Mailed 3/27/19

NEW YORK STATE

Department of Taxation and Finance

IDA Annual Compliance Report State Sales Tax Recapture

ST-62 (1/18)

For IDA fiscal year ending 12/31/18 (mmddyy)

Due within 90 days of the end of each fiscal year.

IDA information

Name of IDA: Fulton County Industrial Development Agency		
Street address: 1 E. Montgomery St	Telephone number: (518) 736-5660	
City: Johnstown	State: NY	ZIP code: 12095

Terms and conditions for the recapture of state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

1 Did the IDA provide state sales tax exemption benefits to any project established, amended, or extended during the fiscal year entered above? .... 1 Yes ☐ No ☒

If *Yes,* continue below.
If *No,* skip to question 3.

2 When an IDA establishes a project, appoints an agent/project operator, or amends or extends a project established in a prior year, the IDA must include terms and conditions for the recapture of state sales tax exemption benefits in its resolutions and project documents. This applies to all projects established, amended, or extended on or after March 28, 2013 *(see instructions).*

Did the IDA **use the same terms and conditions** regarding the recapture of state sales tax exemption benefits in the project documents for each of its projects (as described above)? .... 2 Yes ☒ No ☐

If *Yes,* attach a copy of the terms and conditions used.

If *No,* attach a copy of each version used. Be sure to identify the projects to which each version of the terms and conditions relate.

If the IDA did **not** include terms and conditions for the recapture of state sales tax exemption benefits in the project documents, attach a list of these projects *(see instructions).*

Activities and efforts to recapture state sales tax exemption benefits for projects established, amended, or extended on or after March 28, 2013

3 Did the IDA make efforts to recapture any state sales and use tax exemption benefits from an agent, project operator, or other person or entity *(see instructions)*? .... 3 Yes ☐ No ☒

If *Yes,* continue below.
If *No,* skip question 4 and complete the *Certification* below.

4 Did the IDA file Form ST-65, *IDA Report of Recaptured Sales and Use Tax Benefits*, for each recapture, and remit the funds to the Tax Department? .... 4 Yes ☐ No ☒

If *Yes,* you must keep a copy of Form ST-65 and supporting documentation related to the recapture activities.
If *No,* attach an explanation of the IDA's recapture efforts *(see instructions).*

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of person signing on behalf of the IDA: DAVID A. D'AMORE	Print title of person signing on behalf of the IDA: CHAIRMAN	
Signature: [signature]	Date: 3.19.19	Telephone number: (518) 736-5660

Mailing instructions

Mail completed form and attachments to:

NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services.*

Instructions

Filing requirements

Every IDA must file this compliance report every year. The report must include:

- the terms and conditions for the recapture of state sales tax exemption benefits (as described in General Municipal Law (GML) section 875(3)) within all of the IDA's resolutions and project documents. This applies to:
  - projects established and agents or project operators appointed, and any financial assistance or agreement for payments in lieu of taxes provided, on or after March 28, 2013; and
  - any amendment or revision for additional funds or benefits made on or after March 28, 2013, to projects established, agents or project operators appointed, financial assistance provided, or payments in lieu of taxes provided, prior to March 28, 2013.
- information about efforts the IDA has made to recover, recapture, receive, or obtain any state sales tax exemption benefits and payments in lieu of state sales taxes from an agent/project operator, or other person or entity.

Every IDA must file Form ST-62 within 90 days of the end of each fiscal year.

The term *state sales tax* as used in this form includes both state sales tax and the state use tax.

For more information, see TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities.*

Any IDA that fails to file or substantially complete this report may lose its authority to provide state sales tax exemption benefits.

Terms and conditions for the recapture of state sales tax exemption benefits

Line 2 – If the IDA:

- **used the same** standard terms and conditions for the recapture of state sales tax exemption benefits in the project documents for all projects covered by this report, attach a copy of the terms and conditions used. You are **not** required to attach the entire document. Attach only the sections describing the state sales tax recapture requirements described in GML section 875(3).
- **used different** terms and conditions for the recapture of state sales tax exemption benefits in the project documents for the projects covered by this report, attach a copy of the terms and conditions used and identify the project(s) to which they relate. Be sure to include the project name and address, and the legal name and EIN of the agent or project operator for each project identified.
- provided state sales tax exemption benefits **but did not include** terms and conditions for the recapture of those benefits, attach a list of these projects. Include the project name and address, the legal name and EIN of the agent or project operator, and the reason why terms and conditions regarding recapture were not included.

Activities and efforts to recapture state sales tax exemption benefits

The GML requires that each IDA recapture state sales tax exemption benefits that were claimed by a project operator or agent, or other person or entity, whenever the benefits were:

- not entitled or authorized to be taken,
- in excess of the amounts authorized,
- for unauthorized property or services, or
- for property or services not used according to the terms of the agreement with the IDA.

See Form ST-65, *IDA Report of Recaptured Sales and Use Tax Benefits,* for more information.

IDAs must remit recaptured state sales tax benefit amounts to the Tax Department within 30 calendar days, using Form ST-65.

Line 4: If the IDA made efforts to recapture sales tax exemption benefits during the fiscal year covered by this report and **has not filed** Form ST-65, attach an explanation.

The attachment must include:

- name and address of the project and project number;
- legal name, EIN, and address of the agent/project operator, or other person or entity;
- project beginning and end dates;
- the basis for recapture, as described above;
- date of recapture efforts;
- amounts identified as required to be recaptured; and
- amount recaptured, if different.

When identifying recapture amounts, be sure to break down the total dollar amount into the categories below:

- state tax,
- local tax,
- MCTD tax (if applicable),
- penalties, and
- interest.

If the amount recaptured was not paid in full, also include copies of correspondence exchanged between the IDA and the agent/project operator, or other entity or person regarding the recapture efforts.

Need help?

Visit our website at ***www.tax.ny.gov.***

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POLICY 14: UNIFORM TAX EXEMPTION POLICY

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FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX EXEMPTION POLICY

Originally Adopted:	February 1994
Revised:	April 20, 1999
Revised:	August 23, 2012
Revised:	June 7, 2016

SECTION 1: PURPOSE AND AUTHORITY:

Pursuant to Section 874(4)(a) of Title One of Article 18-A of General Municipal Law (the "Act"), the Fulton 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 ($100,000) to any project.

SECTION 2: DEFINITIONS:

"Administrative Fee" shall mean a charge imposed by the Agency to an Applicant for the administration of Project.

"Affected Tax Jurisdiction" means, with respect to a particular project, the City, Town, Village, County or School District in which a Project is located and will fail to receive real property tax payments that would otherwise be due with respect to such Project due to a Tax Exemption obtained by reason of involvement of the Agency in such Project. This does not include special taxing jurisdictions.

"Agency" or **"IDA"** shall mean the Fulton County Industrial Development Agency.

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

(a) Reimbursement of the Agency's expenses, including but not limited to legal fees and publication fees.
(b) Rent imposed by the Agency for use of the property of the Agency, and
(c) Other similar charges imposed by the Agency.

"Applicant" shall mean an applicant for financial assistance.

"County" shall mean the County of Fulton.

"PILOT" or **"Payment in Lieu of Tax Agreement"** shall mean a written agreement between the Agency AND Applicant whereby the Applicant shall make payments to Affected Tax Jurisdictions.

"PILOT" or **"Payment in Lieu of Tax"** shall mean any payment made to any 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 the tax exemption obtained by reason of the involvement of the Agency in such project. Such term shall not include Agency fees.

"Project" shall mean an activity 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 (as defined under

Section 845(15) of the Act) which the Agency has determined to undertake, or (3) lease – lease back projects, or (4) sales tax only projects.

"Project Sponsor" or **"Company"** shall mean the developer and/or beneficial user of a Project Facility as designated by the Agency.

"Tax Exemption" shall mean any financial assistance granted to a Project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a Project but for the involvement of the Agency, including but not limited to sales transfer tax, mortgage recording tax and real property tax exemptions.

SECTION 3: GENERAL PROVISIONS:

a. General Policies:

1. The Agency may grant tax exemptions as hereinafter set forth to any Project which has been or will be:

   (a) Financed by the issuance of Agency bonds, notes or other evidences of indebtedness with respect thereto or
   (b) Otherwise assisted by the Agency pursuant to a straight lease transaction (as defined under Section 845(15) of the Act).

2. In order to receive any tax exemptions, a Project shall, in the sole judgment of the Agency, create a significant number of new jobs or retain a significant number of existing jobs.
3. No real property tax exemptions shall be granted to a Project that would result in the relocation of an industrial or manufacturing facility from one area of New York State to another, unless the relocation, closure or abandonment is, as determined by the Agency, necessary to enable the Project to maintain its competitive position within its industry.
4. Subject to the prior written approval by the IDA, tax exemptions may be transferable by the Project Sponsor only if the transferee of the Project retains the same or similar use of the Project within the same parameters of the original Project Sponsor.

b. Deviation Policy

1. The Agency reserves the right to deviate from any provision in this Uniform Tax Exemption Policy in special circumstances. In determining whether special circumstances exist to justify a deviation, the Agency may consider factors, which include but not be limited to the following:

   a. The magnitude and/or importance of any permanent private sector job creation and/or retention of existing jobs related to the Project;
   b. The impact of the Project on existing and proposed businesses and/or economic development projects;

c. The amount of private sector investment generated or likely to be generated by the Project;
d. Demonstrated public support/opposition for the Project;
e. The estimated value of the tax exemptions requested; and
f. The extent to which the proposed Project will provide needed services and/or revenues to Affected Tax Jurisdictions.
g. Other factors outlined in Section 874(4)(a) of the Act.

2. If the Agency is going to deviate from any provision of the Uniform Tax Exemption Policy, the Agency shall adopt a resolution that:

   a. Identifies the deviation provided.
   b. Identifies the reasons for the deviation.
   c. Identifies such terms and conditions as the Agency shall deem just and proper.

c. Application:

1. No request for a tax exemption shall be considered by the Agency unless a Project Application, which includes an Application for Tax Exemption, is filed with the Agency on the forms prescribed by the Agency.
2. 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 Policy.

SECTION 4: REAL ESTATE TAX EXEMPTION:

a. General:

1. 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 real estate taxes, but not exempt from special assessments and special ad valorem levies.
2. It is the general policy of the Agency that, notwithstanding the foregoing, the Project Sponsor of every non-governmental Project shall be required to enter into a Payment In Lieu of Tax Agreement ("PILOT") with the Agency, 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 in this Policy.
3. The project documents shall provide that, if the Agency and the Applicant and/or Project Sponsor 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.

b. **Filing Requirements:**

1. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law as amended, no real estate tax exemption shall be effective until an Exemption Form is filed with the assessor of each Affected Tax Jurisdiction.
2. 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 until a PILOT Agreement is executed and the Project documents stipulate that the Applicant and/or the Project Sponsor 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.
3. Once an Exemption Form is filed with a particular Affected Tax Jurisdiction, the real property tax exemption for such project does not take effect until:

    a) The next tax status date for such Affected Tax Jurisdiction occurs subsequent to such filing.
    b) An assessment roll for such Taxing Jurisdiction is finalized subsequent to such tax status date.
    c) Such assessment roll becomes the basis for the preparation of a tax roll for such Affected Tax Jurisdiction, and
    d) The tax year to which such tax roll relates commences.

c. **Property Assessments:**

1. It is the general policy of the Agency to have the City, Town or Village Assessor establish the assessed value of a Project owned by or under the jurisdiction, supervision or control of the Agency.
2. Commencing in the first taxable year after execution of the PILOT, the Assessor for the Affected Taxing Jurisdiction in which the Project is located shall assess 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.
3. The Project Sponsor shall be entitled to prompt written notice of the initial Assessed Value and of any change in the Assessed Value. If the Project Sponsor is dissatisfied with the amount of the Assessed Value of the Project Facility as initially established or as changed, the Project Sponsor shall have the right to contest the Assessed Value of the Project Facility made for the purposes of determining any payments due under the PILOT Agreement and to seek a refund of any such payments made.
4. The Project Sponsor's challenge to the Assessed Value of the Project Facility and its determination to seek a refund of any payments made hereunder shall be made in accordance with New York Real Property Tax Law.

d. **Payment in Lieu of Tax (PILOT) Agreement:**

1. The Agency shall make available to Project Sponsors or Applicants a PILOT Agreement modeled after Section 485-b of the New York State's Real Property Tax Law as shown below:

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

2. The Agency may grant enhanced Real Property Tax Exemptions on a case-by-case basis for projects expected to have significant economic impacts, in accordance with the Deviation Policy set forth herein
3. If a Project Sponsor or Applicant incurs a default, under the terms of a PILOT Agreement, the Project Sponsor shall be responsible to:

   a) Reimburse all of the Agency's legal costs to pursue remedying the default.
   b) Pay the Agency a $1,000 fee for each default.

4. If a Project Sponsor or Applicant requests an early termination of a PILOT Agreement with the Agency, the Project Sponsor or Applicant shall be responsible for issuing a payment to the Agency of $1,000/year for each year the PILOT Agreement was in effect as well as the Agency's legal and other fees associated with processing a request for early termination..

e. **Special District Taxes:**

1. The Agency is not exempt from special assessment and special ad valorem levies. As a result, these amounts are not subject to tax exemptions by reason of ownership of the Project by the Agency.
2. The Project Sponsor shall be responsible for the payment of all special district taxes ad valorem levies imposed by all Affected Taxing Jurisdictions.

f. **PILOT Payments:**

1. Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an Affected Tax Jurisdiction shall be paid directly to the Affected Tax Jurisdiction within thirty (30) calendar days of the receipt of a PILOT invoice.

2. If a PILOT payment is not received by an Affected Taxing Jurisdiction within thirty (30) calendar days of the receipt of a PILOT invoice, a late fee penalty of 2% per month shall be paid to the Affected Tax Jurisdictions for each month a payment is not made.

g. **Enforcement:**

1. 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 or such other available remedies.
2. 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. 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.
3. If the Agency's approval of a particular Project is predicated upon achievement by the Applicant or Project Sponsor of certain minimum goals, i.e. creating and/or maintaining certain minimum employment levels, the PILOT Agreement may provide for the reduction or elimination of PILOT benefits, if, in the sole judgment of the Agency, the Project has failed to fulfill such minimum requirements.
4. If the Applicant or Project Sponsor after reasonable notice, fails to comply with Project reporting required by the Agency including, but not limited to, annual verification of proper insurance coverage, employment reporting as required under the Act, the Agency may in its sole judgment terminate the PILOT Agreement and make no real estate tax exemption available.

h. **Real Property Appraisals:**

1. Since the policy of the Agency is to base the value of a Project for payment in lieu of tax purposes on a valuation of such Project performed by the local Assessor, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if,

   (i) The assessor of any particular Affected Tax Jurisdiction requires one, or
   (ii) If the valuation of the Project for payment in lieu of tax purposes is based on a value determined by the Project Sponsor, rather than by an assessor for a Taxing Jurisdiction or by the Agency.

2. 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.
3. The Project Sponsor shall be responsible for paying for the cost of hiring said appraiser.

i. <u>Required Filings:</u>

1. If the Agency grants a real estate tax exemption under this Section, the Applicant or Project Sponsor shall be required to annually file, or cause to be filed, with both New York State or the Agency, reports regarding the number of people employed at the project site, the annual and/or hourly salary for all full and part-time employees and provide other information as may be required by New York State or the Agency.

j. <u>Recapture Policy:</u>

I. **BASIS TO PURSUE RECAPTURING BENEFITS:**

1. It shall be the policy of the Agency to consider recapturing benefits (Financial Assistance) for a project if any of the following conditions apply:

   a. Sale or closure of the facility and departure of the company from the County of Fulton (Notwithstanding any of the terms set forth herein, this occurrence shall result in the immediate termination of Financial Assistance).

   b. Significant change in the use of the facility and/or the business activities of the company.

   c. Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.

   d. Failure to comply with any periodic and/or annual reporting requirements of the Agency, State or Federal governmental agency.

   e. Failure to meet or comply with specified Material Factors, as determined by the Agency at the time of the acceptance of the project for Financial Assistance and as set forth in the Inducement Resolution and/or Preliminary/Project Agreement. Material Factors may include but not be limited to the following (each project is not required to include all of the Material Factors listed below, as Material Factors are determined on a project-to-project basis)

      1) Create or Retain Jobs
      If the company meets 85% of its projection, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by annual reporting by the company to the Agency.

      2) Private Sector Investment
      If the company meets 85% of its total project cost, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by the completion of an affidavit from the company to the Agency at the time of the project completion detailing the total project cost.

3) Local Labor Construction
If the company meets 85% of its estimated usage of local labor forces, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on a one time basis by the completion of an affidavit from the company to the Agency at the time of the project completion detailing the usage of local labor forces.

4) Wage Rates
If the company meets 85% of its projection, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored by annual reporting by the company to the Agency.

5) Increased Property Value
If the company meets 85% of its projected increased total assessed value at the time of projection completion, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on a one time basis by a review of the assessed value of the project facility upon completion of the project.

6) Increased Revenue to Local Taxing Jurisdictions
If the company meets 85% of its projected increased revenues, as confirmed in the Inducement Resolution, Preliminary/Project Agreement, this shall constitute compliance with this Material Factor. This Material Factor shall be monitored on by annual reporting by the company to the Agency of consisting of data relative to the revenues generated by the project.

[NOTE: Each project will not be required to include all the Material Factors listed above. The Agency shall determine for each project what Material Factors shall apply to each project.]

f. For a project that failed to comply with a material term or condition to use property or services in the manner required by any and all provisions of the agreements that the company has entered into with the Agency.

II. <u>RECAPTURE OF REAL PROPERTY TAX BENEFITS:</u>

1. For companies receiving real property tax abatements, the Agency's schedule for recapturing real property tax benefits shall be (applicable to the real property tax abatements) as follows:

Years 1-5 of PILOT: 100% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Commissioner of Taxation and Finance, together with such other information and report that the Commissioner deems necessary to administer payment over such amount.

IV. RECAPTURE PROCEDURES:

1. In the event that the Agency determines that there exists a basis for recapture as set forth in Section 1 herein, the Agency shall notify the company, in writing, that the Agency has determined that a basis exists for recapture. The company shall be given a reasonable timeframe within which to remedy the violation, such timeframe being commensurate to the violation.

2. The company shall provide information and a written explanation as to why the violation has occurred or the Material factor has not been achieved, as the case may be.

3. If requested by the Agency, the company shall make a presentation to the Agency concerning this default.

4. Thereafter, the Agency may pursue recapturing pursuant to this Recapture Policy. Imposition of any recapture is at the sole discretion of the Agency and is reviewed/considered on a case by case basis.

5. In lieu of imposing the above recapture penalties and for good cause shown by the company, the Agency, at its sole discretion, may make a determination to:

   a. Discontinue the Financial Assistance in its entirety, per the provisions set forth the in the Lease Agreement;
   b. Suspend the Financial Assistance for a specific stated period of time in order for the company to correct or comply with the material term or Material Factor being breached;
   c. In the case of real property taxes exemptions, modify the PILOT Agreement to decrease the exemption and increase the payments due for the remaining term of the PILOT Agreement.

SECTION 5: SALES TAX EXEMPTION:

a. General:

1. New York 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 taxes.
2. Purchases of construction materials and project related equipment during initial construction and equipping of the Project Facility shall be made as agent for the Agency and are therefore afforded full exemption from all sales taxes.
3. A Project Sponsor's failure to complete the Project or close on a bond issuance within a timeframe set forth by the Agency or as such timeframe may be extended by the approval of the Agency, may require the repayment of all sales tax previously exempted. In the event that

there be such a failure, the Agency may notify the New York State Department of Taxation and Finance of sales tax due.

b. **Tax Exemption Period:**

1. The Agency and Project Sponsor shall enter into a Sales Tax Exemption Agreement which shall include an expiration date to act as the Project Sponsor for the Agency, which shall be based upon the estimated completion date plus six (6) months to allow for possible delays and equipping.
2. Extension of the expiration date shall require formal approval of the Agency.

c. **Percentage of Exemption:**

1. The sales tax exemption shall be equal to one hundred percent (100%) of the sales taxes that would have been levied if the Project were not exempt by reason of the Agency's involvement in the Project.

d. **Confirmation Letter:**

1. The granting of a sales 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.
2. Each Confirmation Letter shall describe the scope and term of the sales tax exemption granted.

e. **Required Filings:**

1. The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales tax exemption.
2. It shall be the responsibility of the Project Sponsor to ensure that all required documentation shall be filed with each vendor to obtain any sales and use tax exemptions authorized by the Agency.

f. **Required Reports and Records:**

1. Pursuant to Section 874(8) of the Act, the Project Sponsor shall be 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 Sponsor and/or all agents, subcontractors and consultants thereof.
2. The Project Sponsor shall, concurrently upon filing said statement/report with the State, also file a copy with the Agency.
3. 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.

SECTION 6: MORTGAGE RECORDING TAX EXEMPTION:

1. Mortgages executed by industrial development agencies in furtherance of their lawful activities are exempt from payment of the New York State Mortgage Recording Tax pursuant to General Municipal Law Section 874.
2. The general policy of the Agency shall be to impose no mortgage recording taxes on projects involving mortgages.

SECTION 7: REAL ESTATE TRANSFER TAX EXEMPTION:

1. 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.
2. The general policy of the Agency is to impose no tax upon any real estate transfers to or from the Agency.

SECTION 8: REVIEW OF POLICY:

1. The Agency shall on a regular and ongoing basis review this Uniform Tax Exemption Policy to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate.
2. In addition, the Executive Director shall continually review this Uniform Tax Exemption Policy and evaluate the internal control structure established to ensure compliance with the tax exemption policy. The Executive Director shall submit recommended changes to the Agency for approval.

SECTION 9: FEES:

1. All Project Sponsors and Applicants shall be responsible for paying to the Agency all fees as identified and described in the Agency's Fee Schedule, a copy of which is attached hereto and made a part of this Policy.

Years 6-7 of PILOT: 75% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 8-9 of PILOT: 50% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Year 10 of PILOT: 25% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions, unless agreed to otherwise, in writing, by the applicable taxing jurisdiction

Years 11+ of PILOT: 0% of the tax exemptions granted shall be repaid to the affected taxing jurisdictions.

2. The recapture shall be applicable to the time periods above are from the effective date of the PILOT Agreement.

3. Any real property tax exemptions recovered, recaptured, received or otherwise obtained shall be payable to the appropriate taxing jurisdictions, unless otherwise agreed to in writing by the taxing jurisdiction.

III. RECAPTURE OF SALES TAX BENEFITS:

1. In addition to the above reasons for recapture, the Agency shall recover, recapture, receive or otherwise obtain from the company, or its subagents, sales tax benefits that were taken or purported to be taken which are:

   a. In excess of the amounts authorized.
   b. For property or services not authorized.
   c. For a project that failed to comply with a material term or condition to use property or services in the manner required by any and all provisions of the agreements that the company has entered into with the Agency.

2. For purposes of this Recapture Policy, the Company and its subagents shall cooperate with the Agency in its efforts to recover, recapture, receive or otherwise obtain such State sales and use benefit exemptions.

3. The Company and its subagents shall promptly pay over such amount to the Agency that the Agency requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of Taxation and Finance to assess and determine State sales and use taxes due from the Company under Article 28 of the New York State Tax Law, together with any penalties and interest due on such amounts.

4. In the event that the Agency recovers, recaptures, receives or otherwise obtains any amount of State sales and use tax exemption benefits from the Company or its agents, the Agency shall, within thirty (30) days of coming into possession of such amount, remit it to the