

1
2
3
4
5
6

I. PURPOSE AND AUTHORITY

Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the "Act"), the City of Schenectady 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.

1 **II. DEFINITION OF TERMS**

2
3 All words and terms used herein and defined in the Act shall have the meanings assigned to
4 them in the Act, unless otherwise defined herein or unless the context or use indicates
5 another meaning or intent. The following words and terms used herein shall have the
6 respective meanings set forth below, unless the context or use indicates another meaning or
7 intent:

8
9 "Administrative fee" shall mean a charge imposed by the Agency to an Applicant or Project
10 occupant for the administration of Project.

11
12 "Affected Tax Jurisdiction" means, with respect to a particular Project, the City, County or
13 School District in which a Project is located will fail to receive real property tax payments
14 that would otherwise be due with respect to such Project due to a Tax Exemption obtained
15 by reason of involvement of the Agency in such Project.

16
17 "Agency" shall mean the City of Schenectady Industrial Development Agency.

18
19 "Agency fee" shall mean the normal charges imposed by the Agency to an Applicant or a
20 Project occupant to compensate the Agency for the Agency's participation in a Project.
21 The term "Agency fee" shall include not only the Agency's normal Administrative fee, but
22 also may include:

- 23 (a) Reimbursement of the Agency's expenses,
- 24 (b) Rent imposed by the Agency for use of the property of the Agency, and
- 25 (c) Other similar charges imposed by the Agency.

26
27 "Applicant" shall mean an applicant for financial assistance.

28
29 "City" shall mean the City of Schenectady.

30
31 "County" shall mean the County of Schenectady.

32
33 "PILOT" or "Payment in Lieu of Tax" shall mean any payment made to the Agency or an
34 Affected Tax Jurisdiction equal to all or a portion of the real property taxes or other taxes
35 which would have been levied by or on behalf of an Affected Tax Jurisdiction with respect
36 to a Project but for tax exemption obtained by reason of the involvement of the Agency in
37 such Project, but such term shall not include Agency fees.

38
39 "Project" shall mean an activity which is undertaken by the Agency for the benefit of an
40 Applicant which either (1) has been or will be financed by the issuance by the Agency of
41 bonds, notes or other evidences of indebtedness with respect thereto, or (2) is a straight
42 lease transaction (as defined under Section 845(15) of the Act) which the Agency has
43 determined to undertake.

1
2
3
4
5
6
7

"School District" shall mean any school district located in the City.

"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, including but not limited to sales and use exemption, mortgage recording tax exemption and exemption from real property taxes.

III. GENERAL PROVISIONS

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 of Agency 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 845(15) of the Act).

A. *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. 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, and whether such financial assistance is consistent with this part.

B. *Exceptions* — 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 the Project;
2. The impact of the Project on existing and proposed businesses and/or economic development projects, with particular emphasis on the likely positives affects on revitalization of downtown Schenectady and its Central Business District as defined by the County Planning Department;
3. The amount of private sector investment generated or likely to be generated by the Project;
4. Demonstrated public support for the Project;
5. The estimated value of the Tax Exemptions requested; and
6. The extent to which the proposed Project will provide needed services and/or revenues to the Affected Tax Jurisdictions.
7. The extent to which an Applicant will enter into apprenticeship agreements within the meaning of Section 816 of the Labor Law of the State of New York with respect to the construction, reconstruction or operation of the Project.

In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

IV. Real Estate Tax Exemption

Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction, supervision or control of the Agency is exempt from general real estate taxes, but not exempt from special assessments and special ad valorem levies. 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.

The general policy of the Agency is to allow the assessor of the City to ascertain the assessed value of a Project owned by or under the jurisdiction, supervision or control of the Agency.

A. *PILOT Requirements* — 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 EA-412-a (an "Exemption Form") with respect to the Project, and the Project documents shall provide that the Applicant and/or the Project occupant shall be required to make PILOT payments in such amounts as would result from taxes being levied on the Project by the Affected Taxing Jurisdictions as if the Project were not owned by or under the jurisdiction, supervision or control of the Agency.

Unless otherwise approved by resolution of the members of the Agency, applicants entering into a PILOT Agreement with the Agency also will be required to enter into a PILOT Mortgage that is a first lien on the Project Facility.

The value of the Project Facility for purposes of determining payments in lieu of taxes due (the "Assessed Value") shall be calculated as follows:

1. Commencing in the first taxable year after execution of the PILOT, the Assessed Value shall be determined by the Assessor as follows: The Assessor shall appraise the Project Facility in the same manner and using the same valuation method as other similar properties in the general area of the Project Facility. The Company shall be entitled to prompt written notice of the initial Assessed Value and of any change in the Assessed Value. If the Company is dissatisfied with the amount of the Assessed Value of the Project Facility as initially established or as changed, the Company shall have the right to contest the Assessed Value of the Project Facility made for purposes of determining any payments due under the PILOT Agreement and to seek a refund of any such payments made. The Company's challenge to the Assessed Value of the Project Facility and its determination to seek a

1 refund of any payments made hereunder shall be made in accordance with
2 New York Real Property Tax Law.

3
4
5 2. The payments in lieu of taxes to be paid by the Company to the various
6 Receivers of Taxes annually on behalf of each Affected Tax Jurisdiction
7 pursuant to the terms of the PILOT Agreement be computed separately for
8 each Affected Tax Jurisdiction as follows:

9
10 (i) Determine the amount of general taxes and general assessments
11 (hereinafter referred to as the “Normal Tax”) which would be
12 payable to each Affected Tax Jurisdiction if the Agency did not
13 have an interest in the Land by multiplying (a) the Assessed Value
14 of the Land determined pursuant to (1) above, by (b) the tax rate or
15 rates of such Taxing Entity that would be applicable to the Land if
16 the Land were owned by the Company and the Agency did not have
17 an interest therein.

18 (ii) In each tax year during the term of the PILOT, commencing on the
19 first tax year following the date on which the Land shall be assessed
20 as exempt on the assessment roll of any Affected Tax Jurisdiction,
21 the amount payable by the Company to the Receiver of Taxes on
22 behalf of each Affected Tax Jurisdiction as a payment in lieu of
23 property tax pursuant shall be an amount equal to the sum of one
24 hundred percent (100%) of the Normal Tax due each Taxing Entity
25 for such tax year with respect to the Land.

26 (iii) Next, determine the amount of Normal Tax which would be payable
27 to each Affected Tax Jurisdiction if the Facility and any portion of
28 the Equipment assessable as real property pursuant to the New York
29 State Real Property Tax Law (collectively, the “Improvements”)
30 were owned by the Company and not the Agency by multiplying (a)
31 the Assessed Value of the Improvements determined as provided
32 above, by (b) the tax rate or rates of such Affected Tax Jurisdiction
33 that would be applicable to the Improvements if the Improvements
34 were owned by the Company and not the Agency.

35 (iv) In each tax year during the term of this Agreement, commencing on
36 the first tax year following the date on which the Land shall be
37 assessed as exempt on the assessment roll of any Taxing Entity and
38 commencing prior to the date of completion of construction of the
39 Facility, the amount payable by the Company to the Receiver of
40 Taxes on behalf of each Affected Tax Jurisdiction as a payment in
41 lieu of property tax shall be an amount equal to the sum of one
42 hundred percent (100%) of the Normal Tax due each Taxing Entity
43 for such tax year with respect to the Improvements. In each Tax

year during the term of the PILOT Agreement commencing on the first Tax year following the date on which construction of the Facility shall be complete, the amount payable by the Company to the Receiver of Taxes on behalf of each Affected Tax Jurisdiction as a payment in lieu of property tax pursuant to this Payment in Lieu of Tax Agreement with respect to the Improvements shall be an amount equal to the applicable percentage of the Normal Tax due each Taxing Entity with respect to the Improvements for such tax year, as shown in the table below:

<u>Tax Fiscal Year</u>	<u>Percentage of Exemption</u>
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%
11 and thereafter	0%

C. *Special District Taxes* — 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, jurisdiction, supervision or control 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 to the appropriate entity. However, Applicant and Project occupants should be aware that the courts have ruled that an Agency-sponsored Project is eligible to apply for a tax-exemption under Section 485-b of the Real Property Tax Law. If an Applicant or Project occupant desires to obtain an exemption under Section 485-b, it is the responsibility of the Applicant and/or Project occupant to apply for same.

D. *Payment* — 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 of the bill therefor.

1
2 E. *Enforcement* — An Affected Tax Jurisdiction which has not received a PILOT
3 payment due to it under a PILOT Agreement may exercise its remedies under
4 Section 874(6) of the Act. In addition, such Affected Tax Jurisdiction may
5 petition the Agency to exercise whatever remedies that the Agency may have
6 under the Project documents to enforce payment and, if such Affected Tax
7 Jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred
8 in connection therewith, the Agency may take action to enforce the PILOT
9 Agreement.

10
11 If the Agency's approval of a particular Project is predicated upon achievement
12 by the Applicant or Project occupant of certain minimum goals, i.e. creating
13 and/or maintaining certain minimum employment levels, the PILOT Agreement
14 may provide for the reduction or elimination of PILOT benefits, if, in the sole
15 judgment of the Agency, the Project has failed to fulfill such minimum
16 requirements.

17
18 If the Applicant or Project occupant, after reasonable notice, fails to comply with
19 Project reporting required by the Agency including, but not limited to, annual
20 verification of proper insurance coverage, employment reporting as required
21 under the Act, the Agency may in its sole judgment terminate the PILOT
22 Agreement and make no real estate tax exemption available.

23
24 F. *Required Filings* — Pursuant to Section 874 of the Act and Section 412-a of the
25 Real Property Tax Law, no real estate tax exemption with respect to a particular
26 Project shall be effective until an exemption form is filed with the assessor of
27 each Affected Tax Jurisdiction. Once an exemption form with respect to a
28 particular Project is filed with a particular Affected Taxing Jurisdiction, the real
29 property tax exception for such Project does not take effect until (1) a tax status
30 date for such Affected Tax Jurisdiction occurs subsequent to such filing, (2) an
31 assessment roll for such Affected Tax Jurisdiction is finalized subsequent to such
32 tax status date, (3) such assessment roll becomes the basis for the preparation of a
33 tax roll for such Affected Tax Jurisdiction, and (4) the tax year to which such tax
34 roll relates commences.

35
36 G. *Real Property Appraisals* — Since the policy of the Agency is to base the value
37 of a Project for payment in lieu of tax purposes on a valuation of such Project
38 performed by the Assessor of the city, normally a separate real property appraisal
39 is not required. However, the Agency may require the submission of a real
40 property appraisal if,

- 41
42 1. The assessor of any particular Affected Tax Jurisdiction requires one or
43 2. If the valuation of the Project for payment in lieu of tax purposes is based on
44 a value determined by the Applicant or by someone acting on behalf of the

1
2
3
4
5
6

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.

1 **V. PROCEDURES FOR PILOT DEVIATION**
2

3
4 A. *Unusual Projects* — Where a Project is unusual in nature and requires special
5 considerations related to its successful operations as demonstrated by appropriate
6 evidence presented to the Agency, the Agency shall consider the granting of a
7 deviation from the established exemption policy in accordance with the procedures
8 below:
9

- 10 1. The Agency adopts a resolution (a) setting forth, with respect to the
11 proposed deviation, the amount of the proposed tax exemption, the amount
12 and nature of the proposed PILOT, the duration of the exemption and of the
13 PILOT and whether or not an exemption of any kind shall be granted; (b)
14 indicating the reasons for the proposed deviation in accordance with Section
15 III (B) hereof; and (c) imposing such terms and conditions as the Agency
16 shall deem just and proper;
- 17 2. The Agency shall give written notice of the proposed deviation from the
18 Real Estate Tax Exemption policy set forth herein to each Affected Tax
19 Jurisdiction, setting forth a general description of and reasons for the
20 proposed deviation. Such notice to the Affected Tax Jurisdictions shall be
21 given to the chief executive officer of each Affected Tax Jurisdiction at least
22 ten (10) days prior to the meeting of the Agency at which the Agency shall
23 consider whether to approve such deviation. Prior to taking any final action
24 on a proposed deviation, the Agency shall review and respond to any
25 correspondence received from any Affected Tax Jurisdiction regarding the
26 proposed deviation and allow any representative of an Affected Tax
27 Jurisdiction present at such meeting to address the Agency regarding the
28 proposed deviation.
29

30 B. *Agency-owned Projects* —Where a Project has been acquired by the Agency for its
31 own account after a failure of a Project occupant, or is otherwise owned and
32 operated by the Agency, the Project shall at the option of the Agency be exempt
33 from all taxes in accordance with law.
34
35

VI. SALES AND USE TAX EXEMPTION

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.

A. *General* — 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 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, or the execution and delivery by the Agency of a lease agreement relating to such Project, and ending on the date of completion of the Project.
2. *Early Commencement* — The Tax Exemption Period may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's bonds, notes or evidences of other debt relating to the Project or the execution and delivery by the Agency of a lease agreement relating to the Project, provided that

- (a) The Agency has complied with the requirements of Section 859- of the Act,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

- (b) The Agency thereafter adopts a resolution determining to commence such period earlier,
- (c) The Applicant or Project occupant 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 or Executive Director 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 Agency and the Applicant shall agree on the estimated date of completion of the Project, and the sales and use 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 Projects, the Agency and Applicant shall agree on the estimated date of completion of the Project, and the sales and use 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. The rental of tools and other items necessary for the construction and/or equipping of the Project, if rented as by Applicant as agent of the Agency;

- 3. Tangible personal property, including furniture, furnishings and equipment used to initially equip the Project or otherwise forming part of the Project, if purchased by Applicant as agent of the Agency; and
- 4. Office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the Project, if purchased by Applicant as agent of the Agency.

D. *Items Not Exempted* — A sales and use tax exemption with respect to an Applicant 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 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 may either be in the form of a letter for the duration of the anticipated construction period relating to the Project (where the exemption is permanent, because the Agency is satisfied that any conditions precedent to such tax exemption, such as the issuance of bonds or the execution of a lease agreement by the Agency, have been satisfied) or a letter having a shorter duration (where such exemption is tentative, because there remain conditions precedent to such sales and use 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.

1 G. *Required Filings* — The New York State Department of Taxation and Finance
2 requires that proper forms and supporting materials be filed with a vendor to
3 establish a purchaser's entitlement to a sales and use tax exemption. For example,
4 TSB-M-87(7) outlines the materials that must be filed to establish entitlement to
5 sales and use tax exemption claimed under the Act by the Applicant and/or Project
6 occupant as "agent" of the Agency. It is the responsibility of the Applicant and/or
7 Project occupant to ensure that the proper documentation is filed with each vendor
8 to obtain any sales and use tax exemptions authorized by the Agency.
9

10 H. *Required Reports and Records* — Pursuant to Section 874(8) of the Act, the
11 Applicant and/or Project occupant is required to annually file with the New York
12 State Department of Taxation and Finance a statement of the value of all sales and
13 use tax exemptions claimed under the Act by the Applicant and/or the Project
14 occupant and/or all agents, subcontractors and consultants thereof. The Project
15 documents shall require that
16

- 17 1. A copy of such statement will also be filed with the Agency, and
- 18 2. The Project occupant shall maintain for a period ending seven (7) years
19 after the last purchase made under the sales and use tax exemption, and
20 make available to the Agency at the request of the Agency, detailed records
21 which shall show the method of calculating the sales and use tax exemption
22 benefit granted by the Agency.
23

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

VII. Mortgage Recording Tax Exemption

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 Applicants under the following circumstance:

1. Initial financing from the Agency with respect to which Agency issues debt secured by a mortgage upon real property;
2. In instances where the initial financing commitment provides for a construction financing of the Agency to be replaced by a permanent financing 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.
3. Refinancing of prior debt issued by the Agency, and on any modifications, extensions and renewals thereof, so long as the Agency fees relating to same have been paid.

A. *Non-Agency Financings* — With respect to straight lease or installment sale transactions where the Project occupant needs to borrow money for purposes relating the Project, and the lender will not make the loan to the Project occupant without obtaining a fee mortgage as security, 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. Payment of the Agency fee relating to the total Project cost.

B. *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.

C. *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 shall pay the same mortgage recording taxes with respect to same as would have been payable had the Agency not been a

1
2
3
4
5
6
7
8
9
10

party to said mortgage (the "normal mortgage tax"). Such mortgage recording taxes are payable to the County Clerk, 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 in accordance with Section 874(3) of the Act.

VIII. Real Estate Transfer Taxes

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.

- A. *Property Transfer Gains Tax* — Article 31-B of the Tax Law provides for the imposition of a tax upon gains derived from the transfer of certain real estate in New York State. Certain transfers are exempt from such tax. It is the policy of the Agency to comply with the law, and to file the appropriate documentation with the New York State Department of Taxation and Finance to obtain preclearance by that department for any documents transferring real property to or from the Agency.
- 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 and the real estate transfer gains tax are timely filed with the appropriate officials.

XI. Review of Policy

At least every three years, 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 review shall take place at the regular June meeting of the Agency, notice for comments on such policies shall be circulated ten (10) days prior to such meeting to Chief Executive Officers of the City of Schenectady and the other Affected Tax Jurisdictions, and adoption of any changes shall take effect upon approval by the Agency.

The Executive Director 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.

X. Miscellaneous

A. *Agency Fees* — A non-refundable application fee of One Thousand dollars (\$1,000.00) must accompany all applications submitted to the Agency.

B. *Closing Fees* — A minimum closing fee of five hundred dollars (\$500.00) is required on all transactions completed and securing Agency financial assistance. Transactions requiring more than one closing are subject to additional closing fees on a per closing basis.

Projects requiring that the Agency take other than routine action with respect to evaluating the environmental impacts of a proposed Project may result in the Applicant being additionally responsible for all costs incurred by the Agency in securing all necessary Project environmental approvals.

C. *Administrative Fee* — The Agency’s administrative fee on transactions involving issuance of Agency bonds, notes or other evidences of indebtedness shall be one percent (1 %) of the principal amount of the bond issue (the “Standard Administrative Bond Fee”). The Executive Director may, from time to time, recommend that a project applicant pay a fee in an amount that differs from the Standard Administrative Bond Fee. Such a recommendation shall be approved by a resolution adopted by the members of the Agency prior to the closing of the transaction and such resolution shall include the factors considered by the members in making such a determination.

The Agency’s administrative fee for lease or installment sale transactions shall be one-half of one percent (.5%) of the total Project cost as determined by the Executive Director (the “Standard Administrative Lease/ISA Fee”). The Executive Director may, from time to time, recommend that a project applicant pay a fee in an amount that differs from the Standard Administrative Lease/ISA Fee. Such a recommendation shall be approved by a resolution adopted by the members of the Agency prior to the closing of the transaction and such resolution shall include the factors considered by the members in making such a determination.

D. *Counsel Fees* — At closing, Applicant shall pay additional fees of Agency’s Counsel and Bond Counsel. Applicant shall pay counsel fees of the bond purchaser, bond underwriter and bond trustee, as necessary.