

**UNIFORM TAX EXEMPTION POLICY AMENDMENTS
APPROVING RESOLUTION**

A regular meeting of Montgomery County Industrial Development Agency (the “Agency”) was convened in public session at the offices of the Agency located at 113 Park Drive, Fultonville, New York on July 13, 2023 at 3:00 o'clock p.m., local time.

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

PRESENT:

Matthew Beck	Chairperson
Carol Shineman	Vice-Chairperson
Cheryl Reese	Treasurer
Mark Kowalczyk	Member
Brent Phetteplace	Member

ABSENT:

Laurie Weingart	Secretary
Amanda Auricchio, Esq.	Member

AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Kenneth F. Rose	Chief Executive Officer
Sheila Snell	Chief Financial Officer
Andrew Santillo	Staff Assistant
Vincenzo Nicosia	Director of Program Development
Christopher C. Canada, Esq.	Agency Counsel

The following resolution was offered by Mark Kowalczyk, seconded by Cheryl Reese, to wit:

Resolution No. 23-13

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

WHEREAS, Montgomery County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 666 of the 1970 Laws of New York, as amended, constituting Section 895-d of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

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

WHEREAS, in connection with certain laws affecting industrial development agencies in the State of New York that went into effect on December 16, 2022 (collectively, the “New Laws”), the Agency wishes to make certain amendments to the Existing UTEP to reflect the relevant provisions of the New Laws; and

WHEREAS, a copy of the Agency’s Existing UTEP, as so amended, is attached as Exhibit A hereto (the Existing UTEP, as so revised, is referred to hereinafter as the “Amended UTEP”); and

WHEREAS, since the amendments to the Existing UTEP would be made solely to reflect the relevant provisions of the New Laws rather than any changes to the business terms set forth therein, a public hearing is not required to be held under Section 874(4)(b) of the Act in connection therewith;

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

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

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

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

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

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

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

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

Section 4. This resolution shall take effect immediately.

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

Matthew Beck	VOTING	YES
Carol Shineman	VOTING	YES
Cheryl Reese	VOTING	YES
Laurie Weingart	VOTING	ABSENT
Amanda Auricchio, Esq.	VOTING	ABSENT
Mark Kowalczyk	VOTING	YES
Brent Phetteplace	VOTING	YES

The foregoing resolution was thereupon declared duly adopted.

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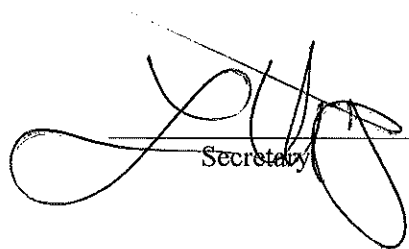
STATE OF NEW YORK)
) SS.:
COUNTY OF MONTGOMERY)

I, the undersigned Secretary of Montgomery County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the resolution contained therein, held on July 13, 2023 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 21st day of September, 2023.


Secretary

(SEAL)

EXHIBIT A
AMENDED UTEP

See attached.

PART 18

UNIFORM TAX EXEMPTION POLICY

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

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

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

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

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

(D) "City" shall mean the City of Amsterdam.

(E) "County" shall mean the County of Montgomery.

(F) "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.

(G) "School District" shall mean any school district located in the County.

(H) "Tax ~~exemption~~ 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.

(I) "Town" shall mean any town located in the County.

(J) "Village" shall mean any village located in the County.

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SECTION 1803. GENERAL PROVISIONS. (A) General Policy. The general policy of the Agency is to grant tax exemption as hereinafter set forth to any project which has been or will be financed by the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect thereto.

(B) Exceptions. ~~Although the Agency has never deviated from the general policy enunciated under subsection (A) of this Section, the Agency~~The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider factors which make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to project; (2) whether the affected tax jurisdictions will be reimbursed by the project occupant if the project does not fulfill the purposes for which tax exemption was granted; (3) the impact of the project on existing and proposed businesses and/or economic development projects; (4) the amount of private sector investment generated or likely to be generated by the project; (5) demonstrated public support for the project; (6) the estimated value of the tax exemptions requested; and (7) the extent to which the proposed project will provide needed services and/or revenues to the affected tax jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

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

(D) Preliminary Notification. No request for tax exemption (each a "Request") shall be granted by the Agency unless the Agency completes certain notifications as required under the Act. Pursuant to Section 859-a(1) of the Act, the Agency is required to adopt resolution describing a project being contemplated by the Agency and any Tax Exemption to be granted in connection therewith (the "Preliminary Resolution"). The Preliminary Resolution generally consists of (a) a Public Hearing Resolution, with respect to straight-lease transactions, or (b) a Preliminary Inducement Resolution, with respect to bonds to be issued by the Agency. Pursuant to Section 859-a(1-a) of the Act, no Request shall be granted by the Agency unless the Agency delivers the Preliminary Resolution with respect to the Request to each Taxing Jurisdiction (as hereinafter defined) via certified mail, return receipt requested.

SECTION 1804. SALES AND USE TAX EXEMPTION. (A) General. State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales taxes applicable only to the initial acquisition, construction and/or equipping of each project with respect to which the Agency grants financial assistance. The Agency has no requirement for

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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 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 debt 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, said resolution to be substantially in the form of Appendix 18A attached hereto, (c) the applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (d) the Chief Executive Officer of the Agency acknowledges satisfaction of all conditions to the granting of such tax exemption set forth in such resolution.

(3) Normal Termination. The tax exemption period will normally end upon the completion of the project. On construction projects, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date, which is six (6) months after the estimated date of such project. On non-construction project, the parties shall agree on the estimated date of completion of the project, and the tax exemption shall cease on the earlier of (a) the actual date of completion of the project or (b) the date, which is three (3) months after the estimated date of completion of the project. If the Agency and the applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the applicant make the determination on the basis of available evidence.

(4) Later Termination. The Agency, for good cause shown, may adopt a resolution extending the period for completion of the project and/or extending the tax exemption period.

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

- (1) Items incorporated into the real property;

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(2) Tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased as agent of the Agency;

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

(4) office supplies, fuel and similar items consumed in the process of acquiring, constructing and/or equipping the project, if purchased as agent of the Agency.

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

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

(2) repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or

(3) operating expenses, unless such operating expenses constitute major capital-type expenses approved by the Agency as a separate project in the manner contemplated by the Act.

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

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

(G) Required Filings. The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales tax exemption. For example, TSB-M-87(7) outlines the materials that must be filed to establish entitlement to sales tax exemption as "agent" of the Agency. It is the responsibility of the applicant and/or project occupant to ensure that the proper documentation is filed with each vendor to obtain any sales tax exemptions authorized by the Agency.

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(H) Required Reports and Records. (1) Pursuant to Section 874(8), the applicant and/or project occupant is required to annually file with the New York State Department of Taxation and Finance a statement of the value of all sales and use tax exemptions claimed under the Act by the applicant and/or the project occupant and/or all agents, subcontractors and consultants thereof. The project documents shall require that (1) a copy of such statement will also be filed with the Agency and (2) that the project occupant shall maintain, for a period ending seven (7) years after the last purchase made under the sales and use tax exemption, and make available to the Agency at the request of the Agency, detailed records which shall show the method of calculating the sales and use tax exemption benefit granted by the Agency.

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

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

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

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

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

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

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

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

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

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

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

~~(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.~~

~~(B)~~ (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 1807. REAL ESTATE TAX EXEMPTION. (A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes but not exempt from special assessments and special ad valorem levies. However, it is the general policy of the Agency that, notwithstanding the foregoing, every nongovernmental project will be required to enter into a payment in lieu of tax agreement (a "PILOT Agreement"), either separately

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or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

(B) PILOT Requirement. Unless the applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form 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 taxing jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the applicant and/or project occupant have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such agreement.

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

(1) Amount of Abatement: The general policy of the Agency is to allow the assessor of the municipality in which the project is located to ascertain the assessed value of a project owned by the Agency. Once the assessed value is established, the Agency will reduce the assessed value by an exemption percentage, and the resulting value will become the value for PILOT purposes (the "PILOT value"). The PILOT payment will then be computed for each taxing entity in each year by multiplying the PILOT value by the applicable tax rate of such tax entity in such year.

(D) Real Property Tax/Payments-in-lieu-of-Taxes (PILOT)

(1) New Construction

- a. Industrial project (manufacturing, assembly, R & D, processing, distribution, warehousing, etc.) consisting of new construction, will receive the following tax abatement: years 1-5, 75%; years 6-10, 50%; years 11-15, 25%
- b. Commercial projects (wholesale, office, insurance, etc) consisting of new construction will receive the following tax abatements: years 1-5, 50% and year 6-10, 25%
- c. Retail projects will receive no tax abatements.

(2) Purchase of Existing Facilities

- a. Industrial projects consisting of the purchase of an existing facility will have taxes frozen at the amount (annual property tax liability) in place at the time of purchase for the first 5 years subsequent to the purchase. In year 6-10, any tax increase in the amount of annual property taxes, over the above frozen amount, will be abated by 50%

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- b. Commercial projects consisting of the purchase of an existing facility will have taxes frozen at the amount (annual property tax liability) in place at the time of purchase for the first 3 years subsequent to the purchase. In years 4 and 5, any tax increase in the amount of annual local property taxes, over the above the frozen amount, will be abated by 50%. In years 6-10, any tax increase in the amount of annual local property taxes, over above the frozen amount, will be abated by 25%.
- c. Retail projects will receive no tax abatements.

(3) Improvement of Existing Facility Currently

- a. Any project, industrial or commercial, which consists of capital improvements to the facility, will have taxes frozen at that amount (annual property tax liability) in place prior to improvements for the first 3 years. In year 4 and 5, any tax increase in the amount of annual property taxes, over the above frozen amount, will be abated 50% and years 6-10, 25%.
- b. Retail projects will receive no tax abatements

(4) Leased Facilities

- a. In any lease transaction (new construction, existing building, etc) industrial or commercial, the policies stated in Sections 1,2, and 3 will apply so long as the tax abatement benefits are passed on to the tenant/occupant. Both the beneficial owner and the tenant/occupant must certify in writing that all tax advantages provided by the MCIDA are accruing to the benefits of the tenant/ occupant.
- b. Retail projects will pay 100% of Real Property Taxes

(5) Actual real property tax saving must be reported to the MCIDA at year's end in compliance with the NYS general Municipal Laws, Article 18-A Tile 1, Section 874 as amended.

(6) Percentage of Exemption. The percentage of abatement applicable to a project shall normally be computed in accordance with the following table:

**MONTGOMERY COUNTY INDUSTRIAL DEVELOPMENT AGENCY
SCHEDULE OF UNIFORM REAL PROPERTY TAX EXEMPTION POLICY**

Years	New Construction Abatement		Purchase of Existing Facility Abatement		Improve/Expand of Existing Facility Abatement	
	Industrial	Commercial	Industrial	Commercial	Industrial	Commercial
1	75%	50%	Frozen (1)	Frozen (1)	Frozen (3)	Frozen (3)
2	75%	50%	Frozen	Frozen	Frozen	Frozen
3	75%	50%	Frozen	Frozen	Frozen	Frozen
4	75%	50%	Frozen	50% (2)	50% (2)	50% (2)
5	75%	50%	Frozen	50%	50%	50%
6	50%	25%	50% (2)	25% (2)	25% (2)	25%
7	50%	25%	50%	25%	25%	25%
8	50%	25%	50%	25%	25%	25%
9	50%	25%	50%	25%	25%	25%
10	50%	25%	50%	25%	25%	25%
11	25%	0%	0%	0%	0%	0%
12	25%	0%	0%	0%	0%	0%
13	25%	0%	0%	0%	0%	0%
14	25%	0%	0%	0%	0%	0%
15	25%	0%	0%	0%	0%	0%

- (1) Frozen at pre-purchase levels
- (2) Percent of increase over frozen level
- (3) Frozen at pre-improvement levels

(7) **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, 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.

(8) **Payee.** Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an affected tax jurisdiction shall be assessed, billed and collected directly by the Agency. 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.

(9) **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.

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

(2) Pursuant to Section 858(15) of the Act, the Agency shall deliver a notification of the expiration of all PILOT Agreements entered into by the Agency two (2) years prior to the scheduled expiration of such PILOT Agreement and immediately upon any early termination of such 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 Assessor of the Town, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the assessor of any particular Taxing Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the applicant 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.

(G) Assessment Notification. If the Agency grants the applicant an exemption under this Section 1807, the applicant will be required to complete certain filings in the event the applicant files for a change of assessment pursuant to the Real Property Tax Law of the State of New York (the "RPTL"). Pursuant to Section 561-a of the RPTL, any entity which makes payments in lieu of taxes ("PILOT Payments") must provide notification (the "assessment Notification") of an intention to file for a change in assessment in writing, at least forty-five (45) days prior to filing for the change in assessment. The Assessment Notification must be provided to the Agency and any Taxing Jurisdictions.

(H) ~~(G)~~ Employment Filings. If the Agency grants the applicant an exemption under this Section 1807, the applicant will be required to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site.

(I) ~~(H)~~ Recapture of Benefits

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(1) The Montgomery County Industrial Development Agency reserves the right to recapture project financial assistance provided through the Agency in cases in which a company's performance is substantially different than anticipated, as defined below:

- a. Failure to complete the acquisition, construction or installation of the Project Facility;
- b. Liquidation of substantially all of the Company's operating assets and/or cessation of substantially all of the Company's operations;
- c. Relocation of all or substantially all of the Company's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility;
- d. Transfer of jobs equal to at least fifteen percent (15%) of the Company's Base Employment Level out of the County;
- e. Sublease of all or part of the Project Facility in violation of the Agency Agreement with the Company;
- f. A change in the use of the Project Facility, other than as a facility of that of the Company.

(2) The Project Financial Assistance to be recaptured by the Agency upon the occurrence of a Recapture Event during the Recapture Period shall be an amount equal to the sum of the following:

- a. The portion of the amount of New York State sales and use taxes allocable to Montgomery County that the Company would have paid in connection with the undertaking of the Project if the Project Facility was not deemed owned or under the jurisdiction and control of the Agency;
- b. The amount of any real property and mortgage recording tax exemption provided by the Agency to the Company in connection with the undertaking of the Project.

(3) In case deemed to meet one or more of the above conditions, the following recapture schedule will apply:

<u>Period</u>	<u>Accumulative Amount of Recapture</u>
Years 1-4	100%
Years 5-8	75%
Years 9-11	50%
Years 12-15	25%
After 15 Years	0%

The time period above is from the effective date of the PILOT agreement. Imposition of this recapture policy is at the sole discretion of the MCIDA and will be considered on a case-by-case basis. The time period above may differ to reflective the term of the PILOT Agreement.

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

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

(2) the Agency shall give written notice of the proposed deviation from the policy set forth herein to each affected taxing jurisdiction setting forth the terms and conditions of the deviation and the reasons there for. Such notice to the affected tax jurisdictions shall be given to the chief executive officer of each affected tax jurisdiction ~~at least thirty days~~ via certified mail return receipt requested, prior to the meeting of the Agency at which the Agency shall consider whether to approve such deviation. Prior to taking any final action on a proposed deviation, the Agency shall review and respond to any correspondence received from any affected tax jurisdiction regarding the proposed deviation and allow any representative of an affected tax jurisdiction present at such meeting to address the Agency regarding the proposed deviation.

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

(C) Unusual Projects. Where a project is unusual in nature and requires special considerations related to its successful operations as demonstrated by appropriate evidence presented to the Agency, the Agency shall consider the granting of a deviation from the established exemption policy in accordance with the procedures provided in the title. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.

SECTION 1809. ANNUAL REVIEW OF POLICIES. (A) General. At least annually, the Agency shall review its tax exemption policies to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate.

Amended 1.14.16

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