DRAFT DATED: September 8, 2020

TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

SECTION 1. PURPOSE AND AUTHORITY. Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law (the "Act"), Town of Montgomery Industrial Development Agency (the "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. This uniform tax-exemption policy was adopted pursuant to a resolution enacted by the members of the Agency on XX, and modified in its entirety pursuant to a resolution adopted by the members of the Agency on XX, 2020

SECTION 2. 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 a project.

(B) "Affected Tax Jurisdiction" means, with respect to a particular project, the Town and each Municipality or School District in which such project is located which will fail to receive real property tax payments which would otherwise be due with respect to such project due to a Tax Exemption obtained by reason of the involvement of the Agency in such project, unless the Affected Tax Jurisdictions shall agree in writing to add or subtract additional governmental entities thereto.

(C) "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 application fee and 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.

(D) "Applicant" shall mean an applicant for financial assistance.

(E) "Applicant Project" shall mean a project which is undertaken by the Agency for the benefit of an Applicant which either (1) has been or will be financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto or (2) is a straight lease transaction which the Agency has determined to undertake.

(F) "County" shall mean Orange County, New York.

(G) "Municipality" shall mean each village located within the Town.

(H) "Non-Applicant Project" means a project which is undertaken by the Agency for the benefit of the Agency and shall not include an Applicant Project.

(I) "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.

(J) "School District" shall mean each school district located within the Town.

(K) "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 in such project.

(L) "Town" shall mean the Town of Montgomery.

(M) "Adaptive Reuse" means the renovation and reuse of pre-existing structures for new, commercial purposes

(N) "Workforce Housing" means housing that is affordable to households earning 60 to 120 percent of the area median income

(O) "New Construction" means entirely new structures or significant extensions to existing structures regardless of whether the site was previously occupied

SECTION 3. GENERAL PROVISIONS. (A) General Policy. The general policy of the Agency is to grant Tax Exemption as hereinafter set forth to (1) any Applicant Project and (2) any Non-Applicant Project.

(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 the magnitude of the deviation sought and the factors which might 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 proposed project in question; (2) whether the Affected Tax Jurisdictions will be reimbursed by the project occupant if such project does not fulfill the purposes for which Tax Exemption was granted; (3) the impact of such 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 such project; (5) demonstrated public support for such project; (6) the estimated value of the Tax Exemptions requested; and (7) the extent to which such project will provide needed services and/or revenues to the 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 relating to an Applicant Project shall be considered by the Agency unless an application (with a cost/benefit analysis) 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, and whether such financial assistance is consistent with this part.

(D) Notice to Affected Tax Jurisdictions. No request for approval of an Applicant Project by the Agency which involves the issuance of bonds, notes or other evidences of indebtedness with respect thereto or any other application for Tax Exemptions or other financial assistance which may aggregate more than $100,000, or which involves a proposed deviation from the provisions of this Uniform Tax Exemption Policy, shall be given final approval by the Agency unless and until (1) the Agency has sent written notice of said request to each Affected Tax Jurisdiction, and (2) has given each Affected Tax Jurisdiction a reasonable opportunity, both in writing and in person, to be heard by the Agency with respect to the proposed request. With respect to Non-Applicant Projects, the Agency shall comply with the provisions of Section 859-a of the Act, to the extent applicable. In addition, the Agency shall comply with all other notice provisions contained in the Act relative thereto.

SECTION 4. 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 and use taxes applicable (1) only to the initial acquisition, construction and/or equipping of an Applicant Project and (2) to any Non-Applicant Project. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of an Applicant 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) an Applicant Project is offered sales and use 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 and use taxes equal to the amount of tax which otherwise may have been due 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 and use tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:

(1) General. Unless otherwise determined by the Agency, the sales and use tax exemption for an Applicant Project 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 such 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. The Tax Exemption Period for a Non-Applicant Project shall extend for such period of time as the Agency shall determine.

(2) Early Commencement. The Tax Exemption Period for an Applicant Project may, at the discretion of the Agency, commence earlier than the date of issuance by the Agency of the Agency's bonds, notes or other evidences of indebtedness relating to the project, 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, (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 Chairperson 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 for an Applicant Project will normally end upon the completion of such 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 completion of such project. On non-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 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 with respect to an Applicant Project shall normally extend only to the following items acquired during the Tax Exemption Period described in subsection (B) above:

(1) improvements to and 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 by the Applicant as agent of the Agency;

(3) the rental of tools and other items necessary for the construction and/or equipping of the project, if rented by the 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 the Applicant as agent of the Agency.

(D) Items Not Exempted. A sales and use tax exemption with respect to an Applicant Project shall not be granted by the Agency 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 to be applicable to a particular Applicant Project, 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 thereof 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 sales and use tax exemption is permanent, because the Agency is satisfied that any conditions precedent to such sales and use 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 sales and use tax 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.

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

(H) Required Reports and Records. Pursuant to Section 874(B) of the Act, 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 5. 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 of the Agency immediately upon or shortly after 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 same have been paid. A refinancing of an Applicant Project shall not result in (1) any real property tax exemption beyond the fifteen (15) year period described in Section 7(D)(1) hereof or (2) any additional sales and use tax exemptions with respect to said project.

(C) Non-Agency Projects. In the event that the Agency does not hold title to (or a leasehold interest in) 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 (or a leasehold interest in) 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 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 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.

(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 Jurisdictions in accordance with Section 874(3) of the Act.

SECTION 6. 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.

(B) Real 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.

(C) 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.

SECTION 7. 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 Board of Real Property Services 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 shall be required to make Pilot payments in such amounts as would result from taxes being levied on the project by the Affected Tax 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 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 Pilot Agreement.

(C) 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 Affected Tax Jurisdiction. Once an Exemption Form with respect to a particular project is filed with a particular Affected Tax Jurisdiction, the real property tax exemption for such project does not take effect until (1) a tax status date for such Affected Tax 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 Affected Tax Jurisdiction, and (4) the tax year to which such tax roll relates commences.

(D) 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") will determine the interim assessments of such project as construction progresses thereon (each, an "Interim New Assessment") and a final assessment thereof (the "Final New Assessment") when construction is completed. 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 include the existing assessment on such buildings (the "Existing Assessment", and collectively with the Interim New Assessment, the "Full Assessment", and collectively with the Final New Assessment, the "Final Full Assessment"). Once the Final Full Assessment is fixed, 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 to the project pursuant to paragraph (2) below. During the Initial Period, the Applicant shall pay real estate Pilot payments determined in each tax year as follows: (a) first, determine the assessment of the new construction portion of the project for such tax year (the "Current New Assessment"), which assessment shall be a percentage of the Final New Assessment determined by subtracting the percentage of abatement applicable to such year (as determined pursuant to paragraph (2) below) from 100%; (b) next, determine the assessment of the project for such tax year (the "Current Pilot Assessment") by adding the Current New Assessment to the Existing Assessment; and (c) finally, determine the Pilot payment payable to with respect to the project to each Affected Tax Jurisdiction by multiplying the Current Pilot Assessment by the applicable tax rate of the such Affected Tax Jurisdiction. Once the Initial Period has ended, the Applicant will pay

real estate Pilot payments determined in each tax year as follows: multiply the Final Full Assessment by the applicable tax rate of the such Affected Tax Jurisdiction.

(E) PILOT Categories:
Unless otherwise approved by the Agency, the period of exemption will fall within two categories, fifteen (15), or ten years (10) depending on the nature of the project. The Agency reserves the right to deviate from this structure as provided by the statute

(1) Fifteen-Year Strategic Schedule
Eligible projects are considered strategic priorities, and include, but are not limited to general manufacturing, industrial, life sciences, research and development, banking/financial services, defense and aerospace, data-processing, food and/or beverage processing, agribusiness, telecommunications equipment and services, medical/diagnostic labs, and biotechnology. (i)the initial period shall be fifteen (15) years, and (ii) the percentage of each tax year shall be set forth in the following table:

Tax Year	Percent of Exemption
1	100%
2	100%
3	100%
4	95%
5	90%
6	80%
7	70%
8	60%
9	50%
10	40%
11	30%
12	20%
13	10%
14	10%
15	5%
Year 16 and thereafter	0%

(2) Technology and Advanced Manufacturing Schedule
Technology projects (including but not limited to artificial intelligence, augmented reality, virtual reality, 3D printing, digital commerce, software, nanotechnology, cyber security, semiconductors, information technology, robotics, cloud services, IoT software/hardware/connectivity, data storage, big data analytics, and software/ hardware) and advanced manufacturing projects (including but not limited to production activities that depend on "information, automation, computation, software, sensing, and networking") may qualify for a specialized PILOT schedule, (i)the initial period shall be fifteen (15) years, and (ii) the percentage of each tax year shall be set forth in the following table:1

1 Advanced Manufacturing National Program Office. Manufacturing.gov.
[Online] https://www.manufacturing.gov/.

Tax Year	Percent of Exemption
1	100%
2	100%
3	100%
4	100%
5	100%
6	90%
7	80%
8	70%
9	60%
10	50%
11	40%
12	30%
13	20%
14	10%
15	5%
Year 16 and thereafter	0%

(3) <u>Ten Year Schedule</u>

For projects that qualify for the ten-year schedule, the initial period shall be ten (10) years, and (ii) the percentage of each tax year shall be set forth in the table below. Eligible projects include, but are not limited to media and communications, healthcare, warehousing/distribution, insurance, professional office, agriculture, recreation/civic, workforce housing, senior housing, healthcare/assisted living, hotels/lodging, qualifying retail, and tourism facilities. Projects that utilize green building LEED certified practices create jobs that are at least 90 percent the average county wage, offer local educational benefits, or create significant spin-off jobs may be eligible for enhanced benefits.

Tax Year	Percent of Exemption
1	100%
2	75%
3	75%
4	75%
5	60%
6	50%
7	40%
8	30%
9	20%
10	10%
Year 11 and thereafter	0%

(4) <u>Adaptive Reuse of Facilities</u>

Adaptive reuse projects are considered a strategic priority, and therefore will fall into a separate and distinct category. For qualified adaptive reuse projects, (i)the initial period shall be fifteen (15) years, and (ii) the percentage of each tax year shall be set forth in the following table:

The MIDA will consider the following variables when examining a commercial adaptive reuse project:

- The age of the building
- Barriers to development

- History in the community
- Amount of time the building has been vacant and/or underutilized
- Support of taxing jurisdiction that the structure is located in
- Whether reuse of the building will involve environmental remediation costs

Tax Year	Percent of Exemption
1	90%
2	90%
3	90%
4	75%
5	75%
6	75%
7	50%
8	50%
9	50%
10	40%
11	30%
12	20%
13	10%
14	10%
15	5%
Year 16 and thereafter	0%

(5) <u>Qualified Commercial: New Construction</u>

If the commercial project involves new construction, the initial period shall be ten years with the percentage of exemption set forth in the following table:

Tax Year	Percent of Exemption
1	100%
2	80%
3	70%
4	60%
5	50%
6	40%
7	30%
8	20%
9	10%
10	10%
Year 11 and thereafter	0%

(6) <u>Solar and Small Energy Projects</u>

Solar, eligible wind and small energy projects will be eligible for a fifteen (15) year PILOT commensurate with New York State's RPTL 487 tax exemption, with fixed PILOT Payments determined by the Agency in its sole discretion. In determining the PILOT Agreement, the Agency, may consider the total amount of power generated, stored, or transmitted by such project and the assessed value of such project.

(7) Reduction for Failure to Achieve Goals: If the Agency's approval of a particular project is predicated upon achievement by the project of certain minimum goals (such as creating and maintaining certain minimum employment levels), the Pilot Agreement may provide for the benefits provided thereby to the project to be reduced or eliminated if, in the sole judgment of the Agency, the project has failed to fulfill such minimum goals. Except as otherwise provided by resolution of the Agency, all real estate Pilot payments are to be paid to the Receiver of Taxes for the Town for distribution to the Affected Tax Jurisdictions. Upon expiration of the Initial Period as aforesaid, the assessment of the project shall revert to a normal assessment (i.e., the project will be assessed as if the project were owned by the Applicant and not by the Agency). Also, any addition to the project shall be assessed normally as aforesaid, unless such addition shall be approved by the Agency as a separate project following notice and a public hearing as described in Section 859-a of the Act. Other than fixing the Final Assessment for the Initial Period as aforesaid, the general policy of the Agency is to not provide the Applicant and/or project occupant with any abatement, other than abatements allowed under the Real Property Tax Law.

(8) 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. However, Applicants and project occupants should be aware that the courts have ruled that an Agency-sponsored project is also eligible to apply for an exemption from special district taxes pursuant to Section 485-b of the Real Property Tax Law. If an Applicant or project occupant desires to obtain an exemption from special district taxes pursuant to said Section 485-b, it is the responsibility of the Applicant and/or project occupant to apply for same at its sole cost and expense.

(9) Payee. Unless otherwise determined by resolution of the Agency, all Pilot payments payable to an Affected Tax Jurisdiction shall be assessed, billed and collected by the Receiver of Taxes for the Town. 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.

(10) 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.

(F) 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 respective Assessors, 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 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 of an Affected Tax Jurisdiction or by the Agency. In lieu of an appraisal, the Agency may require that an Applicant submit to the Agency and each Assessor a certified enumeration of all project costs. 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.

SECTION 8. PROCEDURES FOR DEVIATION. (A) General. In the case where the Agency may determine to deviate from the provisions of this Uniform Tax Exemption Policy pursuant to the provisions of Section 3(B) hereof, the Agency may deviate from the provisions hereof, provided that:

(1) the Agency adopts a resolution (a) setting forth, with respect to the proposed deviation, the amount of the proposed Tax Exemption, the amount and nature of the proposed Pilot, the duration of the proposed Tax Exemption and of the proposed Pilot and whether or not a Tax Exemption of any kind shall be granted, (b) indicating the reasons for the proposed deviation and (c) imposing such terms and conditions thereon as the Agency shall deem just and proper; and

(2) as provided in Section 3(C) hereof, the Agency shall give prior written notice of the proposed deviation from this Uniform Tax Exemption Policy to each Affected Tax Jurisdiction, setting forth therein a general description of the proposed deviation and the reasons therefor. Whenever possible, the Agency shall give such notice to each Affected Tax Jurisdiction at least thirty (30) days prior to the consideration by the Agency of the final resolution determining to proceed with such proposed deviation from this Uniform Tax Exemption Policy.

(B) Agency-Owned Projects. Where a project (1) constitutes a Non-Applicant Project, (2) is otherwise owned and operated by the Agency or (3) has been acquired by the Agency for its own account after a failure of a project occupant, such project may at the option of the Agency be exempted by the Agency from all taxes, to the extent provided in Section 874(1) and (2) of the Act.

(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 may consider the granting of a deviation from the established exemption policy in accordance with the procedures provided in Section 3(B) and Section 8(A) hereof. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.

SECTION 9. ANNUAL REVIEW OF POLICY. At least annually, the Agency shall review this tax exemption policy to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate. The Executive Director shall be responsible for conducting an annual review of this tax exemption policy and for an evaluation of the internal control structure established to ensure compliance with the tax exemption policy, which review shall be submitted to the Agency for consideration by the Agency.