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**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**

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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:

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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.

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29 "City" shall mean the City of Schenectady.

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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

1 lease transaction (as defined under Section 845(15) of the Act) which the Agency has  
2 determined to undertake.

3  
4 "School District" shall mean any school district located in the City.

5  
6 "Tax Exemption" shall mean any financial assistance granted to a Project which is based  
7 upon all or a portion of the taxes which would otherwise be levied and assessed against a  
8 Project but for the involvement of the Agency, including but not limited to sales and use  
9 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.

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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.

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 refund

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

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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

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 following 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

1 levied by such Affected Tax Jurisdiction. Pursuant to Section 874(3) of the Act,  
2 such PILOT payments shall be remitted to each Affected Tax Jurisdiction within  
3 thirty (30) days of receipt of the bill therefor.  
4

- 5 E. *Enforcement* — An Affected Tax Jurisdiction which has not received a PILOT  
6 payment due to it under a PILOT Agreement may exercise its remedies under  
7 Section 874(6) of the Act. In addition, such Affected Tax Jurisdiction may  
8 petition the Agency to exercise whatever remedies that the Agency may have  
9 under the Project documents to enforce payment and, if such Affected Tax  
10 Jurisdiction indemnifies the Agency and agrees to pay the Agency's costs incurred  
11 in connection therewith, the Agency may take action to enforce the PILOT  
12 Agreement.  
13

14 If the Agency's approval of a particular Project is predicated upon achievement  
15 by the Applicant or Project occupant of certain minimum goals, i.e. creating  
16 and/or maintaining certain minimum employment levels, the PILOT Agreement  
17 may provide for the reduction or elimination of PILOT benefits, if, in the sole  
18 judgment of the Agency, the Project has failed to fulfill such minimum  
19 requirements.  
20

21 If the Applicant or Project occupant, after reasonable notice, fails to comply with  
22 Project reporting required by the Agency including, but not limited to, annual  
23 verification of proper insurance coverage, employment reporting as required  
24 under the Act, the Agency may in its sole judgment terminate the PILOT  
25 Agreement and make no real estate tax exemption available.  
26

- 27 F. *Required Filings* — Pursuant to Section 874 of the Act and Section 412-a of the  
28 Real Property Tax Law, no real estate tax exemption with respect to a particular  
29 Project shall be effective until an exemption form is filed with the assessor of  
30 each Affected Tax Jurisdiction. Once an exemption form with respect to a  
31 particular Project is filed with a particular Affected Taxing Jurisdiction, the real  
32 property tax exception for such Project does not take effect until (1) a tax status  
33 date for such Affected Tax Jurisdiction occurs subsequent to such filing, (2) an  
34 assessment roll for such Affected Tax Jurisdiction is finalized subsequent to such  
35 tax status date, (3) such assessment roll becomes the basis for the preparation of a  
36 tax roll for such Affected Tax Jurisdiction, and (4) the tax year to which such tax  
37 roll relates commences.  
38

- 39 G. *Real Property Appraisals* — Since the policy of the Agency is to base the value  
40 of a Project for payment in lieu of tax purposes on a valuation of such Project  
41 performed by the Assessor of the city, normally a separate real property appraisal  
42 is not required. However, the Agency may require the submission of a real  
43 property appraisal if,  
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1. The assessor of any particular Affected Tax 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 or by someone acting on behalf of the 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**

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

9 The Agency adopts a resolution (a) setting forth, with respect to the proposed  
10 deviation, the amount of the proposed tax exemption, the amount and nature  
11 of the proposed PILOT, the duration of the exemption and of the PILOT and  
12 whether or not an exemption of any kind shall be granted; (b) indicating the  
13 reasons for the proposed deviation in accordance with Section III (B) hereof;  
14 and (c) imposing such terms and conditions as the Agency shall deem just and  
15 proper;

16 The Agency shall give written notice of the proposed deviation from the Real  
17 Estate Tax Exemption policy set forth herein to each Affected Tax  
18 Jurisdiction, setting forth a general description of and reasons for the proposed  
19 deviation. Such notice to the Affected Tax Jurisdictions shall be given to the  
20 chief executive officer of each Affected Tax Jurisdiction at least thirty (30)  
21 days prior to the meeting of the Agency at which the Agency shall consider  
22 whether to approve such deviation. Prior to taking any final action on a  
23 proposed deviation, the Agency shall review and respond to any  
24 correspondence received from any Affected Tax Jurisdiction regarding the  
25 proposed deviation and allow any representative of an Affected Tax  
26 Jurisdiction present at such meeting to address the Agency regarding the  
27 proposed deviation.  
28

29  
30 B. *Agency-owned Projects* —Where a Project has been acquired by the Agency for  
31 its 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.  
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**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,

- (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:

- a. Items incorporated into the real property;
- b. 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;

- 1 c. Tangible personal property, including furniture, furnishings and equipment  
2 used to initially equip the Project or otherwise forming part of the Project,  
3 if purchased by Applicant as agent of the Agency; and
- 4 d. Office supplies, fuel and similar items consumed in the process of  
5 acquiring, constructing and/or equipping the Project, if purchased by  
6 Applicant as agent of the Agency.  
7

8 D. *Items Not Exempted* — A sales and use tax exemption with respect to an Applicant  
9 shall not be granted for the following:  
10

- 11 1. Purchases occurring beyond the tax exemption period described in  
12 subsection (B) above;
- 13 2. Repairs, replacements or renovations of the Project, unless such repairs,  
14 replacements or renovations constitute major capital-type expenses  
15 approved by the Agency as a separate Project in the manner contemplated  
16 by the Act; or
- 17 3. Operating expenses, unless such operating expenses constitute major  
18 capital-type expenses approved by the Agency as a separate Project in the  
19 manner contemplated by the Act.  
20

21 E. *Percentage of Exemption* — Unless otherwise determined by resolution of the  
22 Agency, the sales and use tax exemption shall be equal to one hundred percent  
23 (100%) of the sales and/or use taxes that would have been levied if the Project were  
24 not exempt by reason of the Agency's involvement in the Project. If an exemption  
25 of less than one hundred percent (100%) is determined by the Agency, then the  
26 Applicant shall be required to pay a PILOT to the Agency equal to the applicable  
27 percentage of sales and/or use tax liability not being abated. The Agency shall  
28 remit such PILOT within thirty (30) days of receipt by the Agency to the Affected  
29 Tax Jurisdictions in accordance with Section 874(3) of the Act.  
30

31 F. *Confirmation Letter* — The final act of granting a sales and/or use tax exemption by  
32 the Agency shall be confirmed by the execution by an authorized officer of the  
33 Agency of a confirmation letter by the Agency. Such confirmation letter may either  
34 be in the form of a letter for the duration of the anticipated construction period  
35 relating to the Project (where the exemption is permanent, because the Agency is  
36 satisfied that any conditions precedent to such tax exemption, such as the issuance  
37 of bonds or the execution of a lease agreement by the Agency, have been satisfied)  
38 or a letter having a shorter duration (where such exemption is tentative, because  
39 there remain conditions precedent to such sales and use tax exemption which have  
40 not been satisfied). Each such confirmation letter shall describe the scope and term  
41 of the sales and use tax exemption being granted.  
42

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

1 taxes with respect to same as would have been payable had the Agency not been a party  
2 to said mortgage (the “normal mortgage tax”). Such mortgage recording taxes are  
3 payable to the County Clerk, who shall in turn distribute same in accordance with law.  
4

5 If for any reason a non-exempt mortgage is to be recorded and the Agency is  
6 aware that such non-exempt mortgage may for any reason be recorded without the  
7 payment of the normal mortgage tax, then the Agency shall prior to executing such  
8 non-exempt mortgage collect a PILOT equal to the normal mortgage tax and remit  
9 same within thirty (30) days of receipt by the Agency to the affected tax jurisdiction in  
10 accordance with Section 874(3) of the Act.

1 **VIII. Real Estate Transfer Taxes**

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3 Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate  
4 transfers. Section 1405(b)(2) of the Tax Law provides that transfers into the Agency are  
5 exempt from such tax, and the New York State Department of Taxation and Finance has  
6 ruled that transfers of property by the Agency back to the same entity which transferred  
7 such property to the Agency are exempt from such tax.

8  
9 The general policy of the Agency is to impose no payment-in-lieu-of-tax upon any real  
10 estate transfers to or from the Agency.

11  
12 A. *Property Transfer Gains Tax* — Article 31-B of the Tax Law provides for the  
13 imposition of a tax upon gains derived from the transfer of certain real estate in  
14 New York State. Certain transfers are exempt from such tax. It is the policy of the  
15 Agency to comply with the law, and to file the appropriate documentation with the  
16 New York State Department of Taxation and Finance to obtain preclearance by that  
17 department for any documents transferring real property to or from the Agency.

18  
19 B. *Required Filings* — It shall be the responsibility of the Applicant and/or Project  
20 occupant to ensure that all documentation necessary relative to the real estate  
21 transfer tax and the real estate transfer gains tax are timely filed with the  
22 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 30 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 not effect upon approval by the Agency.

The thirty day comment period shall not apply to the adoption of the original policies of the Agency which said policies shall become effective as herein provided.

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.

1 **X. Miscellaneous**

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3 A. *Application Fee* — A non-refundable application fee of One Thousand dollars  
4 (\$1,000.00) must accompany all applications submitted to the Agency.

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6 B. *Administrative Fee* — The Agency’s administrative fee on transactions involving  
7 issuance of Agency bonds, notes or other evidences of indebtedness shall be one  
8 percent (1 %) of the principal amount of the bond issue.

9  
10 The Agency’s administrative fee for lease or installment sale transactions shall be  
11 one percent (1 %) of the total Project cost as determined by the Executive Director.

12  
13 C. *Closing Fees* — A minimum closing fee of five hundred dollars (\$500.00) is  
14 required on all transactions completed and securing Agency financial assistance.  
15 Transactions requiring more than one closing are subject to additional closing fees  
16 on a per closing basis.

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

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