be recorded and the Agency is aware that such non-exempt mortgage may for any reason be recorded without the payment of the normal mortgage tax, then the Agency shall prior to executing such non-exempt mortgage collect a PILOT equal to the normal mortgage tax and remit same within thirty (30) days of receipt by the Agency to the ~~affected tax jurisdiction~~ Affected Tax Jurisdiction in accordance with Section 874(3) of the Act.

SECTION 1806. REAL ESTATE TRANSFER TAXES. (A) Real Estate Transfer Tax. Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate transfers. Section 1405(b)(2) of the Tax Law provides that transfers into the Agency are exempt from such tax, and the New York State Department of Taxation and Finance has ruled that transfers of property by the Agency back to the same entity which transferred such property to the Agency are exempt from such tax. The general policy of the Agency is to impose no payment in lieu of tax upon any real estate transfers to or from the Agency.

[65012650v5\\_012014.000006](#)

(B) Required Filings. It shall be the responsibility of the applicant and/or project occupant to ensure that all documentation necessary relative to the real estate transfer tax are timely filed with the appropriate officials.

SECTION 1807. REAL ESTATE TAX EXEMPTION. (A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes (but not exempt from special assessments and special ad valorem levies). However, it is the general policy of the Agency that, notwithstanding the foregoing, every non-governmental project will be required to enter into a payment in lieu of tax agreement (a "PILOT Agreement"), either separately or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

(B) PILOT Requirement. Unless the applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form RP-412-a (an "Exemption Form") with respect to the project, and the project documents shall provide that the applicant and/or the project occupant (~~each an "Applicant"~~) shall be required to make PILOT payments in such amounts as would result from taxes being levied on the project by the taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the ~~applicant and/or project-occupant have~~ Applicant has entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such agreement.

(C) PILOT Agreement. Unless otherwise determined by resolution of the Agency, all PILOT Agreements shall satisfy the following general conditions:

(1) Determination of Full Assessment: With respect to a project including new construction, the general policy of the Agency is to take title to (or a leasehold interest in) said project and to file an Exemption Form providing that the appropriate officer or officers of the respective Affected Tax Jurisdictions in which such project is located (each an "Assessor"), with cooperation of the Agency as further set forth in Section 1806(C)(3) below, will determine, prior to closing, the initial assessment of such project prior to beginning construction related to the Agency project (the "Initial New Assessment") and an estimate of the final assessment thereof based on projected value upon completion of construction (the "Final New Assessment"). With respect to a project including existing buildings, the general policy of the Agency is to either avoid taking title to (or a leasehold interest in) such existing buildings, or, if such is not possible, to not apply the abatement schedules listed in Section 1806(C)(2) below to the existing assessment on such buildings (the "Existing Assessment," and collectively with the Initial New Assessment, the "Full Assessment, and collectively with the Final New Assessment, the "Final Full Assessment"). Once the Final Full Assessment is determined, the Final Full Assessment shall be frozen and used as the basis of taxation of the project for the initial period (the "Initial Period") applicable pursuant to Section 1806(C)(2) below. During the Initial Period, an Applicant shall pay PILOT Payments determined in each tax year as follows:

(a) with respect to a project including new construction, the PILOT Payment shall be equal to the sum of the Normal Tax Payment and the Abated PILOT Payment (each as defined herein) and shall be calculated as follows: (i) first determine the Initial New Assessment, (ii) next determine the Final New Assessment, (iii) next determine the portion of the Final New Assessment attributable to the completion of the project by subtracting the Interim New Assessment from the Final New Assessment (the "Current PILOT Assessment"), (iv) multiply the Interim New Assessment by the applicable tax rate of each



Affected Tax Jurisdiction (the “Normal Tax Payment”), (v) multiply the Current PILOT Assessment by the applicable tax rate of each Affected Tax Jurisdiction (the “Initial PILOT Payment”), and (vi) multiply the Initial PILOT Payment by the percentage of abatement applicable to such year (as determined pursuant to Section 1806(C)(2) below) (the “Abated PILOT Payment”); and

(b) with respect to a project including existing buildings, the PILOT Payment shall be equal to the sum of the Normal Tax Payment and the Abated PILOT Payment (each as defined herein) and shall be calculated as follows: (i) first determine the Full Assessment, (ii) next determine the Final New Assessment, (iii) next determine the portion of the Final Full Assessment attributable to the completion of the project by subtracting the Final New Assessment from the Final Full Assessment (the “Current PILOT Assessment”), (iv) multiply the Final Full Assessment by the applicable tax rate of each Affected Tax Jurisdiction (the “Normal Tax Payment”), (v) multiply the Current PILOT Assessment by the applicable tax rate of each Affected Tax Jurisdiction (the “Initial PILOT Payment”), and (vi) multiply the Initial PILOT Payment by the percentage of abatement applicable to such year (as determined pursuant to Section 1806(C)(2) below) (the “Abated PILOT Payment”).

~~(42)~~ Amount of Abatement: ~~(A) The general policy of the Agency is not to provide the applicant and/or project occupant with any abatement other than abatements allowed under Section 485-b of the Real Property Tax Law and applicable ordinances and local laws of the City, Town or Village in which the project is located. Accordingly, the amount of any PILOT payment would equal the amount of taxes that would be levied on the project by the affected taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. If an applicant or project occupant desires to obtain an exemption under Section 485-b or any other abatement provided by State and/or local law, it is the responsibility of the applicant and/or project occupant to apply for same. The percentage of abatement applicable to a project shall normally be computed in accordance with one of the categories (each a “Category”) outlined on the table attached hereto as Schedule A. The staff of the Agency (the “Staff”) will review each project based on various factors including, but not limited to, the factors listed on the Uniform Tax Exemption Matrix attached hereto as Schedule B. The Staff shall conduct said review with cooperation from the related Affected Tax Jurisdictions. The Staff shall then prepare a written recommendation (the “Staff Recommendation”) to the board of directors of the Agency (the “Board”) which such Staff Recommendation shall (a) recommend one of the following Categories of abatement for the project, (b) indicate the factors considered by the Staff in selecting the recommended Category, and (c) confirm that the Staff communicated with the Affected Tax Jurisdictions regarding the review of the project and the recommended Category.~~

~~(2)~~ Special District Taxes. ~~As indicated above, the Agency is not exempt from special assessments and special ad valorem levies, and accordingly these amounts are not subject to abatement by reason of ownership of the Project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by the applicant and/or project occupant.~~

~~(3)~~ Payee. ~~Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an affected tax jurisdiction shall be assessed, billed and collected directly by the same officials which assess, bill and collect normal taxes levied by such affected tax jurisdiction. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each affected tax jurisdiction within thirty (30) days of receipt.~~ Fixed Payments: With respect to all projects, the general policy of the Agency shall be to consult with the related Assessors to determine the Final Full Assessment (and related components) and the PILOT Payment for the life of the

project. The PILOT Payment shall be calculated as a fixed payment schedule based on forward looking estimates, prepared by the related Assessor at or prior to the closing of the project, of (a) the Final Full Assessment, (b) the applicable tax rate of each Affected Tax Jurisdiction for each year, and (c) based on the estimated Final Full Assessment and tax rates, the PILOT Payment.

~~(4) Enforcement. An affected tax jurisdiction which has not received a PILOT payment due to it under a PILOT Agreement may exercise its remedies under Section 874(6) of the Act. In addition, such affected tax jurisdiction may petition the Agency to exercise whatever remedies that the Agency may have under the project documents to enforce payment and, if such affected tax jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred in connection therewith, the Agency may take action to enforce the PILOT Agreement.~~

~~(5) Local Approval. Prior to entering into any proposed PILOT Agreement, the Agency shall, in its sole and absolute discretion, attempt to obtain written consent of the PILOT Agreement from all of the affected tax jurisdictions. Any such approval shall be evidenced by a resolution of the governing boards of each town, village and school district in which the Project is located, and the County Executive with respect to the County, in each case, in form and substance satisfactory to the Agency. In the event that the Agency is not able to obtain the consents of all the affected tax jurisdictions to the proposed PILOT Agreement, the Agency may enter into such PILOT Agreement without the consents of such affected tax jurisdictions.~~

(D) Required Filings. As indicated in subsection (B) above, pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, no real estate tax exemption with respect to a particular project shall be effective until an exemption form is filed with the assessor of each county, city, town, village and school district in which such project is located (each, a "Taxing Jurisdiction"). Once an exemption form with respect to a particular project is filed with a particular Taxing Jurisdiction, the real property tax exemption for such project does not take effect until (1) a tax status date for such Taxing Jurisdiction occurs subsequent to such filing, (2) an assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date, (3) such assessment roll becomes the basis for the preparation of a tax roll for such Taxing Jurisdiction, and (4) the tax year to which such tax roll relates commences.

(E) Real Property Appraisals. Since the policy of the Agency stated in subsection (C)(1) is to base the value of a project for payment in lieu of tax purposes on a valuation of such project performed by the Assessor of the applicable Taxing Jurisdiction, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the assessor of any particular Taxing Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the ~~applicant~~Applicant or by someone acting on behalf of the ~~applicant~~Applicant, rather than by an assessor for a Taxing Jurisdiction or by the Agency. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.

(F) PILOT Expiration. Pursuant to Section 858(15) of the Act, as amended, the Agency shall deliver a notification to the ~~affected tax jurisdictions~~Affected Tax Jurisdictions regarding the termination of each PILOT Agreement (1) two (2) years prior to the schedule expiration of the PILOT Agreement or (2) immediately upon any early termination of the PILOT Agreement.

(G) Miscellaneous.

(1) Special District Taxes. As indicated above, the Agency is not exempt from special assessments and special ad valorem levies, and accordingly these amounts are not subject to abatement by reason of ownership of the Project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by the Applicant.



(2) Payee. Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an Affected Tax Jurisdiction shall be assessed, billed and collected directly by the same officials which assess, bill and collect normal taxes levied by such Affected Tax Jurisdiction. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each Affected Tax Jurisdiction within thirty (30) days of receipt.

(3) Enforcement. An Affected Tax Jurisdiction which has not received a PILOT payment due to it under a PILOT Agreement may exercise its remedies under Section 874(6) of the Act. In addition, such Affected Tax Jurisdiction may petition the Agency to exercise whatever remedies that the Agency may have under the project documents to enforce payment and, if such Affected Tax Jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred in connection therewith, the Agency may take action to enforce the PILOT Agreement.

(4) Local Approval. Prior to entering into any proposed PILOT Agreement, the Agency shall, in its sole and absolute discretion, attempt to obtain written consent of the PILOT Agreement from all of the Affected Tax Jurisdictions. Any such approval shall be evidenced by a resolution of the governing boards of each Affected Tax Jurisdiction (except, with respect to the County, such approval may be evidenced by a certificate executed by the County Executive), in each case in the form and substance satisfactory to the Agency. In the event that the Agency is not able to obtain the consents of all of the Affected Tax Jurisdictions, the Agency may enter into such PILOT Agreement without the consents of such Affected Tax Jurisdictions.

SECTION 1808. PROCEDURES FOR DEVIATION. (A) General. In the case where the Agency shall determine that any policy of the Agency as herein established is inappropriate or unfair, the Agency may determine:

(1) ~~(1)~~ the amount of the tax exemption, the amount and nature of the PILOT, the duration of the exemption and of the PILOT and whether or not an exemption of any kind shall be granted and shall impose such terms and conditions as shall be just and proper; and

(2) the Agency shall give written notice of the proposed deviation from the policy set forth herein to each affected Taxing Jurisdiction setting forth the terms and conditions of the deviation and the reasons therefor. Such notice to the ~~affected-tax-jurisdictions~~Affected Tax Jurisdictions shall be given to the chief executive officer of each ~~affected-tax-jurisdiction~~Affected Tax Jurisdiction via certified mail, return receipt requested, or via an electronic correspondence with a read-receipt. With respect to any school districts, the chief executive officer shall include (a) the president of the board of education of the school district (b) the superintendent of the school district, and (c) the district clerk of the school district. Prior to taking any final action on a proposed deviation, the Agency shall review and respond to any correspondence received from any ~~affected tax-jurisdiction~~Affected Tax Jurisdiction regarding the proposed deviation and allow any representative of an ~~affected-tax-jurisdiction~~Affected Tax Jurisdiction present at such meeting to address the Agency regarding the proposed deviation.

(B) Troubled Projects. Where a project is owned and operated by the Agency or has been acquired by the Agency for its own account after a failure of a project occupant, the project shall at the option of the Agency be exempt from all taxes in accordance with law.

(C) Unusual Projects. Where a project is unusual in nature and requires special considerations related to its successful operations as demonstrated by appropriate evidence presented to the Agency, the Agency shall consider the granting of a deviation from the established exemption policy in accordance with

the procedures provided in the title. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.

SECTION 1809. ANNUAL REVIEW OF POLICIES. (A) General. At least annually, the Agency shall review its tax exemption policies to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate. Unless otherwise provided by resolution, such annual review shall take place at the regular June meeting of the Agency, notice for comments on such policies shall be circulated as provided by law for input from Albany County and all the other ~~affected tax jurisdictions~~Affected Tax Jurisdictions, and adoption of any changes shall take effect upon approval by the Agency. The Chairman shall be responsible for conducting an annual review of the tax exemption policy and for an evaluation of the internal control structure established to ensure compliance with the tax exemption policy which shall be submitted to the Agency for approval.

[65012650v5.012014.00006](#)

SCHEDULE A

ABATEMENT CATEGORIES

<u>Tax Year</u>	<u>Category 1 Percentage of Exemption</u>	<u>Category 2 Percentage of Exemption</u>	<u>Category 3 Percentage of Exemption</u>
<u>1</u>	<u>100%</u>	<u>100%</u>	<u>100%</u>
<u>2</u>	<u>90%</u>	<u>93%</u>	<u>95%</u>
<u>3</u>	<u>80%</u>	<u>86%</u>	<u>90%</u>
<u>4</u>	<u>70%</u>	<u>79%</u>	<u>85%</u>
<u>5</u>	<u>60%</u>	<u>72%</u>	<u>80%</u>
<u>6</u>	<u>50%</u>	<u>65%</u>	<u>75%</u>
<u>7</u>	<u>40%</u>	<u>58%</u>	<u>70%</u>
<u>8</u>	<u>30%</u>	<u>51%</u>	<u>65%</u>
<u>9</u>	<u>20%</u>	<u>44%</u>	<u>60%</u>
<u>10</u>	<u>10%</u>	<u>37%</u>	<u>55%</u>
<u>11</u>	<u>Normal Taxes</u>	<u>30%</u>	<u>50%</u>
<u>12</u>	<u>Normal Taxes</u>	<u>23%</u>	<u>45%</u>
<u>13</u>	<u>Normal Taxes</u>	<u>16%</u>	<u>40%</u>
<u>14</u>	<u>Normal Taxes</u>	<u>9%</u>	<u>35%</u>
<u>15</u>	<u>Normal Taxes</u>	<u>2%</u>	<u>30%</u>
<u>16</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>25%</u>
<u>17</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>20%</u>
<u>18</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>15%</u>
<u>19</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>10%</u>
<u>20</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>5%</u>
<u>21</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>	<u>Normal Taxes</u>

65012650v5\_012014.00006

## SCHEDULE B

### UNIFORM TAX EXEMPTION MATRIX

The factors to be considered by the Staff in order to complete the Staff Recommendation may include, but shall not be limited to, the following:

1. The projected number of new permanent full-time equivalent (FTE) jobs to be created by the project.
2. The number of FTE jobs to be retained by the project.
3. The projected number of potential spin-off jobs to be created by the project.
4. The projected wages to be paid to employees at the project based on estimated wages and benefits at project completion:
  - a. Whether any of the FTE jobs will be paid at minimum wage;
  - b. Whether the FTE jobs will be paid at or above the standard living wage for Albany County, New York. Living Wage shall be equal to MIT Living Wage for Albany County for the applicable year.
5. The percentage of construction labor which will be completed using local labor.
6. The percentage of construction labor which will be completed using minority-and-women-owned business enterprises.
7. The impact the project will have on local businesses and the surrounding community:
  - a. Whether the project will utilize local industrial suppliers and raw services/materials;
  - b. The extent to which the project will impact local emergency response services, schools, etc.;
  - c. Whether the project is located in a “highly distressed area” as defined in Section 854(18) of the Act.
8. The environmental impact of the project:
  - a. Whether the project is located at an existing industrial site or brownfield;
  - b. Whether the project is utilizing a shovel-ready site;
  - c. Whether the project is using energy-efficient technology or significant renewable energy;
  - d. Whether the project applicant participates in extended producer responsibility (“EPR”) programs and actively promotes the proper disposal and/or recycling of the materials to be produced at the project.
9. The investment by the project in local education or workforce:
  - a. Whether the FTE jobs to be created at the project require advance educational credentials;
  - b. Whether the FTE positions will include technical degrees;
  - c. Whether the project will provide apprenticeship programs or associate degrees.
10. The value of the real property which is to be the subject of the PILOT Agreement.

65012650v1-012014-00000665012650v5-012014-000006