

FIRST AMENDMENT

To

**Third Amended and Restated
Uniform Tax Exemption Policy of the
New York City Industrial Development Agency**
as approved on August 3, 2010 by the
Board of Directors of the
New York City Industrial Development Agency

As approved by the Board of Directors of the
New York City Industrial Development Agency
on November 9, 2010

THIRD AMENDED AND RESTATED UNIFORM TAX EXEMPTION POLICY, approved by the Board of Directors of the New York City Industrial Development Agency on August 3, 2010 ("UTEP"), IS HEREBY AMENDED by this FIRST AMENDMENT (this "Amendment") as follows:

SECTION I. DEFINITIONS AND USAGE

Terms used in this Amendment but not defined herein shall have the meanings ascribed to them in UTEP; otherwise, terms used in this Amendment will have the meanings respectively provided below in this Section I. The use in this Amendment of terms like "Project" or "Financial Assistance" shall be deemed to refer to or be in connection with "Industrial Projects." References in this Amendment to any period of years or a partial year or any date shall be deemed to refer to a period of years or a partial year or a date within a Financial Assistance Term.

Differential Product means, when the Original Product is greater than a Subsequent Product, the amount of such difference.

ELT or Equivalent Land Tax means real property taxes that would be applicable to Project Land were the Project Land not exempt.

LTA or Land Tax Abatement means the amount by which ELT is reduced to arrive at the amount of land PILOT applicable to the period of time in question.

LTA Adjustment Dates means the five-year anniversary of the PILOT Commencement Date and every five-year anniversary thereafter.

LTA Implementation Date means the January 1 following the first LTA Adjustment Date and every January 1 thereafter excepting the last one.

Original Employee Number means the following: for Industrial Projects that are on-going operations, the number of employees employed by the Recipient at time of application provided that all such employees are employed (or will be employed after transfer) at the Project Facility; and for Industrial Projects that are start-up operations, the number of employees, as projected by the Recipient at time of Closing, to be employed at the Project Facility once operations thereat have commenced.

Original Product means the product achieved by multiplying the Original Employee Number by \$500.

Subsequent Product means the product achieved by multiplying the Subsequent Employee Number by \$500.

Subsequent Employee Number means an employee-count based upon employees employed at the Project Facility over all of or part of the preceding five-year period just ended before a LTA Adjustment Date.

SECTION II. LAND PILOTS FOR INDUSTRIAL PROJECT FACILITIES NOT LOCATED IN A ZONE.

1. From the PILOT Commencement Date up to the first LTA Implementation Date.

For the five and one-half-year period commencing on the PILOT Commencement Date and ending on the December 31 preceding the first LTA Implementation Date, the LTA shall equal the Original Product and land PILOT shall equal ELT less such LTA; provided, however, that land PILOT shall never be less than zero.

2. From the first LTA Implementation Date up to the fourth LTA Implementation Date.

Following the first, second, third and fourth LTA Adjustment Dates, Subsequent Products shall be determined for the respective five-year periods commencing on the respective LTA Implementation Dates. The LTA for any five-year period commencing shall equal the Subsequent Product applicable to such five-year period and land PILOT shall equal ELT less such LTA; provided, however, that land PILOT shall never be less than zero.

Notwithstanding the foregoing, if a Subsequent Product is equal to or greater than both ELT and the Original Product, land PILOT shall equal zero for the five-year period commencing. If a Subsequent Product is equal to or greater than ELT but less than the Original Product, land PILOT shall equal the Differential Product.

3. For the last four and one-half years of the Financial Assistance Term.. Land PILOT for the last four and one-half years of the Financial Assistance Term shall be the same as the land PILOT for the preceding five years subject to increases in accordance with the "burn-off" schedule prescribed in Section II.A.1.b.(i) of UTEP.

SECTION III. LAND PILOTS FOR INDUSTRIAL FACILITIES LOCATED IN A ZONE

1. From the PILOT Commencement Date up to the first LTA Implementaion Date.

For the five and one-half-year period commencing on the PILOT Commencement Date and ending on the December 31 preceding the first LTA Implementation Date, land PILOT shall equal zero.

2. From the first LTA Implementation Date up to the fourth LTA Implementation Date.

Following the first, second, third and fourth LTA Adjustment Dates, Subsequent Employee Numbers shall be determined for the respective five-year periods commencing on the respective LTA Implementation Dates. Land PILOT shall be determined for such five-year periods as follows:

- a. If the Subsequent Employee Number is equal to or greater than the Original Employee Number, land PILOT shall equal zero.
 - b. If the Subsequent Employee Number is less than the Original Employee Number, land PILOT shall equal the Differential Product.
3. The last four and one-half years of the Financial Assistance Term.. Land PILOT for the last four and one-half years of the Financial Assistance Term shall be the same as the land PILOT for the preceding five years subject to increases in accordance with the “burn-off” schedule prescribed in Section II.A.1.b.(i) of UTEP.

SECTION IV. MISCELLANEOUS

Provisions in this Amendment that are conflict or that are inconsistent with provisions of UTEP are intended to replace the latter. Otherwise, UTEP remains unmodified and unamended.

**AS APPROVED BY THE BOARD OF DIRECTORS OF THE NEW YORK CITY
INDUSTRIAL DEVELOPMENT AGENCY ON NOVEMBER 9, 2010**

**THIRD AMENDED AND RESTATED
UNIFORM TAX EXEMPTION POLICY
OF THE
NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY**

Approved by the Board of Directors of the New York City Industrial
Development Agency on August 3, 2010



**THIRD AMENDED AND RESTATED
UNIFORM TAX EXEMPTION POLICY¹**

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¹ *Uniform Tax Exemption Policy*, approved December, 1994; *First Amended and Restated Uniform Tax Exemption Policy* approved March 30, 1999; amendments thereto approved August 13, 2002, November 9, 2005, August 8, 2006, and December 12, 2006; *Second Amended and Restated Uniform Tax Exemption Policy*, approved December 12, 2006; amendments thereto approved July 28, 2009.

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I. PRINCIPLES OF GENERAL APPLICATION

A. Requirements of Law; Previous Policies Superseded. Effective August 3, 2010, this Policy supersedes previous policies relating to the subject matter of this Policy.

B. Financial Assistance as Discretionary. The provision of Financial Assistance in accordance with this Policy to a Recipient for the Recipient's Project shall be a discretionary act on the part of the Board, notwithstanding the occasional use in this Policy of directive phrases such as "...the Agency shall provide..." or absolute phrases such as "...shall be exempt..."

In making the discretionary decision to provide Financial Assistance, first the Staff, and then the Board, shall consider, variously, the following:

- the extent to which a proposed Project will create or retain permanent, private-sector jobs
- whether Financial Assistance is required to induce the Project (see subdivision "C.1." below)
- the estimated value of the Financial Assistance to be provided to the Recipient
- the estimated value of any other benefits that the City may be providing
- the financial feasibility of the Project
- the environmental impact of the Project
- the amount of private-sector investment to be generated by the proposed Project
- public support for, or opposition to, the proposed Project
- the likelihood of timely accomplishment
- whether the Project involves an industry or activity which the City seeks to retain and foster
- the extent to which the proposed Project will create additional sources of revenue for the City
- whether the Project will use an apprenticeship program approved by the New York State Department of Labor

C. Conditions to receiving Financial Assistance. The following are conditions to providing Financial Assistance to any Recipient:

1. Inducement.

Unless elsewhere specified in this Policy, “inducement” by the Agency means that but for the Financial Assistance being offered by the Agency to a Recipient for the Recipient’s Project, such Project would most likely not be undertaken by the Recipient; or, if undertaken at all by such Recipient, the Project might occur at a substantially reduced level or it might occur outside of the State. The action by which a specific Project is induced is the adoption by the Board of an inducement resolution.

a. *For Industrial Projects, Commercial Growth Projects, Hudson Yards Commercial Construction Projects, Governmental Bond Projects, and Industrial Developer Projects located in a Zone.* Except as set forth in “c,” “d” and “e” below, for Industrial Projects, Commercial Growth Projects, Hudson Yards Commercial Construction Projects, Governmental Bond Projects, and Industrial Developer Projects located in a Zone, applicable “inducement” is described in the foregoing introduction to this subdivision “1.”

b. *For Civic Facility Projects.* For all Civic Facility Projects, “inducement” is the fulfillment of the *Not-for-Profit Guidelines* through operation of the Project Facility. For Civic Facility Projects that are Private Schools, “inducement” additionally includes the fulfillment of the Agency’s *Compliance Criteria for Private Schools*.

See Appendix B, annexed hereto, for Not-for-Profit Guidelines and Appendix C, annexed hereto, for Compliance Criteria for Private Schools.

c. *For Liberty Bond Projects.* For Liberty Bond Projects, “inducement” is the fulfillment of the *Selection Criteria and Requirements of the New York Liberty Bond Program*.

See Appendix D, annexed hereto, for Selection Criteria and Requirements of the New York Liberty Bond Program.

d. *For ARRA Bond Projects.* An ARRA Bond Project is a Project that qualifies for financing with ARRA Bonds and for which “inducement” is the following: (i) fulfillment of the *Threshold Requirements*; and (ii) fulfillment of the *Selection Criteria*; and (iii) in the case of a Project Facility to be located in the Hudson Yards UTEP Area and for which the Project as proposed will also qualify as a Hudson Yards Commercial Construction Project, the consent of the Hudson Yards Infrastructure Corporation. By way of clarification rather than limitation, for purposes of “iii” preceding, if the ARRA Bond Project in question involves Recovery Zone Facility Bonds, the requirement for consent will apply regardless of whether the Hudson Yards UTEP Area is a Recovery Zone, or lies within a Recovery Zone, or is in part a Recovery Zone.

See Appendix E, annexed hereto, for Threshold Requirements and Selection Criteria.

e. *PlaNYC Energy Program Projects.* A PlaNYC Energy Program Project consists of the acquisition, construction, equipping, furnishing and/or installation of a Peaking Unit. For a PlaNYC Energy Program Project, “inducement” consists of the following:

(i) the proposed Peaking Unit will use natural gas, or a demonstrably cleaner fuel, as its primary fuel; and (ii) the proposed Peaking Unit will have a full-load heat rate not exceeding either (aa) 7,850 btuLHV/kwh (ISO 59°, 60% RH, zero losses, sea level) as measured at generator terminals, or (bb) 8,250 btuLHV/kwh (9,150 btuHHV/kwh) as measured net of power plant parasitic loads; and (iii) nitrogen oxide (NOx) emissions from the Peaking Unit will not exceed the lesser of (aa) 25 ppm, or (bb) the then-applicable air-emissions limit as set for the City by the air-emissions permitting agency or agencies having jurisdiction; and (iv) the proposed Peaking Unit will be electrically interconnected to the City's electrical grid; and (v) the proposed Peaking Unit will satisfy either (aa) a future reliability need as identified by any one of NYISO, the transmission owner, or the City, or (bb) an environmental need identified by the City. For purposes of this Policy: "NYISO" means the New York Independent System Operator; "transmission owner" means the owner of local facilities for the transmission of electricity within the City; and "Peaking Unit" means a facility for the generation of electricity that conforms to at least one of the following: (aa) the definition applicable on the date hereof (August 3, 2010) for a "peaking unit" as provided in NYISO Services Tariff, Section 5.14.bl²; or (bb) for a period to which a particular cost-of-entry analysis (i.e., a "CONE") applies, the electricity-generating facility on which NYISO has based such CONE; or (cc) at any point in time, a facility that is generally recognized in the industry as being a "peaking unit." As defined herein, a Peaking Unit shall not include the land upon which it is situated.

f. *For Commercial Growth Projects, Hudson Yards Commercial Construction Projects, and Governmental Bond Projects.* For Commercial Growth Projects, Hudson Yards Commercial Construction Projects, and Governmental Bond Projects, the inducement criteria described in the introduction to this subdivision "1" may apply, and, in addition, "inducement" may also mean (within the discretion of the Staff and upon approval of the Board) that, but for the Financial Assistance, (i) a Recipient would either not retain and/or attract a specified number of employees or a business function or unit for a specified period of time within the City, and/or (ii) the loss of a vital service to the City might occur, and/or (iii) a vital City-supported project or initiative may be delayed or otherwise adversely affected.

2. Financial Assistance to Apply to Project Property. For the Staff and the Board to make a finding of inducement, the proposed Financial Assistance must apply to the property which is the subject of the Project. An applicant may not apply for Financial Assistance for one location when intended Project activities are to occur at another.

3. Capital Asset. The proposed Project must involve one or more of the following activities on the part of the Recipient in respect of a capital asset:

- Acquisition of title to, or equivalent ownership in, or leasehold interest in, tangible property which has a useful life of one year or more; and/or
- Renovation of Improvements; and/or
- Construction of New Improvements; and/or

² "...a peaking unit is defined as the unit with technology that results in the lowest fixed costs and highest variable costs among all other units' technology that are economically viable."

- Refunding or refinancing of conduit-issued debt originally issued for the purpose of financing any of the foregoing activities.

4. Agency Relationship to Project Property. The Agency shall have such interest in or control over a Project Facility, for such duration of time, as may be necessary under requirements of law to provide Financial Assistance; and the choice of interest in, or, in the alternative, the assertion of control over, Project property for this purpose shall be in the sole discretion of the Agency.

5. Statutory Requirements. The Agency and the Recipient shall satisfy and fulfill all requirements set forth in the Statute for providing Financial Assistance.

D. Applicability of Exemption from Taxes. The failure of this Policy (or a deviation in accordance with Article IV of this Policy) to explicitly exempt a Project Facility, or any portion thereof, or any Personal Property related thereto, or any Project activity, from a particular tax or other imposition shall be deemed to mean that such property or activity shall not be exempt and that the tax or imposition in question shall remain payable. In the absence of the circumstance described in “I” immediately below or failing satisfaction of the requirements set forth in “II” immediately below, the Agency’s mere acquisition of an interest in or control over property will not be sufficient to exempt such property or Project activities related to such property from any tax or imposition.

Exemption from a particular tax shall only occur if “I” or “II” following applies, and if “I” does apply, “II” shall not (i.e., the tax exemption in question will not be made available through the Agency or by any of its actions):

I. the property is exempt from the tax in question under law other than the Statute;

OR

II. all of the following conditions for exemption through the Agency are satisfied with respect to the tax in question:

- the Statute, or the Statute as interpreted, authorizes or otherwise permits exemption from the tax, and/or the Agency’s interest in, or control over, or involvement with, the Project property provides a sufficient basis for exemption; and
- this Policy authorizes or otherwise permits exemption from the tax; and
- the Agency has (y) delivered an instrument by which tax exemption may be effectuated, and/or (z) agreed to exempt the tax in question by agreement set forth in a Project Document; and
- in the case of real property taxes, the New York City Department of Finance has taken the ministerial action of removing the Project Facility

from the tax rolls and thereby designating such property as exempt from the City's real property taxes.

E. Governing Procedures. In all matters relating to the applicability, calculation, billing, collection and payment of PILOT, including but not limited to the determination of Assessed Valuation, the Agency may rely upon and use, or cause to be used, the methods and procedures customarily employed, and the determinations customarily made, by the New York City Department of Finance.

F. Financial Assistance in the Form of Bond Financings. This Policy authorizes the Agency to provide Financial Assistance in the form of all conduit-issued bonds and any other form of conduit-issued debt provided that (i) such obligations are authorized to be issued under law or are permitted to be issued under law, and (ii) such obligations are issued in accordance with all requirements of law, and (iii) the issuance of such obligations has been authorized by the Board in respect of a specific Project.

G. Exclusivity. A Project Facility located in the New York Liberty Zone that does not qualify as a Liberty Bond Project, may nevertheless receive Financial Assistance if it qualifies under another category of Project described in this Policy. A Project Facility located in the Hudson Yards UTEP Area that does not qualify as a Hudson Yards Commercial Construction Project may not receive Financial Assistance under another category of Project described in this Policy, provided that the foregoing shall not preclude the Agency from providing Financial Assistance limited to exemptions from City and State sales and use taxes on purchases and leases of Personal Property for tenant improvements in connection with a Commercial Growth Project that involves a Project Facility located in the Hudson Yards UTEP Area but which does not qualify as a Hudson Yards Commercial Construction Project.

H. Overlapping Project Categories. If a Project Facility falls under more than one of the Project categories described in this Policy, and should the Agency accept the applicant in connection with such Project Facility for the purpose of providing Financial Assistance to the applicant (as a Recipient) and its related Project, then, it shall be in the Agency's sole discretion as to which Project category (or Project categories) and related Financial Assistance shall apply to that Project. Notwithstanding the foregoing, where a Project Facility is located in the Hudson Yards UTEP Area, neither such Project Facility nor its related Project shall be provided with any Financial Assistance other than (i) the Financial Assistance provided for in *Appendix F*, and (ii) Financial Assistance limited to exemptions from sales and use taxes on purchases and leases of personal property for tenant-improvements in connection with Commercial Growth Projects. For purposes of this Subdivision "H," "personal property" may include building materials, fixtures, furnishings and equipment, as well as certain services that may relate to any of the foregoing, all as further provided (by the Staff in its sole discretion) in the forms of sales-tax exemption letters used by the Agency.

I. Transferability of the Project. If, after completing Project construction, reconstruction and/or renovation, a Recipient requests that its right to receive Financial Assistance continue for the balance of the applicable Financial Assistance Term notwithstanding (y) sale, lease or other disposition of the Recipient's Project Facility, and/or (z) change in the ownership of or control over the Recipient, *then*, under either (or both) of such circumstances,

the decision whether or not to consent to such request shall be made in the sole discretion of the Staff. If, before completing Project construction, reconstruction and/or renovation, a Recipient makes such request under the same circumstances, such consent may be provided only upon approval by the Board.

J. Amendment. This Policy may be further amended from time to time by action of the Board after public hearing and published notice of such hearing.

II. TAX EXEMPTION POLICIES

A. Industrial Projects.

The Agency may provide Financial Assistance to Industrial Projects in the form of the tax exemptions described in this subdivision "A."

1. Exemption from Real Property Taxes; PILOT.

a. During the Financial Assistance Term, a Project Facility, to which an Industrial Project applies, may be exempted from Current Taxes; and a PILOT shall be payable with respect to such Project Facility once it so exempted.

b. Throughout the Financial Assistance Term, PILOT payable with respect to a Project Facility (to which an Industrial Project applies) shall consist of Land PILOT and Improvements PILOT, as described below.

(i) *Land PILOT.* With respect to Project Land, there shall be payable Land PILOT in an amount equal to Current Taxes less the sum of (aa) the Abatement Amount, and (bb) any decrease in Current Taxes arising from an applicable As-of-Right Benefit for which either Existing Improvements or Additional Improvements have qualified; *provided, however,* that Land PILOT shall be increased in years 22, 23, 24 and 25 of the Financial Assistance Term by, respectively, 20%, 40%, 60% and 80% of the difference between Current Taxes (as same may be decreased under "bb" preceding) and Land PILOT. Notwithstanding anything that may be to the contrary herein, Land PILOT shall never be less than zero.

(ii) *Improvements PILOT.* Improvements PILOT shall consist of the following:

- *Existing Improvements.* With respect to Existing Improvements there shall be payable PILOT in an amount equal to the Current Taxes attributable, at Closing, to such Existing Improvements; *provided however* that such Current-Tax amount is (aa) decreased as a result of any As-of-Right Benefit for which either Existing Improvements or Additional Improvements have qualified, and (bb) increased in years 22, 23, 24 and 25 of the Financial Assistance Term by, respectively, 20%, 40%, 60% and 80% of the difference between Current Taxes (as same may be decreased under "aa" preceding) and Existing Improvements PILOT.

- *Project Improvements PILOT.* With respect to Project Improvements, PILOT shall equal zero and such PILOT shall remain at zero notwithstanding any non-physical increase in the Assessed Valuation attributable to such Project Improvements during the Financial Assistance Term. Notwithstanding anything that may be to the contrary herein, no As-of-Right Benefit resulting from Project Improvements shall be applied to decrease Existing Improvements PILOT.
- *Additional Improvements PILOT.* With respect to Additional Improvements, there shall be payable PILOT in an amount equal to Current Taxes attributable to such Additional Improvements less any decrease arising from any applicable As-of-Right Benefit for which such Additional Improvements have qualified. Notwithstanding anything that may be to the contrary herein, no As-of-Right Benefit resulting from Project Improvements shall be applied to decrease Additional Improvements PILOT.

Notwithstanding the foregoing, Improvements PILOT shall, during the Financial Assistance Term, equal the lesser of Improvements PILOT as hereinabove described and Current Taxes as reduced by any applicable As-of-Right Benefits other than those resulting from Project Improvements.

2. Exemption from Recording Fees. Project Documents shall be exempt from recording fees.

3. Exemption from Mortgage Recording Taxes. With respect to Project Mortgages (on Project Facilities to which an Industrial Project applies), the Agency shall, subject to subdivisions “a” and “b” hereinbelow, exempt City and State mortgage recording taxes but shall do so only once and upon the following conditions: (a) aggregate Project expenditures must at a minimum equal the amount of the Project Mortgage for which exemption is being provided by the Agency; and (b) if the maturity of the indebtedness secured by a Project Mortgage extends beyond expiration or sooner termination of the Financial Assistance Term, the Recipient shall remit a PILOMRT to the Agency. In addition (and notwithstanding the foregoing), the following shall apply to the exemption of City and State mortgage recording taxes by the Agency:

a. The Agency may exempt Project Mortgages from City and State mortgage recording taxes for a second time if the first exemption is in connection with construction financing and the second exemption is in connection with permanent financing.

b. If, in connection with the refinancing of a Project Mortgage during the Financial Assistance Term, the Recipient is able, without assistance from the Agency, to continue the mortgage-recording-tax exemption (either because the same lender is refinancing or by assignment-of-mortgage from the old lender to the new lender), the Agency will not object to such assignment (and the continued exemption that it facilitates) subject to the following:

- If the indebtedness secured by the refinancing mortgage is greater than the unamortized principal of the Project Mortgage being refinanced (i.e., there is “new money”), the Recipient shall remit a PILOMRT to the Agency; and
- if the maturity of the indebtedness secured by the refinancing mortgage extends beyond the Financial Assistance Term, the Recipient shall remit a PILOMRT to the Agency.

Notwithstanding the use of the term “exemption” in this subdivision “3,” it is the general intent of this Policy (as evidenced by the aforementioned PILOMRTs) to defer mortgage recording taxes rather than to permanently exempt them. If however a Project Mortgage is fully amortized before the expiration or sooner termination of the applicable Financial Assistance Term, no PILOMRT shall be due.

4. Exemption from Sales and Use Taxes. The purchase of Personal Property, to be incorporated in or otherwise related to a Project Facility to which an Industrial Project applies, shall be exempt from City and State sales and use taxes for the period commencing with Closing and terminating on the date specified in the Project Documents for completing Project Improvements.

B. Civic Facility Projects.

The Agency may provide Financial Assistance to Civic Facility Projects in the form of the tax exemptions described in this subdivision “B.”

1. Exemption from Recording Fees. Project Documents shall be exempt from recording fees.

2. Exemption from Mortgage Recording Taxes. Project Mortgages on a Project Facility to which a Civic Facility Project applies, shall be exempt from City and State mortgage recording taxes in the same manner and to the same extent as Project Mortgages in connection with Industrial Projects; *provided, however,* that Recipients in Civic Facility Projects shall not be obligated to make PILOMRTs.

(In connection with this exemption, please see Subdivision “IV” of *Appendix C, Compliance Criteria for Private Schools.*)

C. Industrial Developer Projects Located in a Zone.

The Agency may provide Financial Assistance in the form of tax exemptions described in this subdivision “C” to Project Facilities located in a Zone to which an Industrial Developer Project applies.

1. Exemption from Recording Fees. Project Documents shall be exempt from recording fees.

2. Exemption from Mortgage Recording Taxes. Project Mortgages on a

Project Facility located in a Zone to which an Industrial Developer Project applies, shall be exempt from City and State mortgage recording taxes in the same manner and to the same extent as Project Mortgages in connection with Industrial Projects; and the obligation to pay PILOMRTs shall likewise be the same.

3. Exemption from Sales and Use Taxes. The purchase of Personal Property, to be incorporated in or otherwise related to a Project Facility located in a Zone and to which an Industrial Developer Project applies, shall be exempt from City and State sales and use taxes for the period commencing at Closing and expiring on the date provided in Project Documents for the completion of Project Improvements.

D. Commercial Growth Projects; Governmental Bond Projects; Hudson Yards Commercial Construction Projects.

The Agency may provide Financial Assistance to the below-mentioned Projects in the form of the tax exemptions described.

1. Commercial Growth Projects and Governmental Bond Projects. Project Facilities to which Commercial Growth Projects or Governmental Bond Projects apply, shall receive such tax exemptions as the Staff determines in its sole discretion upon approval of the Board.

2. Hudson Yards Commercial Construction Projects. Project Facilities to which Hudson Yards Commercial Construction Projects apply, shall receive tax exemptions in the manner and to the extent prescribed in *Appendix F*.

E. PlaNYC Energy Program Projects.

From August 3, 2010 through December 31, 2017, the Agency may enter into Project Documents to provide Financial Assistance to PlaNYC Energy Program Projects in the form of the tax exemptions described below. Closings for PlaNYC Energy Program Projects may not occur after December 31, 2017; and the tax exemptions described below will only be available for the duration of Financial Assistance Terms which have commenced on or before December 31, 2017.

1. Exemption from Real Property Taxes; PILOT. During the Financial Assistance Term, a Peaking Unit may be exempted from Current Taxes and a PILOT shall be payable with respect to such Peaking Unit once it so exempted; and such PILOT shall equal zero and shall remain at zero notwithstanding any non-physical increase in the Assessed Valuation attributable to the Peaking Unit during the Financial Assistance Term. If the Peaking Unit may not be so exempted from Current Taxes without also exempting the land upon which it is situated, then such land shall be additionally exempted from Current Taxes and the PILOT payable with respect to it shall equal what Current Taxes would have been had such land remained on the tax rolls.

2. Exemption from Recording Taxes. Project Documents shall be exempt from recording fees.

3, Exemption from Mortgage Recording Taxes. Project Mortgages on Peaking Units shall be exempt from City and State mortgage recording taxes in the same manner and to the same extent as Project Mortgages in connection with Industrial Projects; and the obligation to pay PILOMRTs shall like-wise be the same. Notwithstanding, the following limitations shall apply:

- *Limitation as to Rate.* The amount of Financial Assistance provided hereinabove shall be limited as to tax rate to the aggregate mortgage recording tax rate in effect on August 3, 2010 – i.e., 2.8%. In the event such aggregate rate increases, Recipient shall at Closing make a PILOMRT equal to the mortgage recording tax amount resulting from the difference between the then-current aggregate rate and 2.8%.
- *Limitation as to Mortgage Amount.* The amount of Financial Assistance provided hereinabove shall be limited as to mortgage principal to an amount which shall be no greater than 50% of total Project cost. In the event mortgage principal exceeds 50% of such total Project cost, Recipient shall at Closing make a PILOMRT equal to the mortgage recording taxes applicable to such excess principal.

4. Exemption from Sales and Use Taxes. Subject to the additional limitations set forth below in this subdivision “4,” the purchase of Personal Property, to be incorporated in or otherwise related to a Peaking Unit, shall be exempt from City and State sales and use taxes for the period commencing at Closing and expiring on the date provided in the Project Documents for the completion of the Peaking Unit. .

- *Limitation as to Rate.* The Financial Assistance provided hereinabove shall be limited as to tax rate to the aggregate sales-and-use tax rate in effect on August 3, 2010 – i.e., 8.875%. In the event such aggregate rate increases, Recipient shall at Closing make a payment in lieu of sales-and-use taxes in an amount equal to the sales-and-use tax amount resulting from the difference between the then-current aggregate rate and 8.875%.
- *Limitation as to Aggregate Principal.* The Financial Assistance provided hereinabove shall be limited as to aggregate expenditure-principal to an amount which shall be no greater than 50% of total estimated expenditures as estimated and represented by Recipient to the Agency at or before Closing. If and when expenditure principal exceeds 50% of such estimated amount, the exemption hereinabove provided shall no longer apply.

III. DEVIATIONS

A. Requirements for Deviation.

1. Statute. The Agency may deviate from the provisions of this Policy, provided that each such deviation (except as provided in subdivision “B.2.” below) shall be in

accordance with the requirements of this Article III and the requirements of Subdivision 874(4)(b) of the Statute.

2. Board Approval. The Staff must obtain the Board's approval for all deviations, and, in order to provide a basis for deliberating the necessity and advisability of a proposed deviation, the Staff must present to the Board, in writing, the following information and conclusions for its consideration:

- the content of the deviation,
- the reason why the deviation is needed, and
- the disadvantage to the City if the Project should not proceed.

B. Deviation from this Policy.

1. Generally. A deviation from this Policy is a substantive departure from any one or more of the following standards set forth in this Policy:

- the requirements and conditions for obtaining Financial Assistance;
- the extent to which Financial Assistance is available and its amount;
- the kinds of Projects for which Financial Assistance generally (or categories of Financial Assistance specifically) is available.

2. Deviations Not Subject to this Article III. Staff in its sole discretion may, without fulfilling the requirements of this Article III, cause the Agency to deviate from the recapture requirements of Article IV when the deviation in question is (i) necessitated by law, or (ii) minor in nature, or (iii) necessary to avoid undue hardship to the Recipient.

3. Diminished Financial Assistance Not a Deviation. Notwithstanding anything that may be to the contrary herein, offering Financial Assistance which is less than what is available under this Policy, shall not constitute a deviation from this Policy.

4. Additional Conditions Not a Deviation. Notwithstanding anything that may be to the contrary herein, imposing conditions to the receipt of Financial Assistance that are in addition to those explicitly imposed by this Policy shall not constitute a deviation from this Policy.

5. Increased Recapture Not a Deviation. Notwithstanding anything that may be to the contrary herein, none of the following shall constitute a deviation from this Policy: (x) any increase in the amount of principal of Financial Assistance to be recaptured; or (y) any increase in the amount of interest to be accrued on such principal over and above the principal and interest provided for in Article IV; or (z) any increase in the duration of the recapture period as provided for in Article IV.

IV. RECAPTURE OF FINANCIAL ASSISTANCE

A. General.

Upon the occurrence of a recapture event occurring during a recapture period, there shall occur recapture of Financial Assistance by the Agency; and, in addition, the Recipient shall pay interest with respect to the principal of such recaptured Financial Assistance.

B. Recapture Period.

1. For Commercial Growth Projects, Governmental Bond Projects, and Hudson Yards Commercial Construction Projects. For Commercial Growth Projects and Governmental Bond Projects, the recapture period shall be determined by the Staff in its sole discretion upon approval by the Board. For Hudson Yards Commercial Construction Projects, the recapture period shall be determined in accordance with *Appendix F*.

2. For Industrial Projects, Industrial Developer Projects Located in a Zone, and Civic Facility Projects. For Industrial Projects, Industrial Developer Projects located in a Zone, and Civic Facility Projects, the recapture period shall commence at Closing and shall expire on the tenth anniversary of the Operations Commencement Date.

C. Recapture Events.

1. For Industrial Projects and Civic Facility Projects. For Industrial Projects and Civic Facility Projects, the following shall constitute recapture events:

- failure to complete Project Improvements.
- subject to the bullet immediately following, liquidation of substantially all of the Recipient's operating assets at the Project Facility and/or cessation of substantially all of the Recipient's operations at the Project Facility;
- relocation of all or substantially all of Recipient'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; *subject, however, to the following:*
 - If the Recipient relocates its operations at the Project Facility to a site located within the City, such relocation shall not be a recapture event if (i) the Recipient maintains, for the balance remaining of the recapture period, an employment level equal to at least 90% of the number of employees employed by the Recipient before the time it relocated its operations, and (ii) the Recipient satisfies such other additional conditions as the Agency may in writing impose.

- Whether the aforementioned 90%-employment condition has been and continues to be satisfied shall be a determination made by the Agency in its sole discretion.
- transfer of a substantial number of the Recipient's jobs from the Project Facility out of the City;
- sublease of all or part of the Project Facility in violation of Project Documents; or
- substantial change in the scope and nature of the Recipient's operations at the Project Facility.

2. For Commercial Growth Projects. For Commercial Growth Projects, the Staff in its sole discretion, upon approval by the Board, shall determine the nature of recapture events.

3. For Industrial Developer Projects Located in a Zone. For Industrial Developer Projects located in a Zone, failure to complete the Project Improvements by the date specified in the Project Documents (as such date may be extended by the Staff in its sole discretion) shall be a recapture event. In addition, failure during the Financial Assistance Term to maintain Industrial Tenant occupancy of at least 75% of the Project Facility's rentable square feet shall be an additional recapture event; subject, however, to reasonable allowances, as determined in the sole discretion of the Staff, for vacancies during Project construction, initial Project rent-up, casualty events, and reasonable interims between the expiration of an Industrial Tenant's lease and its replacement with another.

4. For Governmental Bond Projects. Recapture events for Governmental Bond Projects, shall be determined by the Staff in its sole discretion upon approval by the Board.

5. For Hudson Yards Commercial Construction Projects. Recapture events for Hudson Yards Commercial Construction Projects shall be those specified in *Appendix F*, and, to the extent not specified in *Appendix F*, they shall be determined by Staff in its sole discretion.

D. Financial Assistance to be Recaptured.

With respect to all Projects, the Financial Assistance to be recaptured by the Agency upon the occurrence of a recapture event during a recapture period shall be an amount equal to all or part of the difference between (i) Current Taxes (as reduced by As-of-Right Benefits arising from Existing Improvements and/or Additional Improvements that have qualified for such As-of-Right Benefits) or other taxes that the Recipient would have paid with respect to Project property had such taxes not been exempted through the Agency, and (ii) the PILOT which the Recipient in fact did pay (if any) in substitution for such Current Taxes or other taxes.

For purposes of this Policy, it is presumed that tax-exempt conduit debt financing,

while included by the Statute within the definition of Financial Assistance, does not provide a benefit that is amenable to recapture and therefore, under this Policy, the income tax revenues lost to taxing jurisdictions because of the tax-exempt status of collected interest will not be included in the Financial Assistance principal that may be recaptured.

E. Amount of Financial Assistance to be Recaptured and Interest to be Applied.

1. For Civic Facility Projects, Industrial Projects, and Industrial Developer Projects located in a Zone. Upon the occurrence of a recapture event with respect to a Civic Facility Project, an Industrial Project, or an Industrial Developer Project located in a Zone, the Agency shall cause the Recipient to pay the following amounts as recapture:

I. Financial Assistance to be recaptured by the Agency and paid by Recipient:

- For years 1 through 6 of the recapture period, the Agency shall recapture 100% of the Financial Assistance which it has provided to the Recipient;
- During year 7 of the recapture period, the Agency shall recapture Financial Assistance as reduced, cumulatively, by 1.666% each month, so that by the twelfth month of year 7, the Agency shall recapture 80% of Financial Assistance;
- During year 8 of the recapture period, the Agency shall recapture Financial Assistance as reduced, cumulatively, by 1.666% each month, so that by the twelfth month of year 8, the Agency shall recapture 60% of Financial Assistance;
- During year 9 of the recapture period, the Agency shall recapture Financial Assistance as reduced, cumulatively, by 1.666% each month, so that by the twelfth month of year 9, the Agency shall recapture 40% of Financial Assistance;
- During year 10 of the recapture period, the Agency shall recapture Financial Assistance as reduced, cumulatively, by 1.666% each month, so that by the twelfth month of year 10, the Agency shall recapture 20% of Financial Assistance;

II. Interest to be paid by the Recipient to the Agency with respect to the principal of recaptured Financial Assistance:

- From the date of receipt of Financial Assistance to the date on which recapture is due pursuant to Agency demand, interest shall accrue at the statutory judgment rate³ applicable on the date of the Agency's demand, compounded daily, but in no event shall the resulting effective rate of interest exceed the maximum interest rate permitted by law.⁴

³ 9% at the time of the approval of this Policy.

⁴ 16% at the time of the approval of this Policy.

- If Recipient fails to pay the recapture principal of Financial Assistance and the accrued interest thereon (collectively, the “aggregate amount”) on or before the date when such amounts are due, then, from such due date, interest on the aggregate amount shall accrue at a rate set by Staff in its sole discretion, but in no event shall such interest be less than the effective interest rate resulting from the statutory rate compounded daily.

2. For Commercial Growth Projects and Governmental Bond Projects. Upon the occurrence of a recapture event in respect of a Commercial Growth Project or a Governmental Bond Project, the Agency shall recapture such Financial Assistance, together with such interest, as Staff determines in its sole discretion upon approval by the Board.

3. For Hudson Yards Commercial Construction Projects. Upon the occurrence of a recapture event in respect of a Hudson Yards Commercial Construction Project, the Agency shall recapture Financial Assistance, together with interest, in the manner and to the extent set forth in *Appendix F*.

APPENDIX A

DEFINITIONS

“**Abatement Amount**” means, as applicable, the following:

I. *For all Project Facilities to which an Industrial Project applies and which are located in a Zone*, an amount equal to 100% of the Current Taxes applicable to the Project Land.

II. *For all other Project Facilities to which an Industrial Project Applies*: an amount equal to the following:

A. For Project Facilities at which all of the employees will be new hires, an amount equal to the product of \$500 and the number of employees that the Recipient reasonably intends to hire at the new Project Facility at time of Closing; provided, however, that on the July 1 following the second anniversary of commencement of operations at the new Project Facility, and for every twelve-month period thereafter during the Financial Assistance Term (including any partial twelve-month period at the end thereof), the “Abatement Amount” shall be the lesser of (aa) the original Abatement Amount, and (bb) the actual number of employees employed by the Recipient at the Project Facility on such July 1; or

B. For Project Facilities at which at least a majority of the employees to be employed by the Recipient are employees already employed by the Recipient at the time of application, an amount equal to the product of \$500 and the number of such employees at the time of its application to the Agency for Financial Assistance.

For purpose of this definition, an “employee” means one full-time employee or two part-time employees, each working 20 hours per week.

“**Additional Improvements**” means improvements that increase the Assessed Valuation of the Project Facility and for which all of the following conditions have been met: (i) such improvements were not included in the Recipient’s Project budget as presented to the Staff; and (ii) such improvements were not induced by action of the Board; and (iii) such improvements were completed after the agreed-upon completion date (as same may be extended within the sole discretion of the Staff) for the Project Improvements.

“**Agency**” means the New York City Industrial Development Agency.

“**ARRA Bonds**” means the bonds authorized to be issued by the American Recovery and Reinvestment Act of 2009 and including, but not limited to, Recovery Zone Facility Bonds.

“**ARRA Bond Project**” has the meaning provided in subdivision I.C.1.d of this Policy.

“**Assessed Valuation**” means, with respect to any fiscal year of the City, the final value ascribed to land and/or improvements or other defined real property (as the context requires) located in the City, by the New York City Department of Finance or any of its successor agencies, including, without limitation, increases arising from market re-evaluations.

“As-of-Right Benefit” means, pursuant to any non-discretionary, statutory program, the reduction of Current Taxes for qualifying improvements, including but not limited to reductions resulting from the abatement of Current Taxes and/or the exemption of Assessed Valuation from the imposition of Current Taxes.

“Board” means the Board of Directors of the Agency.

“City” means The City of New York.

“Civic Facility Project(s)” has the same meaning as the definition provided in the Statute for the term, “civic facility.”

“Closing” means the date on which the Agency and the Recipient enter into the Project Documents.

“Commercial Project(s)” means a Project where the capital asset or assets, which are the subject of the Project, are intended for commercial use as “commercial use” is determined by the Staff in its sole discretion from time to time. As defined herein, “Commercial Project” shall not include: Industrial Projects; Governmental Bond Projects; Liberty Bond Projects; Industrial Developer Projects located in a Zone; ARRA Bond Projects; Hudson Yards Commercial Construction Projects; or PlaNYC Energy Program Projects.

“Commercial Growth Project(s)” means a Commercial Project for which the availability of Financial Assistance is subject to at least one of the following conditions: (i) maintenance of a specified number of existing employees in the City; or (ii) the employment in the City of a specified number of additional employees and/or employees of a certain type; or (iii) the transfer into the City of a specified number of employees and/or employees of a certain type from employment locations outside of the State; or (iv) the maintenance of corporate headquarters in the City; or (v) the maintenance of a specified business or operating unit (other than headquarters) in the City; or (vi) such other condition relating to the Recipient’s employment and/or operations as the Board may approve from time to time.

“Construction of New Improvements” means the acquisition, construction, equipping, furnishing and/or installation of new improvements, including demolition of any existing improvements, the aggregate cost of which equals the greater of

- \$1,000,000 in 2006 dollars as inflated by the Engineering News-Record Building Cost Index or any successor index, OR
- 25% of the combined Assessed Valuation of Project Land and Existing Improvements.

Without limiting the foregoing, “Construction of New Improvements” may include the acquisition, construction, equipping, furnishing and/or installation of a Peaking Unit or the acquisition, construction, equipping, furnishing and/or installation of a dock or wharf.

Notwithstanding anything that may be to the contrary in this definition, if a Project includes demolition, the cost of such demolition may be included in the “Cost of New Improvements” (as defined herein) only to the extent that such cost, in the sole determination of the Staff, is less than substantial when compared to the aggregate cost of the Project.

“**Current Taxes**” means, at any point in time, City real property taxes equal to the product of the then-current Assessed Valuation and the applicable then-current tax rate, all as applied to (as the context requires) land, improvements, or other property defined as real property by the City’s Department of Finance. As defined and used herein, the term “Current Taxes” shall not include or give effect to As-of-Right Benefits.

“**Existing Improvements**” means improvements existing on Project Land at time of Recipient’s application, including but not limited to foundations and partial foundations. Notwithstanding the forgoing, if Recipient, as part of its Project, demolishes improvements, such demolished improvements shall not be deemed “Existing Improvements” as defined herein.

“**Financial Assistance**” has the same meaning as is provided for the term “financial assistance” in the Statute⁵.

“**Financial Assistance Term**” means, subject to earlier termination in accordance with Project Documents, the following periods of time:

- for Industrial Projects (other than Industrial Developer Projects located in a Zone), a period commencing on Closing and expiring twenty-five years after the PILOT Commencement Date;
- for all bond financings other than those financing Industrial Projects, a period commencing at Closing and expiring upon the maturity, or redemption in whole or sooner retirement of the Agency’s bond financing;
- for Commercial Growth Projects, a period determined by the Staff and approved by the Board;
- for Industrial Developer Projects located in a Zone, a period commencing on Closing and expiring ten years thereafter.
- for Hudson Yards Commercial Construction Projects, the period provided in *Appendix F*.
- for PlaNYC Energy Program Projects, a period commencing on Closing and expiring twelve years after the PILOT Commencement Date.

⁵ “Financial Assistance shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency.” Subdivision 854(14) of the Statute.

“Governmental Bond Project(s)” means a Project that is a governmental bond within the meaning of Subdivision 103 and 141 of the Internal Revenue Code of 1986, as amended.

“Hudson Yards Commercial Construction Project(s)” has the meaning provided in *Appendix F*.

“Industrial Developer Project” means a real estate development intended primarily for rent-up (as opposed to owner occupancy) in which Industrial Tenants rent (or will rent following completion of Project Improvements) at least 75% of the Project Facility’s rentable square feet. Liberty Bond Projects, Governmental Bond Projects and Hudson Yards Commercial Construction Projects are excluded from this definition.

“Industrial Project(s)” means a Project in which the Project Facility is intended for use by the owners or lessees of the Project Facility (and/or by affiliates of such owners or lessees) in the pursuit of one or more of the following activities: (i) manufacturing, assembling, processing, recycling, disposing, warehousing and/or distributing of tangible property, including (but not limited to) waste materials; and/or (ii) the creation of an intangible. As used herein, an “intangible” means any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item.

“Industrial Tenant” means an entity that leases a portion of a Project Facility for its own use and occupancy and for purposes that are consistent with the operation of an Industrial Project.

“Liberty Bond Project(s)” means a Project that qualifies for tax-exempt bond financing under Subdivision 1400L(d) of the Internal Revenue Code of 1986, as amended.

“Operations Commencement Date” means the date by which the Recipient has demonstrated to the satisfaction of the Staff in its sole discretion that the Recipient has (i) commenced use and occupancy of the Project Facility for the operations intended under the Project Documents, and (ii) completed the Project Improvements.

“Peaking Unit” has the meaning provided in sub-division I.C.1.e of this Policy.

“Personal Property” means materials, fixtures, furnishings, machinery and/or equipment, as well as certain services that may relate to the installation of any of the foregoing.

“PILOMRT(s)” means a payment in lieu of City and State mortgage recording taxes in connection with a Project Mortgage or the refinancing of a Project Mortgage. If a PILOMRT is applicable to a Project Mortgage, it shall be payable on the date the Project Mortgage is delivered; if applicable to a mortgage refinancing a Project Mortgage, the PILOMRT shall be payable on the date the refinancing mortgage is delivered. PILOMRTs shall equal the following (as applicable):

- *For a Project Mortgage whose term, at Closing, extends beyond the applicable Financial Assistance Term, PILOMRT shall equal the net present value of the product of (a) the unamortized principal upon expiration of the Financial*

Assistance Term, and (b) the aggregate mortgage recording tax rate in effect at Closing.

- *For a Project Mortgage whose term extends beyond the Financial Assistance Term because the Financial Assistance Term has terminated before its expiration, PILOMRT shall equal the product of (a) the unamortized principal, and (b) the aggregate mortgage recording tax rate in effect at the time of such early termination of the Financial Assistance Term.*
- *For a Project Mortgage in connection with a PlaNYC Energy Program Project, PILOMRT shall equal the amounts specified in Subdivision I.E.3 of this Policy.*
- *For a mortgage refinancing a Project Mortgage, PILOMRT shall equal the following, as applicable:*
 - *the product of (a) the amount by which the principal of the refinancing mortgage exceeds the unamortized principal of the Project Mortgage - i.e., “new money,” and (b) the aggregate mortgage recording tax rate in effect at the time the refinancing mortgage is delivered; **PLUS***
 - *the net present value of the product of (a) the unamortized principal of the refinancing mortgage at expiration of the Financial Assistance Term, and (b) the aggregate mortgage recording tax rate in effect at the time the refinancing mortgage is delivered; **BUT LESS***
 - *any PILOMRTs previously remitted other than PILOMRTs in connection with “new money.”*

For purposes of this definition, “net present value” shall be determined in accordance with such discount rate as the Staff, in its sole discretion, shall establish from time to time;

“**PILOT**” means payments-in-lieu of taxes.

“**PILOT Commencement Date**” means the date on which the Project Facility becomes exempt from Current Taxes and subject to PILOT; and such date shall never be earlier than the July 1 following the January 5 that follows the Closing.

“**PlaNYC Energy Program Project**” means a Project satisfying the requirements set forth in Subdivision I.C.1.e of this Policy.

“**Policy**” means this Uniform Tax Exemption Policy.

“**Private Schools**” means private, not-for-profit elementary and/or secondary schools providing education for any or all of grades kindergarten through 12, but not including those schools where at least 85% of tuition and/or costs are reimbursed by the New York City Department of Education and/or the New York State Education Department.

“Project(s)” means, as the context requires, one or more of the following:

- a facility described in the definition of “project” as the term “project” is defined in the Statute,

AND/OR

- one or more of the following activities, provided such activity or activities is in connection with a “project” as defined in the Statute, and further provided that the Board has adopted a resolution inducing such activity or activities:
 - ◆ the acquisition of title to, or equivalent ownership in, or leasehold interest in, a capital asset, together with activities ancillary thereto, and/or
 - ◆ the Renovation of Improvements, together with activities ancillary thereto, and/or
 - ◆ the Construction of New Improvements, together with activities ancillary thereto, and/or
 - ◆ the refunding or refinancing of conduit-issued debt originally issued for the purpose of financing any of the foregoing activities.

AND/OR

- a Project Facility.

“Project Document(s)” means the documents and instruments necessary to provide Financial Assistance to a Recipient and to satisfy all conditions and requirements of the Statute and other relevant law.

“Project Facility” means, as the context may require, any of or all of the following: (a) Project Land; and/or (b) Existing Improvements; and/or (c) Project Improvements; and/or (d) Personal Property incorporated in or otherwise related to Project Improvements; and/or (e) Additional Improvements. Without limiting the foregoing, a “Project Facility” may include a dock or wharf or a Peaking Unit.

“Project Improvements” means improvements situated on Project Land that are induced by Financial Assistance and that additionally satisfy the threshold requirements provided in “Construction of New Improvements” or “Renovation of Improvements,” as applicable.

“Project Land” means the site within the City that is the subject of the Recipient’s application to the Agency for Financial Assistance; specifically, the premises on which the Recipient’s intended Project is to occur. Without limiting the foregoing, “Project Land” may include lands under water.

“Project Mortgage” means a mortgage on a Project Facility the proceeds of which are used to finance the cost, or part of the cost, of the Project Improvements.

“Recovery Zone” means zones designated within the City in accordance with requirements of the American Recovery and Reinvestment Act of 2009 in connection with Recovery Zone Facility Bonds.

“Recipient” means a person or entity that has applied to the Agency, and has been approved by the Board, to receive Financial Assistance in connection with the Recipient's proposed Project.

“Renovation of Improvements” means the renovation, repair, reconstruction, furnishing, equipping or partial demolition of, and/or the making of an installation on or within, and/or the making of other improvements to Existing Improvements, the aggregate cost of which equals the greater of:

- \$1,000,000 in 2006 dollars as inflated by the Engineering News-Record Building Cost Index or any successor index OR
- 25% of the combined Assessed Valuation of the Project Land and Existing Improvements.

Notwithstanding anything that may be to the contrary in this definition, if a Project includes partial demolition, the cost of such partial demolition may be included in the “Renovation of Improvements” (as defined herein) only to the extent that such cost, in the sole determination of the Staff, is less than substantial when compared to the aggregate cost of the Project.

“Staff” means staff of the New York City Economic Development Corporation or of any successor thereto that has entered into an annual contract with the Agency for the purpose of providing to the Agency administrative and operating services.

“State” means the State of New York.

“Statute” means the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, together with Subdivision 917 of the General Municipal Law, as amended.

“Zone(s)” means, as the context may require, any of or all of the following: Empowerment Zones, Recovery Zones, Industrial Business Zones, and/or any other area or areas created by or pursuant to law within the City for a specified statutory purpose. Neither the “Hudson Yards UTEP Area,” as that term is defined in *Appendix F*, nor the New York Liberty Zone, shall qualify as a “Zone” (as defined herein) except to the extent that a duly designated Zone (as defined in the previous sentence) includes all or part of the Hudson Yards UTEP Area or the New York Liberty Zone.

APPENDIX B

NOT-FOR-PROFIT GUIDELINES

The Agency will consider providing Financial Assistance to a not-for-profit applicant if the applicant's proposed Project meets all of the following criteria:

1. But for the availability of tax-exempt financing through the Agency, the Project would either not proceed as structured, or resources of the applicant otherwise available for continued or enhanced services would instead be applied to the Project.
2. The Project will either:
 - a. retain or create jobs;
 - b. continue or augment services to a needy population;
 - c. promote a purpose that would not be feasible if undertaken on a for-profit basis;
 - d. provide a service that will reduce the City's cost of providing that service, thus promoting efficiency and resulting in cost savings to the City;
 - e. continue or enhance the quality of cultural life in the City; OR
 - f. encourage substantial employment and capital investment in geographic areas in which the City seeks to promote economic development.

If the Project qualifies under Subdivisions 2 c or e above (but under no other provision of Subdivision 2), the applicant must demonstrate that it has provided or will commit to provide services, assistance and/or access to its facilities to disadvantaged City residents. Such community service must be meaningful and ongoing in the judgment of the Board and may be rendered through the applicant's principal or ancillary operations.

3. The applicant must demonstrate that it is expected to be able to service the proposed debt.
4. Except to the extent permitted by law, the applicant shall not discriminate on the basis of race, color, religion, sex, age, national or ethnic origin, or disabilities in employment matters, the providing of services, or otherwise in the administration of its programs and operations.
5. If the proposed Project is for a Private School, then, in addition to satisfying the foregoing requirements set forth in Subdivisions 1, 2, 3 and 4 above, the applicant shall additionally demonstrate that it satisfies and/or will satisfy the requirements set forth in *Appendix C, Compliance Criteria for Private Schools*.

APPENDIX C

COMPLIANCE CRITERIA FOR PRIVATE SCHOOLS

To receive Financial Assistance, a Private School must meet the following criteria:

- I. At least 20 percent of the total enrollment of the Private School must consist of New York City residents.
- II. Without in any way limiting the application and generality of Subdivision 4 of *Appendix B, Not-for-Profit Guidelines*, the Private School shall not discriminate in admissions, hiring, the granting of scholarships or loans, or the administration of educational policies generally.
- III. A Private School providing education to grades 9 through 12 must be registered with the New York State Department of Education and, in addition, if such Private School is formed under the Education Law of the State of New York, it must also be chartered by the New York Board of Regents. A Private School providing education to any of grades “K” through 8 must either be (i) registered with the New York State Department of Education, or (ii) evaluated by an independent professional (acceptable to the Staff in its sole discretion) as providing an education equivalent to that provided by public schools in the State of New York.
- IV. In those instances where a Private School (i) requests the Agency to encumber the Project premises with one or more mortgages to secure Project financing, and (ii) records such mortgage(s), and (iii) has net assets per student of more than \$20,000 (at time of application as determined by the Private School’s last financial statements), then, such Private School shall pay to the Agency a fee equal to 2.55 percent of the aggregate amount of the Project Mortgage(s); provided, however, if such aggregate mortgage amount is less than \$500,000, the fee payable to the Agency shall be 2.05 percent of such aggregate mortgage amount.

Any Private School whose maximum tuition is equal to or greater than 75 percent of the Agency Average Maximum Tuition (AAMT)⁶, must satisfy the requirements described in paragraphs V, VI, VII and VIII following:

- V. A. Financial aid equal to at least 10 percent of the Private School’s gross tuition revenues must be made available to and used by students who are New York City residents; and

⁶ The “AAMT” or “average annual maximum tuition” for Private Schools shall be calculated annually for each, upcoming academic year by September 1, based upon the tuitions of Private Schools for which the Agency had issued bonds through the end of the preceding fiscal year ending on June 30. For September 1, 2006 through August 31, 2007, 75% of AAMT has been calculated to be \$20,184.

- B. At least 10 percent of students who are both New York City residents and recipients of financial aid, must each receive financial aid equal to or greater than 50 percent of tuition.
- VI. The Private School must provide, prior to authorization by the Board, a written plan that demonstrates an existing or planned commitment to aid the public school system through the sharing of its facilities with public schools in the City.
- VII. A. The Private School’s board of directors (or trustees) shall have adopted, or shall directed staff to develop and present for adoption, a program of community service in addition to the activities described in Subdivision VI. The program of community service shall be carried out by some combination of the Board members, administrators, faculty, parents, and students. Where, appropriate, the plan should include quantifiable objectives.
- OR**
- B. The Private School must have on staff a full-time paid staff member to coordinate its community service activities and the activities in Subdivision VI above. Where appropriate, quantifiable objectives should be stated for all activities.
- VIII. If the Private School is not in compliance with the requirements of Subdivision V, it must agree in writing to meet those requirements within 5 years following the first academic year in which substantial occupancy⁷ of the Project Facility is achieved.
- IX. The applicant must, in the Project Documents, agree to fulfill these Criteria throughout the Financial Assistance Term.

⁷ “Substantial occupancy” means the first academic year when the Project Facility is opened for use and made available to at least 50 percent of the student enrollment intended to occupy the Project Facility.

APPENDIX D

New York Liberty Bond Program

SELECTION REQUIREMENTS and CRITERIA

For the Selection of Projects for Liberty Bond Financing

A. *Requirements and Criteria for all Projects, whether inside or outside of the Liberty Zone.*

To be selected for Liberty Bond financing, a project must *satisfy* all of the following requirements :

- **Adherence to applicable *Program Principles*. The *Program Principles* are :**

To fulfill the vision of lower Manhattan as a 24/7, mixed-use, diversified community and support the City's broader revitalization, the Program seeks to:

- Repair and replace damaged and destroyed commercial space and improve lower quality commercial space;
 - Create additional multifamily residential rental and complementary retail development in Lower Manhattan;
 - Provide modern office space for displaced and decentralizing businesses in central business districts throughout the City;
 - Attract new residents and employers to the City;
 - Encourage environmentally responsible design and construction.
- **Submission of a complete application together with application fee**
 - **Satisfaction of statutory requirements for an “eligible” facility**
 - **Liberty Bond proceeds may *not* be used for costs of repair and replacement already covered by insurance proceeds, except when such insurance proceeds are applied to the satisfaction of existing mortgage indebtedness on the damaged premises, and such application does not affect the tax-exempt status of the Liberty Bonds.**

B. *Additional Requirements and Criteria for Projects located outside the Liberty Zone.*

1. In addition to fulfilling the requirements and criteria set forth in “A” above, in order to be selected for Liberty Bond financing, projects outside of the Liberty Zone *must* satisfy the following additional criterion:

- **Demonstrated contribution to the economic recovery and/or expansion of a region⁸ within the City or of the City as a whole;** *consistent with the purpose of the federal legislation that enables Liberty Bond financings, it is presumed that the development of commercial office space will be the highest priority.*
2. In addition to fulfilling the criterion immediately preceding, projects located outside the Liberty Zone are more likely to be selected if they are qualitatively distinguished.
- **Some example indicia of qualitative distinction follow:**
 - Creating or retaining a significant number of jobs;
 - Incorporating environmentally responsible design;
 - Providing public amenities;
 - Providing goods or services not generally available in the region.

C. <i>Special Requirements and Criteria for Industrial Projects outside of the Liberty Zone.</i>
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Manufacturing, warehousing, distribution and other industrial facilities, tend to be capital intensive with only modest job creation potential. While for the most part the law would allow these facilities to be financed with Liberty Bonds, industrial uses tend to fall outside of the central principles for Liberty Bond financing, which are to replace lost commercial office space and lost residential and retail space. In addition, generous incentive programs are already in place to support the development of such facilities. Nevertheless, since industrial facilities are an important part of New York City’s economy, the City and State will entertain applications for financing industrial projects located outside of the Liberty Zone, provided such facilities satisfy *all* of the requirements and criteria provided below (in addition to the general project requirements specified in “A” and “B” above):

- Project development cost for the facility shall equal at least \$20,000,000 dollars.
- The Project Facility will either...
 - create new jobs and retain existing jobs in the minimum aggregate amount of 200, or
 - create a minimum of 50 new jobs within twelve months of project completion.
- The operation of the Project Facility, or its particular location (in the area outside of the Liberty Zone), serves, supports or complements, in an essential way, an economic sector of the City, or attracts new economic participants to that sector.
- The Project Facility will have a significant “spin-off” or multiplier effect on the City’s economy.

⁸ For purposes of this criterion, a “region” could be any of the five Boroughs, or any significant area within the City but not necessarily limited to the boundaries of a specific Borough.

The applicant for Liberty Bond financing for an industrial project may not also apply under the Industrial Incentive Program or the Small Industry Incentive Program of the New York City Industrial Development Agency.

D. *Special Requirements and Criteria for Energy Projects outside of the Liberty Zone.*

It is recognized that a reliable and competitively priced energy supply is essential to the health of the City's economy; and, in particular, to the economic recovery of lower Manhattan within the Liberty Zone. Accordingly, merchant power projects - for either generation or transmission of electricity - that are proposed to be located outside the Liberty Zone, will be considered for Liberty Bond financing, but only if the following requirements are met (in addition to the general project requirements specified in "A" and "B" above):

- The facility proposed to be constructed will not, once operational, be a public utility subject to cost-of-service regulation or be owned, in whole or in part, by a public authority; and
- The facility proposed to be constructed will have the capacity to significantly enhance the City's energy infrastructure by (i) increasing energy transmission to, or the generation of energy within, the City by a minimum of 75 megawatts ("MW")(developers submitting projects smaller than 75 MW can aggregate their projects to reach the 75 MW minimum), and (2) demonstrating that Liberty Bond financing will make the construction of the independent power or transmission project possible and/or that the project will provide discounted electricity to or funding to other initiatives designed to lower the price of electricity in, lower Manhattan; and
- The facility has progressed sufficiently in development that a bond issuance will be possible prior to the conclusion of the Liberty Bond program; e.g., developers of power plant projects subject to Article X of the Public Service Law should have submitted an application that has received a completeness determination from the New York State Siting Board; developers of power plant projects exempt from Article X should have submitted a sufficiently completed Environmental Assessment Statement such that the New York City Department of Environmental Protection is able to issue a Notice of Intent to Conduct an Environmental Review pursuant to the State Environmental Quality Review Act (SEQRA); and transmission line developers should have submitted an application pursuant to Article VII of the New York State Public Service Law that has received a completeness determination from the New York State Public Service Commission.

E. *Special Requirements and Criteria for Parking Facilities outside of the Liberty Zone.*

In addition to the general project criteria specified in "A" and "B" above, a project that is proposed to be located outside of the Liberty Zone and which consists exclusively of or contains parking facilities, must meet all four of the criteria below before it may be authorized for Liberty Bonds.

- 1) If a separate facility, the proposed parking facility should be part of an overall redevelopment/revitalization plan for the area. If part of a larger project, the parking facility must be an integral part of such project.
- 2) A study conducted independently of the Liberty Bond analysis identifies (through means acceptable to the NYCIDA or NYLDC) parking as a barrier to development/revitalization for the area where the project will be located.
- 3) The parking facility has a direct impact or direct nexus on economic development of the area.
- 4) The proposed parking facility would likely not be built without Liberty Bonds.

APPENDIX E

ARRA BONDS – THRESHOLD REQUIREMENTS AND SELECTION CRITERIA

- **Threshold Requirements:**

- Projects must be located in a Recovery Zone
- Closings must occur in a timely manner during the Authorized Period or risk forfeiture
- The underwriters or placement agent, and bond purchaser(s), must all be in place at time of submission of the “long” or final application for Program Bond financing
- All permits and approvals must be obtained
- Financing amounts must be in the \$20,000,000 to \$100,000,000 range; *notwithstanding*, projects below \$20,000,000 may in the Agency’s discretion be considered if fulfillment of Selection Criteria by the proposed project is expected to be particularly significant

- **Selection Criteria:**

- Ability to proceed with a successful financing
- Inapplicability of “as-of-right” or other discretionary programs for purposes of assisting the project
- Project’s contribution to the diversification of the City’s economy by job-type
- Diversification of the neighborhood in which the project is to be located
- On-going project employment after construction (length, quality and type)
- Construction employment (length, quality and type)
- On-going contribution to the City’s quality of life
- Economic contribution to the neighborhood in which the project is to be located
- Environmental contribution and on-going contribution to sustainable development in the City

APPENDIX F⁹

TAX EXEMPTION POLICY FOR THE HUDSON YARDS UTEP AREA

I. Certain Definitions

Capitalized Terms used and not otherwise defined herein shall have the meanings set forth in *Appendix A* to this Policy.

“CCP”, “Hudson Yards CCP” or “Hudson Yards Commercial Construction Project” means a project, including real property that is (y) located within the Hudson Yards UTEP Area, and (z) is eligible for Financial Assistance in accordance with Subdivision III of this *Appendix F*.

"CCP Improvements" means, for each Hudson Yards CCP, improvements authorized by the Agency and constructed as part of such Hudson Yards CCP.

"CCP PILOT" means, for any fiscal year, the amount of the payment in lieu of real property taxes payable as calculated in accordance with clause a) of the applicable PILOT formula for such year set forth below in the PILOT Calculation Tables in this *Appendix F*.

“CCP Taxes” means, for each Hudson Yards CCP, the real property taxes that would be payable during the applicable fiscal year, in the absence of any real property tax exemption made available by reason of the Agency’s interest, in respect of CCP Improvements and the land on which such CCP is located.

“Construction Period” means, for each Hudson Yards CCP, the period from the PILOT Commencement Date to the first June 30 after the date on which all CCP Improvements are fully assessed by the Department of Finance of the City in accordance with applicable real property tax assessment procedures or such later date as determined by the Agency in its sole discretion.

“Hudson Yards UTEP Area” means the area of Manhattan bounded by a line beginning at the intersection of Eleventh Avenue and West 30th Street, then running along West 30th Street to the intersection with Ninth Avenue, then northward to the intersection with West 31st Street, then eastward to the intersection with Seventh Avenue, then northward to the intersection with West 33rd Street, then westward to the intersection with Eighth Avenue, then northward to the intersection with West 35th Street, then westward to a point 150 feet west of the centerline of Eighth Avenue, then northward to the intersection with West 39th Street, then eastward to the intersection with Eighth Avenue, then northward to the intersection with West 40th Street, then westward to the intersection with Ninth Avenue, then northward to the intersection with West 41st Street, then eastward to a point 297 feet distant from the centerline of Ninth Avenue, then northward to the intersection with West 42nd Street, then eastward to a point 150 feet west of the centerline of Ninth Avenue, then northward 100 feet, then westward 100 feet, then southward to the intersection with West 42nd Street, then westward to the intersection with Tenth Avenue, then northward to the intersection with West 43rd Street, then westward to the intersection with Route

⁹ In the event of any conflict between the provisions of this *Appendix E* and any other provisions of this Policy, the provisions of this *Appendix E* shall govern and control.

9A, then south-westward to the intersection with West 42nd Street, then south to the intersection with West 41st Street, then eastward to the intersection with Eleventh Avenue, then southward to the intersection with West 30th Street.

“Other Improvements Taxes” means, for each Hudson Yards CCP, the real property taxes that would be payable during the applicable fiscal year, in the absence of any Financial Assistance, in respect of any assessable real property improvements that are in addition to the CCP Improvements.

"PILOT Amount" shall mean, for any fiscal year, the PILOT amount payable according to the PILOT Calculation Tables below.

“PILOT Commencement Date” means the July 1st following the January 5th which follows the closing at which the Agency enters into the documents and instruments necessary to provide Financial Assistance in connection with a Hudson Yards CCP.

“PILOT Financial Assistance Term” means, for a Hudson Yards CCP, a minimum period of 35 years and a maximum period of 99 years from the PILOT Commencement Date, as determined by the Staff and approved by the Board.

II. Financial Assistance Available

- a. Real Property Tax Exemption; Payment in Lieu of Real Property Tax ("PILOT"). From the PILOT Commencement Date to the termination of the PILOT Financial Assistance Term, the real property that comprises a Hudson Yards CCP shall be exempt from real property taxes, and the recipient of Financial Assistance shall pay a PILOT in the amount determined in accordance with the PILOT Calculation Tables set forth in this *Appendix F*.
- b. Sales Tax Exemption; Payments in Lieu of Sales Tax ("PILOST"). The sales tax exemption benefits for Hudson Yards CCPs (i) shall be for a term ending on the earlier of (x) 3 years from the commencement of construction of the CCP Improvements or (y) completion of construction of core and shell of the CCP Improvements, and (ii) shall provide savings of up to 100% of the sales and use taxes on construction materials for the CCP Improvements that would otherwise be due in the absence of exemption through the Agency, unless it is determined on a case by case basis by the Board that no exemption is appropriate. PILOST may be payable, as determined on a case by case basis by the Board, in an amount up to 100% of the sales and use taxes that would otherwise be due in the absence of Financial Assistance.
- c. Mortgage Recording Tax Exemption; Payments in Lieu of Mortgage Recording Tax ("PILOMRT"). The mortgage recording tax exemption for Hudson Yards CCPs shall be for the mortgages securing construction and permanent financing for a Hudson Yards CCP in an amount not to exceed the development costs of the

Hudson Yards CCP. However, the recipient of such Financial Assistance shall be required to make PILOMRT in an amount equal to 100% of the mortgage recording taxes that would otherwise be due. In addition, all mortgages securing the payment of PILOTs in connection with Hudson Yards CCPs shall be exempt from mortgage recording taxes and no payments in-lieu of mortgage recording taxes shall be due in respect thereto.

- d. Continuation of Benefits. In the event that a Hudson Yards CCP is transferred, sold or assigned, the Financial Assistance for such CCP shall remain in effect and be available to the transferees, buyers or assignees of the CCP (including but not limited to transferees in foreclosure), subject to their compliance with the applicable Project Documents and Agency requirements. The original project developer or principal and any transferees, buyers, or assignees of the Hudson Yards CCP shall be jointly and severally responsible for any benefits recapture obligations with respect to benefits realized in connection with the Hudson Yards CCP.
- e. Benefit Recapture and Termination of Eligibility. If a Hudson Yards CCP is not commenced or completed by the applicable dates specified in (or permitted under) the Project Documents, any sales tax exemption benefits received shall be subject to recapture and the project's status as a Hudson Yards CCP shall be subject to termination, in the Agency's discretion.

III. Eligibility for Financial Assistance

- a. In order to qualify as a Hudson Yards CCP, a project must satisfy each of the following criteria:
 - (i) **Hudson Yards UTEP Area.** The project must be located within the Hudson Yards UTEP Area.
 - (ii) **Commercial Use.** The project must consist of new construction of non-residential, commercial facilities either by a developer for leasing to commercial tenants, or by or on behalf of a principal for its own use, of which commercial tenants or such principal, as applicable, shall use and occupy not less than 75% of the usable space for the following uses:
 - 1. as Class A office space and ancillary support space, and/or
 - 2. in furtherance of "commercial purposes" as determined in the sole discretion of the Staff.
 - (iii) **Size and Density.** The project must satisfy size and density requirements as follows:

1. The project shall be deemed to be of sufficient size and density if the zoning square footage of the project shall equal or exceed 90% of the zoning square footage that is available for commercial use at the site of the project, according to the City's Zoning Resolution, assuming that all floor area bonuses and transfers available under the Zoning Resolution will be utilized; but in no event will any project be less than 1 million zoning square feet if it is to qualify as a CCP.
2. If the project does not satisfy the size and density standard set forth in subparagraph (iii)(1) above, it shall be in the Agency's sole discretion to determine whether the project is of sufficient size and density to qualify as a Hudson Yards CCP, except that the Agency will not consider projects of less than one million zoning square feet. The primary factor for the Agency's determination under this subparagraph shall be whether the proposed project will result in new construction that significantly furthers the objectives of the Agency to assist in the economic development of the City and spur job creation.

IV. Guidelines for PILOT Calculations for Hudson Yards Commercial Construction Projects

As provided herein, the real property that comprises a Hudson Yards Commercial Construction Project shall be exempt from real property taxes for the PILOT Financial Assistance Term and the recipient of Financial Assistance shall pay a CCP PILOT in the amount determined in accordance with the PILOT Calculation Tables provided below

For purposes of the PILOT calculations, the determination of CCP Taxes (as hereinafter defined) and Other Improvements Taxes (as hereinafter defined) in each fiscal year shall be based on actual real property taxes in such fiscal year. For all Hudson Yards Commercial Construction Projects, the CCP PILOT amount for a particular fiscal year shall never exceed CCP Taxes for such fiscal year.

PILOT CALCULATION TABLES

Zone 1 – All Hudson Yards Commercial Construction Projects within the subdivision of the Hudson Yards UTEP Area that is east of the center line of Eighth Avenue	
<i>Year of PILOT Agreement</i>	<i>PILOT Amount</i>
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 5-19 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year plus, b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes plus, b) Other Improvements Taxes

Zone 2 - All Hudson Yards Commercial Construction Projects within the subdivision of the Hudson Yards UTEP Area that is between the center line of Eighth Avenue and the centerline of Tenth Avenue	
<i>Year of PILOT Agreement</i>	<i>PILOT Amount</i>
Hudson Yards CCPs in Zone 2 shall be eligible to receive the Financial Assistance described below until the total square footage of Agency-authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals ten million zoning square feet.	
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 75% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 80% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 85% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 90% of CCP Taxes plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 95% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes, plus b) Other Improvements Taxes
Thereafter, Hudson Yards CCPs in Zone 2 shall be eligible to receive the Financial Assistance described below until the total square footage of Agency-authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals 15 million zoning square feet.	
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes

Years 1-4 after Construction Period	a) 80% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 84% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 88% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 92% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 96% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes plus, b) Other Improvements Taxes
Thereafter, Hudson Yards CCPs in Zone 2 shall be eligible to receive the financial Assistance described below until the total square footage of Agency-authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals 20 million square feet.	
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 85% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 88% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 91% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 94% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 97% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes, plus b) Other Improvements Taxes

Zone 3 – All Hudson Yards Commercial Construction Projects within the subdivision of the Hudson Yards UTEP Area that is west of the center line of Tenth Avenue

“Zone 3 Adjacent Developments” means development(s) that have been authorized or approved by the Metropolitan Transportation Authority or any of its affiliates or the Empire State Development Corporation or any of its subsidiaries in the areas bounded by (i) West 30th and West 34th Streets and 11th and 12th Avenues, and (ii) West 30th and West 33rd Streets and 10th and 11th Avenues (collectively, “Zone 3 Adjacent Developments”)

For Zone 3, the following shall apply:

(a) Hudson Yards CCPs in Zone 3 shall be eligible to receive the Financial Assistance described in Category A until the total square footage of Agency authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals five million zoning square feet.

(b) After eligibility for Category A has been exhausted, Hudson Yards CCPs in Zone 3 shall be eligible to receive the Financial Assistance described in Category B until the total square footage of Agency authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals ten million zoning square feet.

(c) After eligibility for Category B has been exhausted, Hudson Yards CCPs in Zone 3 shall be eligible to receive the Financial Assistance described in Category C until the total square footage of Agency authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals fifteen million zoning square feet.

(d) After eligibility for Category C has been exhausted, Hudson Yards CCPs in Zone 3 shall be eligible to receive the Financial Assistance described in Category D until the total square footage of Agency authorized Hudson Yards CCPs in Zone 3 and Zone 3 Adjacent Developments equals twenty million zoning square feet.

(e) If at the time that a Zone 3 Hudson Yards CCP is authorized by the Agency, there is insufficient remaining eligibility in the Zone 3 Category to cover the entire zoning square footage of the CCP, then such CCP shall be treated as partially eligible for such Category and partially eligible for the next Category, and the Zone 3 PILOT for such CCP shall be the total of (X) and (Y) below:

(X) the percentage of the CCP, measured by zoning square footage, that is covered by the remaining eligibility in the Zone 3 Category, multiplied by the applicable PILOT Amount for that Category PLUS

(Y) the percentage of the CCP, measured by zoning square footage, that is not covered by the remaining eligibility in the Zone 3 Category, multiplied by the applicable PILOT Amount for the next Category

ZONE 3- CATEGORY A	
<u>Year of PILOT Agreement</u>	<u>PILOT Amount</u>
Each fiscal year during the Construction Period	a) CCP Taxes, plus b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 60% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 68% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 76% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 84% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 92% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes, plus b) Other Improvements Taxes

ZONE 3- CATEGORY B	
<u>Year of PILOT Agreement</u>	<u>PILOT Amount</u>
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 75% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 80% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 85% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 90% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 95% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes, plus b) Other Improvements Taxes

ZONE 3- CATEGORY C	
<u>Year of PILOT Agreement</u>	<u>PILOT Amount</u>
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 80% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 84% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 88% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 92% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 96% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes plus, b) Other Improvements Taxes

ZONE 3- CATEGORY D	
<u>Year of PILOT Agreement</u>	<u>PILOT Amount</u>
Each fiscal year during the Construction Period	a) CCP Taxes plus, b) Other Improvements Taxes
Years 1-4 after Construction Period	a) 85% of CCP Taxes, plus b) Other Improvements Taxes
Years 5-15 after Construction Period	a) 103% of the CCP PILOT for the previous fiscal year, plus b) Other Improvements Taxes
Year 16 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 88% of CCP Taxes, plus b) Other Improvements Taxes
Year 17 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 91% of CCP Taxes, plus b) Other Improvements Taxes
Year 18 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 94% of CCP Taxes, plus b) Other Improvements Taxes
Year 19 after Construction Period	a) Greater of 103% of CCP PILOT for the previous fiscal year and 97% of CCP Taxes, plus b) Other Improvements Taxes
Each fiscal year during the remainder of PILOT Financial Assistance Term	a) CCP Taxes, plus b) Other Improvements Taxes