

February 12, 2024
PERRYSBURG TOWN BOARD MEETING AGENDA
PLEASE TURN OFF CELL PHONE RINGER

- ☐ **Call to Order with Pledge to the Flag**
- ☐ **Good of the Community**
- ☐ **Public Comments/Questions** - to address the Town Board at meetings, the form must be completed & given to the Town Clerk prior to the Board Meeting.
*You are invited to stay for the duration of the meeting or quietly exit at this time
- ☐ **Minutes of the previous Town Board meeting**
- ☐ **New Leaf Energy Application**
 - Planning/Zoning Board letter of referral to the Town Board
- ☐ **Reports:**
 1. Code Enforcement Report
 2. Assessor Report
 3. Water Department Report
 4. Sewer Department Report
 5. Highway Superintendent Report
 6. Justice Report
 7. Dog Control Officer Report
 8. Town Clerk Report
 9. Supervisor Report
- ☐ **Correspondence**
 - NYS Department of State Local Law 1 of 2024 filed on 1/12/2024
 - Cattaraugus County Industrial Development Agency Amendment to Uniform Tax Exemption Policy for Wind Farm Facility Projects
- ☐ **Old business**
- ☐ **New business**
 - Schedule Audit of the Town Supervisor's 2023 books
- ☐ **Board Member comments**
- ☐ **Audit of Claims**
- ☐ **Motion to adjourn**

Perrysburg Town Board

Minutes of the Re-Organizational & Regular Monthly Meeting of the Town Board, Town of Perrysburg, Cattaraugus County, NY, January 8, 2024 at the Town Hall

PRESENT: Dennis Parker, Town Supervisor • Randy LaChausse, Councilman • Michael Sternisha, Councilman • Christopher Trybus, Councilman • Dan York, Councilman

ALSO PRESENT: Tamara A Utley, Town Clerk
Dan Stang, Highway Supt.
Debra Ritz
Mark Twichell
Kevin Zynda
Tim Mesch
Jim Everetts
David Swift

Supervisor called the meeting to order at 7:00 p.m. with the Pledge of Allegiance

7:01 PM – OPEN THE PUBLIC HEARING ON LOCAL LAW #1 OF 2024 – Imposing a Temporary Moratorium on the Issuance of Applications & Granting of Permits, Licenses or Approvals for the Siting of Commercial Solar Panel Power Projects, Wind Turbine Projects and Battery Projects in the Town of Perrysburg in Order To Allow for the Adoption of Appropriate Regulations Pertaining to Such Land Uses.

Public Hearing Legal Notice was advertised in the Observer on December 29, 2023

- Heard from Mark Twichell in support of the moratorium
- David Swift read a statement from Jackie Swift in support of the moratorium
- Heard from David Swift in support of the moratorium

2024 ORGANIZATIONAL RESOLUTIONS

RESOLUTION # 1 OF 2024 - BE IT HEREBY RESOLVED BY THE PERRYSBURG TOWN BOARD TO MAKE THE FOLLOWING APPOINTMENTS:

OFFICIAL BANKS: Community Bank of Gowanda and Evans National Bank of Forestville

INSUFFICIENT FUNDS CHARGE FOR RETURNED CHECK: \$18 (eighteen dollars)

OFFICIAL NEWSPAPER: The Dunkirk Observer

MILEAGE RATE: .55 cents per mile

INSURANCE COMPANY: NYMIR (broker: Evans Agency)

PETTY CASH FOR THE OFFICE OF THE TOWN CLERK: \$100.00

PETTY CASH FOR TOWN JUSTICE: \$50.00

RECORDS RETENTION & DISPOSITION SCHEDULE: NYS Records Retention and Disposition Schedule LGS-01

RESOLUTION # 2 OF 2024 - BE IT HEREBY RESOLVED BY THE PERRYSBURG TOWN BOARD TO MAKE THE FOLLOWING SPECIAL APPOINTMENTS

Deputy Supervisor Randy LaChausse

* The Deputy Supervisor has the authority to sign checks or documents in the Supervisors absence

Assessor Liaison	Randy LaChausse
Building & Grounds	Chris Trybus, Dennis Parker & Mike Sternisha
Code Enforcement Liaison	Dan York
Court Liaison	Mike Sternisha
Dog Control Liaison	Dan York
Highway Liaison	Dennis Parker
Parks Liaison	Mike Sternisha
Perrysburg Fire Liaison	Randy LaChausse
Planning & Zoning Board	Dan York
Versailles Fire Liaison	Dennis Parker
Water & Sewer Liaison	Dennis Parker & Chris Trybus

RESOLUTION #3 OF 2024 - BE IT HEREBY RESOLVED BY THE PERRYSBURG TOWN BOARD to establish Town Board meeting dates

All regular monthly Town Board Meetings will be held on the second Monday of each month at 7:00pm at the Perrysburg Town Hall, 10460 Peck Hill Road, Perrysburg NY, if Monday is a holiday, the meeting will be held on Tuesday.

RESOLUTION #4 OF 2024 - BE IT HEREBY RESOLVED BY THE PERRYSBURG TOWN BOARD: to allow the Town Supervisor to invest money not currently in use in savings accounts and certificates of deposit, without Board approval, in order to take advantage of interest gains to the Town budget and shall be allowed to transfer funds from the accounts, as needed, within each fund.

BE IT FURTHER RESOLVED to set the value of fixed assets to be inventoried yearly at more than \$1,000.00. All other items are considered supplies or materials.

BE IT FURTHER RESOLVED to adopt the Investment Plan, the Procurement Plan currently in place after review by the Board members, the Workplace Prevention of Violence, Sexual Harassment Policy, Employment and Harassment Policy, and to update the Hazardous Materials Manual and Disaster Plans.

RESOLUTION #5 OF 2024 - BE IT FURTHER RESOLVED BY THE PERRYSBURG TOWN BOARD to make the following appointments and salaries and to establish, for the purpose of calculation NYS Retirement Benefits, an eight (8) hour day for full time employees and a six (6) hour day for elected or appointed officials

2024 Appointments / Pay Rates:

Attorney for the Town	Debra Ritz	\$6,489.00
Board of Assessment Review Members (5)	Everetts, Pecnik, VACANCY	\$100.00 / per member
Code Enforcement Officer	Dave Heckman	\$6,471.00
Court Officers	Jack Ellis & Paige Sultemeier	\$20.00/hr
Deputy Town Clerk	Tammy Grimmer	\$16.00/hr
Dog Control Officer	Kathy Hagner	\$4,875.00
Historian	Steve Stockwell	\$970.00
Planning Zoning Board Members (5)	Everetts, Gernatt, Pecnik, Howard, Towne	\$200.00 per member
Planning Zoning Secretary	Lisa Towne	\$350.00
Town Hall Custodian	Lori Dankert	\$4,593.00
Traffic Court Prosecutor	Jim Mussachio	\$3,090.00

Each water and Sewer District will pay an additional amount of \$750.00 per year to Town Clerk for billing and clerical work.

The Deputy Highway Superintendent will be paid an additional .50 cents per hour.

RESOLUTION #6 OF 2024 – BE IT RESOLVED BY THE PERRYSBURG TOWN BOARD to name Bahgat, Laurito & Bahgat as the CPA firm for the following: Bookkeeper to the Supervisor, completion and submission of the Annual Update Document (AUD), payroll and retirement reporting purposes

RESOLUTION #7 OF 2024 - BE IT RESOLVED BY THE PERRYSBURG TOWN BOARD to provide the following benefits to full-time highway employees (all other employees are to be considered part time)

1. New employees will contribute five percent (5%) of health insurance premium per year
2. The Town will pay a maximum of \$1,000.00 per employee for non-cosmetic co-pays, non-cosmetic dental/vision
3. A uniform allowance/work boots for Highway Employees - \$150.00
4. One eight (8) hour sick day accumulating one day per month/ 60 days maximum
5. Vacation: Two (2) weeks after one year service
6. Three (3) weeks after five years of service
7. Four (4) weeks after ten years of service
8. Four (4) personal leave days per year
9. Three bereavement days for immediate family - parent, child, spouse, in-laws, (others at the discretion of the Town Board).
10. Ten paid holidays: New Years Day, Good Friday, Memorial Day, July 4th, Labor Day, Columbus Day, Thanksgiving Day, Christmas Day, and two (2) floating holidays.
11. Double time will be paid to full time highway employees for a call out after regular hours on Christmas Eve, Christmas Day, New Years Eve and New Years Day.
12. Retirement benefits are state mandated for full time employees.
13. A limit of 240 hours comp time may be carried over from year to year.
14. A return to work slip from a doctor is required to return to work after an absence of 3 or more days.
15. Vacation and time off requests should be in writing and are granted on a first come first serve basis and employees should keep copies of all requests.

SALARIES FOR FULL TIME HIGHWAY EMPLOYEES SHALL BE:

- * Current full and part time Highway employees will receive a rate increase of .50 per hour
- * Starting wage of \$16.00 per hour with CDL (All full time highway employees must have a valid CDL).
- * All wage increases are given for meritorious service with an evaluation process performed by the Highway Superintendent.
- * A twenty year longevity payment of \$500.00 annually to employees working 20 years or more on the first regular payday following their anniversary date.
- * New employee probationary period is six (6) months - upon completion of a positive evaluation by the Highway Supervisor, the employee will receive a .50 cent increase.

PART TIME EMPLOYEES -

Current minimum wage rate per hour with CDL, Mechanic experience, other specialized skills

Current minimum wage rate per hour for general laborer

*Full time employees will be paid a minimum of 3 hours pay when they are called in during off hours.

* The foregoing raises are for full or part-time employees in continuous employment for the Town of Perrysburg.

RESOLUTION #8 OF 2024 – WATER DEPARTMENT SALARY

BE IT HEREBY RESOLVED by the Perrysburg Town Board to pay an annual salary of \$18,000 to water department employees; salary to be paid bi-weekly

RESOLUTION #9 OF 2024 - TOWN CLERK BENEFITS

BE IT HEREBY RESOLVED by the Perrysburg Town Board to provide the following benefits to the full-time Town Clerk: The Town Clerk will contribute five percent (5%) towards the cost of health insurance. The Town will pay a maximum of \$1,000 for non-cosmetic co-pays including non-cosmetic dental/vision

Motion by Supervisor Parker, Second by Councilman Sternisha to adopt the re-organizational resolutions #1 thru #9 as stated

PARKER – AYE STERNISHA – AYE LACHAUSSE – AYE
TRYBUS – AYE YORK - AYE

GOOD OF THE COMMUNITY: Perrysburg Vol. Fire Dept. Pancake Breakfast January 11, 2024 from 8am – 11am

PUBLIC COMMENTS/QUESTIONS: None

MINUTES OF THE PREVIOUS MEETING: Motion by Councilman Sternisha, second by Supervisor Parker to accept the December 27, 2023 Year End Meeting Minutes as submitted

STERNISHA – AYE PARKER – AYE LACHAUSSE – AYE
TRYBUS – AYE YORK - AYE

REPORTS:

Building & Code Enforcement Officer: Completed seven inspections and issued two permits

Assessor's Report:

- Fifty-four percent of Agricultural Assessments and nineteen percent of Senior Citizen renewal applications have been returned; these applications are due March 1st.
- Assessor will be at the Perrysburg Town Hall from 1:00-4:00 on January 8 & 29th and February 12th & 26th.
- There were seven property transfers in November; more information can be found at <https://www.cattco.org/real-property-and-gis/sales>

Water Dept. Report:

- Dan Stang reported the Treatment Plant is still on manual mode; quote for the part and installation is \$3,400.00

RESOLUTION #10 OF 2024 - Motion by Councilman LaChausse, second by Councilman York to use remaining ARPA funds per Resolution #20 of 2022 authorizing \$10,000 expenditures for water district equipment/repairs on the part and installation expense at the Water Treatment Plant

LACHAUSSE – AYE YORK – AYE PARKER – AYE
STERNISHA – AYE TRYBUS – AYE

Sewer Report: No issues to report; spares for each lift station

Highway Supt. Report: plowing a few times, mowing roadsides with excavator, cleaning out discharge pipes, cutting dead trees, dealing with an engine light on one truck; sand rebuild project in the shop;

FEMA PROSPECT STREET PROJECT – All final paperwork has been signed off, should take about ninety days before we see things beginning to happen

Justice Report: Justice Dankert closed nine V/T cases and three Environmental Conservation cases for a total of \$2024.00 reported to the State Comptroller

Dog Control Officer's Report: Quiet month – one dog picked up on North Road has been claimed by its owner

Town Clerk Report: Town Clerk collected \$1363.00 for the month of December \$698.86 was the town portion paid to the Supervisor;
For 2023 the Town Clerk collected \$29,213.65, the town portion paid to the Supervisor was \$7,544.41

Tax Collector Report: January 2nd through 4th, the Tax Collector has received \$190,803.39 in Town and County taxes and has paid the Town Supervisor \$100,000.00

Supervisor's Report: financial report prepared by Bahgat & Laurito-Bahgat is on file in the Town Clerk's office

CORRESPONDENCE

- Gowanda Ambulance Service agreement renewal letter request
- Gowanda Ambulance Service Public Meeting Invitation Letter
- Association of Towns 2024 Training School & Annual Meeting Letter

OLD BUSINESS

Board of Assessment Review (BAR) vacancy – post vacancy on Town website

NEW BUSINESS

E-mail from Spectrum regarding franchise renewal/broadband buildout possibilities

Motion by Councilman York, second by Councilman Sternisha

RESOLUTION #11 OF 2024 – AGREEMENT TO SPEND HIGHWAY FUNDS

WHEREAS, an agreement between the Town of Perrysburg and the County of Cattaraugus, pursuant to the provisions of Section 284 of the Highway Law, agree that moneys levied and collected in the Town for the repair and improvement of highways and received from the State for State Aid for the repair and improvement of highways shall be expended for the primary work and general repairs on 71.2 miles of town highways

BE IT HEREBY RESOLVED by the Perrysburg Town Board to execute the 2024 Agreement; one copy to be filed with Cattaraugus County and one copy to be filed with the Town Clerk

YORK – AYE STERNISHA – AYE LACHAUSSE – AYE
PARKER – AYE TRYBUS – AYE

ABSTRACT #1 of 2024, Vouchers #1 – #33 – Audit of Claims

General Fund Townwide	A	\$ 18,878.51
Highway Fund Townwide	DA	\$ 964.28
Gowanda Prospect St. Water	GW	\$ 192.50
Capital Projects Fund	H	\$ 7,200.00
Central Water	PW	\$ 6,718.35
Fire Protection Districts	SF	\$ 152,965.00
Street Lighting	SL	\$ 528.35
Special Residential	SR	\$ 546.81
Special Sewer	SS	\$ 386.50
Versailles Water	VW	\$ 437.50
Total:		\$ 188,817.80

Motion by Councilman LaChausse, second by Supervisor Parker to pay all audited vouchers #1 - #33 in the amount of \$188,817.80

LACHAUSSE- AYE PARKER - AYE STERNISHA - AYE
TRYBUS – AYE YORK- AYE

Supervisor Parker called for any other comments or questions to come before the Board for the Public Hearing

7:54 PM – SUPERVISOR PARKER CLOSED THE PUBLIC HEARING ON LOCAL LAW #1 of 2024

Motion by Councilman LaChausse, second by Supervisor Parker to adopt Local Law #1 of 2024 - Imposing a Temporary Moratorium on the Issuance of Applications & Granting of Permits, Licenses or Approvals for the Siting of Commercial Solar Panel Power Projects, Wind Turbine Projects and Battery Projects in the Town of Perrysburg in Order To Allow for the Adoption of Appropriate Regulations Pertaining to Such Land Uses.

LACHAUSSE- AYE PARKER - AYE STERNISHA - AYE
TRYBUS – AYE YORK- AYE

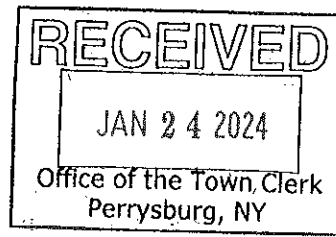
7:55 pm Motion by Councilman Sternisha to adjourn

Heard from Jim Everetts, Planning/Zoning Board Chairman who spoke about the Public Hearing to be held at the Town Hall on January 17, 2024 at 7:00 p.m., informed the Town Board that the New Leaf application has been referred to the Cattaraugus County Planning Board for their review

7:58 pm Motion by Councilman Sternisha, second by Councilman York to adjourn

Respectfully Submitted,

Tamara A. Utley, Town Clerk



Jan. 23, 2024

Town of Perrysburg Board,

The Planning/zoning Board of Perrysburg held a hearing on Jan. 17, 2024, for the New Leaf Energy Company proposal of a MET tower on Peck Hill Road. The hearing covered all necessary information required by the Board to consider approval according to current zoning laws. The Planning/zoning Board is recommending that the Town approve this proposal.

Sincerely,

Lisa Towne – Planning/zoning secretary and board member



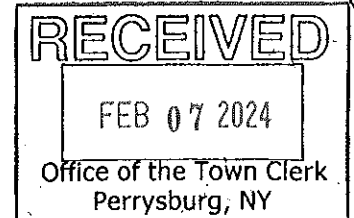
CATTARAUGUS COUNTY REAL PROPERTY SERVICES

207 Rock City Street, Suite 101 • Little Valley, New York 14755 • (716) 938-2224 • Fax (716) 938-2758

Elizabeth Lerow, Assessor

Assessor@cattco.org

TO: Town of Perrysburg Supervisor & Board
FROM: Cattaraugus County Assessor
DATE: January 5, 2024
RE: Monthly Report for January



The January report is as follows:

- Renewal applications for Agricultural Assessment and Senior Citizen Exemption are being submitted and processed. Thus far 70% of Agricultural Assessments and 50% of Senior Citizen renewal applications have been returned. Reminder notices were mailed February 1, to Ag and Senior applicants that renewal applications have not yet been received.
- These applications are due March 1, 2024. Applicants are encouraged to contact the Assessor's Office Monday – Friday, 8:00 am – 5:00 pm with any questions. We will continue our additional hours for exemption season in Perrysburg from 1:00-4:00 February 12th and 26th.
- Pursuant to Section 501 of NYS Real Property Tax Law, the Notice Concerning the Examination of Assessment Inventory and Data, must be displayed on the bulletin board at the Town Hall and published in the town's official paper. I have provided a copy of this notice for you to post on your bulletin board and send to your official paper. This notice must be published in your official paper once in each of the last two weeks in February.
- Seven internal reviews and seventeen building permits were reviewed for Roll Year 2024.
- The Assessing Office has corresponded with several property owners about their assessments, tax bills, and exemptions.
- There were four property transfers in December. You can find more information about these sales here: <https://www.cattco.org/real-property-and-gis/sales>

END OF REPORT

Thank you.

Perrysburg Town Court

Dennis

Hon. Lori A. Dankert
Town Justice

10460 Peck Hill Road
PO Box 244
Perrysburg, NY 14129
Phone - 716-532-4910
Fax - 716-532-4910

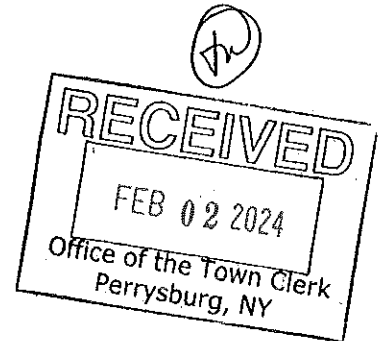
DATE: February 1, 2024

TO: Dennis Parker, Town Supervisor
Town Board Members

FROM: Hon. Lori A. Dankert



SUBJECT: Monthly Report of the Justice Court



This letter is to inform you of my monthly report totals for the month of January 2024.

Please note that this is a breakdown of CLOSED and reported cases to the Office of the State Comptroller for January 2024. This list DOES NOT include new cases assigned for the current month, dismissed cases, or repaired/dismissed tickets.

Vehicle and Traffic Law – 30 cases
Penal Law – 1 case
Animal Control – 0 cases
Environmental Conservation – 2 cases
Total Reported to State Comptroller - \$4083.00

If you have any questions, please feel free to contact me.

/lad

cc: File

Justice Information	
Municipal Name	Town of Perrysburg
Justice ID	0436520
Justice Number	589
Justice Name	Lori Dankert

Thank you for submitting your monthly Justice Report. You will receive an email with the status of your report. Please print and retain this page for your records as confirmation of your filing.

Submission Log
02/01/2024 05:40:47 PM / Lori Dankert / Town of Perrysburg / Submitted Document

Report Certification	
Date Filed	02/01/2024
Report Period	01/2024
Report Amount	\$4,083.00
Date Check Sent to CFO	02/01/2024
AC-1030 Report File	AC240104.589

Town Clerk/Tax Collector Report for February 12, 2024 Board Meeting

Town Clerk Report

The Town Clerk collected \$1208.25 for the month of January. \$447.15 was the town portion paid to the Supervisor.

Tax Collector Report

January 2nd thru 31st the Tax Collector has received \$1,553,396.60 in Town and County taxes and has paid the Town Supervisor the full warrant amount of \$654,943.77.

Account#	Account Description	Fee Description	Qty	Local Share
	Certified Copies	Certified Copies	9	90.00
	Marriage License	Marriage License	1	9.50
	town share	\$10.00	26	15.60
		30.00	16	28.80
		Sub-Total:		\$143.90
A2544	Dog Licensing	Female, Spayed	10	40.00
		Female, Unspayed	5	50.00
		Male, Neutered	12	48.00
		Male, Unneutered	2	20.00
		Sub-Total:		\$158.00
A2590	Building Permit	Building Permit	1	95.00
		Sub-Total:		\$95.00
A2770	Misc	Mics	2	50.25
		Sub-Total:		\$50.25
		Total Local Shares Remitted:		\$447.15
Amount paid to: County Share				695.60
Amount paid to: NYS Ag. & Markets for spay/neuter program				43.00
Amount paid to: State Health Dept				22.50
Total State, County & Local Revenues:		\$1,208.25	Total Non-Local Revenues:	\$761.10

To the Supervisor:

Pursuant to Section 27, Sub 1, of the Town Law, I hereby certify that the foregoing is a full and true statement of all fees and monies received by me, Tamara A Utley, Town Clerk, Town of Perrysburg during the period stated above, in connection with my office, excepting only such fees and monies, the application of which are otherwise provided for by law.

Supervisor

Date

Town Clerk

Date

Tax Collection

Analysis of Collections by transaction Date

2/2/24

Page 1 of 2

<u>Date</u>	<u>Qty</u>	<u>Taxes collected</u>	<u>Interest paid</u>	<u>Penalty paid</u>	<u>Overpayment</u>	<u>Daily total collected</u>	<u>Total overall collections</u>
1/2/24	30	125,778.48	0.00	0.00	0.00	125,778.48	125,778.48
1/3/24	11	14,996.55	0.00	0.00	0.00	14,996.55	140,775.03
1/4/24	35	50,028.36	0.00	0.00	0.00	50,028.36	190,803.39
1/5/24	30	56,067.33	0.00	0.00	0.00	56,067.33	246,870.72
1/6/24	17	11,714.42	0.00	0.00	0.00	11,714.42	258,585.14
1/8/24	44	64,010.81	0.00	0.00	0.00	64,010.81	322,595.95
1/9/24	22	28,917.54	0.00	0.00	0.00	28,917.54	351,513.49
1/10/24	4	6,784.49	0.00	0.00	0.00	6,784.49	358,297.98
1/11/24	24	34,980.59	0.00	0.00	0.00	34,980.59	393,278.57
1/12/24	10	15,082.49	0.00	0.00	0.00	15,082.49	408,361.06
1/13/24	10	14,583.12	0.00	0.00	0.00	14,583.12	422,944.18
1/16/24	26	45,839.49	0.00	0.00	0.00	45,839.49	468,783.67
1/17/24	22	356,123.40	0.00	0.00	0.00	356,123.40	824,907.07
1/18/24	12	9,465.28	0.00	0.00	0.00	9,465.28	834,372.35
1/19/24	22	29,546.28	0.00	0.00	0.00	29,546.28	863,918.63
1/20/24	10	26,523.64	0.00	0.00	0.00	26,523.64	890,442.27
1/22/24	25	32,867.85	0.00	0.00	0.00	32,867.85	923,310.12
1/23/24	26	52,365.11	0.00	0.00	0.00	52,365.11	975,675.23
1/24/24	13	25,726.91	0.00	0.00	0.00	25,726.91	1,001,402.14
1/25/24	24	38,307.90	0.00	0.00	0.00	38,307.90	1,039,710.04
1/26/24	35	55,807.68	0.00	0.00	0.00	55,807.68	1,095,517.72
1/27/24	20	49,464.71	0.00	0.00	0.00	49,464.71	1,144,982.43
1/29/24	98	184,158.21	0.00	0.00	0.00	184,158.21	1,329,140.64
1/30/24	84	170,542.08	0.00	0.00	0.00	170,542.08	1,499,682.72

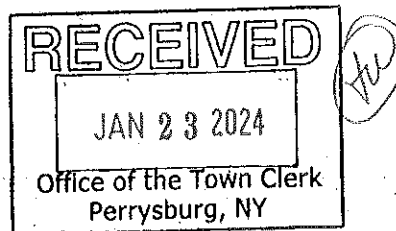
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Analysis of Collections
by transactionDate

Page 2 of 2

<u>Date</u>	<u>Qty</u>	<u>Taxes collected</u>	<u>Interest paid</u>	<u>Penalty paid</u>	<u>Overpayment</u>	<u>Daily total collected</u>	<u>Total overall collections</u>
1/31/24	32	53,713.88	0.00	0.00	0.00	53,713.88	1,553,396.60
01.24	736	1,553,396.60	0.00	0.00	0.00	1,553,396.60	1,553,396.60
Totals:	736	1,553,396.60	0.00	0.00	0.00	1,553,396.60	1,553,396.60

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
[HTTPS://DOS.NY.GOV](https://dos.ny.gov)



KATHY HOCHUL
GOVERNOR
ROBERT J. RODRIGUEZ
SECRETARY OF STATE

January 17, 2024

Town of Perrysburg
10460 Peck Hill Road
Po Box 250
Perrysburg, New York 14129

RE: Town of Perrysburg, Local Law 1 2024, filed on 1/12/2024

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**

COUNTY OF CATTARAUGUS INDUSTRIAL DEVELOPMENT AGENCY

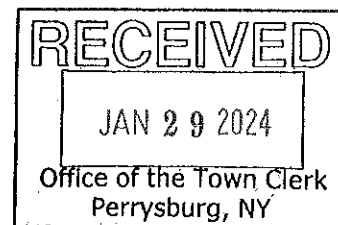
P.O. Box 1749 • 9 East Washington Street • Ellicottville, NY 14731
(716) 699-2005 FAX (716) 699-2942



Web: www.cattcoida.com
E-mail: info@cattcoida.com

January 25, 2024

Ms. Tamara A. Utley, RMC, Town Clerk/Tax Collector
Town of Perrysburg
10460 Peck Hill Road
PO Box 250
Perrysburg, New York 14129



**RE: Cattaraugus County Industrial Development Agency (the "Agency")
Amendment to Uniform Tax Exemption Policy for Wind Farm Facility
Projects**

Dear Ms. Utley, RMC:

Please accept this correspondence as notice from the Agency, pursuant to Section 874 of the New York General Municipal Law ("GML") and pursuant to the Agency's Uniform Tax Exemption Policy ("UTEP"), informing you of the Agency's contemplated action to amend its UTEP.

Enclosed within Attachment A to this letter is the proposed UTEP, as amended in its entirety. The amendment replaces Section 7(D)(2)(l) in its entirety revising the process by which, and the procedure by which, the Agency may approve of a real property tax abatement and the related real property tax abatement formula with respect to a Wind Farm Facility project. For your convenience, Attachment B shows the Section 7(D)(2)(l) language that is proposed to be removed, and the language that is proposed to be inserted.

The purpose of the amendment is to facilitate construction and installation of Wind Farm Facilities in an effort to support statewide renewable energy production goals, currently established at achieving 70% renewable electricity production by 2030, by requiring that the Cattaraugus County Legislature and the host project municipality or municipalities request, in a coordinated manner, that the Agency approve of a Wind Farm Facility real property tax abatement request as so initially approved by the aforementioned municipalities.

In compliance with the GML and the UTEP, the Agency is required to consider the following factors prior to approving the proposed amendment to the UTEP:

(1) The nature of the proposed project (for example, manufacturing, commercial, civic, etc.): This UTEP Amendment is only applicable to Wind Farm Facility Projects.

(2) The nature of the property before the project begins (for example, vacant land, vacant building, etc.): The nature of the property before a Wind Farm Facility project begins, in the absence of the approval of the UTEP Amendment, will continue to be the same as the nature of the property before a Wind Farm Facility project begins in the event the UTEP Amendment is approved.

(3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area: The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained and/or the salary ranges of such jobs: To the extent the UTEP Amendment encourages and facilitates the installation, construction, and operation of a Wind Farm Facility Project in the absence of the proposed UTEP Amendment, some limited job creation/retention may thereafter result.

(5) The estimated value of tax exemptions to be provided: The proposed UTEP Amendment only amends policy and procedures. Only at the time when a proposed Wind Farm Facility project is actually proposed to the Agency for approval can the estimated value of tax exemptions contemplated to be provided be determined.

(6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions: The proposed UTEP Amendment will enable an actual payment-in-lieu-of-taxes payment to be made to the affected tax jurisdictions, thus increasing real property tax revenues, in contrast to the ability for a Wind Farm Facility developer to potentially obtain a 100% abatement of a Wind Farm Facility's real property taxes typically available under Section 487 of the New York Real Property Tax Law.

(7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity: There is not a proposed project currently. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project.

(8) The amount of private sector investment generated or likely to be generated by the proposed project: Not applicable.

(9) The likelihood of accomplishing the proposed project in a timely fashion: Not applicable.

(10) The effect of the proposed project upon the environment and surrounding property. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(11) The extent to which the proposed project will require the provision of additional services including, but not limited to, educational, transportation, emergency medical or police and fire services. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located. See number (6), above.

(13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effect of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(14) Whether affected taxing jurisdictions shall be reimbursed by a project occupant if the project does not fulfill the purposes for which an exemption was provided. Existing Agency recapture/reimbursement provisions will continue to apply.

(15) The impact of the UTEP Amendment on existing and proposed businesses and economic development projects in the vicinity. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(16) The amount of private sector investment generated or likely to be generated by the UTEP Amendment. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

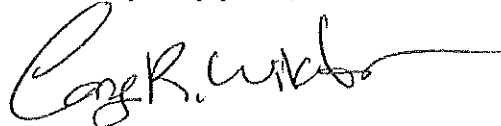
(17) The demonstrated public support for the UTEP Amendment. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The demonstrated public support for or against a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

(18) The likelihood of accomplishing the proposed UTEP Amendment in a timely fashion. It is anticipated that the UTEP Amendment could be approved and effective by February 13, 2024.

(19) The extent to which the UTEP Amendment will require the provision for additional services. The action here is the contemplated approval of an amendment to the Agency's UTEP involving policies and procedures related to a Wind Farm Facility project. The effects of a proposed Wind Farm Facility project can only be considered when and if the Agency was presented with a Wind Farm Facility project application.

The Agency will consider whether to approve of the proposed UTEP Amendment at its February 13, 2024 meeting of its Board of Directors, to be held at 11:15 a.m. at the Agency's office address as so listed, above. The Agency invites you to provide written comments, which will be reviewed at the Agency's meeting. The Agency also invites you to attend the meeting to address members of the Agency regarding the proposed UTEP Amendment. In addition, I also welcome and encourage you to contact me with any questions or for additional information regarding the proposed UTEP Amendment. I can be reached at corey.cattco@gmail.com or at 716-699-2005.

Very truly yours,

A handwritten signature in black ink, appearing to read "Corey R. Wiktor", with a long horizontal flourish extending to the right.

Corey R. Wiktor
Executive Director

EXHIBIT A

Proposed Amended Uniform Tax Exemption Policy

DRAFT Amendment
As of January 24, 2024

COUNTY OF CATTARAUGUS INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY

SECTION 1. PURPOSE AND AUTHORITY. Pursuant to Section 874(4)(a) of Title One of Article 18-A of the General Municipal Law, County of Cattaraugus Industrial Development Agency (the “Agency”) is required to establish a uniform tax exemption policy applicable to the provision of any financial assistance of more than one hundred thousand dollars to any project. This uniform tax-exemption policy (hereinafter, the “Uniform Tax Exemption Policy”) was adopted pursuant to a resolution enacted by the members of the Agency on November 14, 1995, readopted pursuant to a resolution enacted by the members of the Agency on March 30, 1999, and modified pursuant to resolutions enacted by the members of the Agency on June 8, 2004, February 4, 2010, June 19, 2012, October 22, 2019 and March 24, 2020.

SECTION 2. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning or intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

“Act” shall mean Title One of Article 18-A of the General Municipal Law.

“Adaptive Reuse Project” means shall mean a project which is an “adaptive use project” pursuant to the Agency’s Adaptive Reuse Policy. For purposes of this definition, the term “Adaptive Reuse Policy” shall mean, at any particular point in time, the then-current version of the Agency’s Adaptive Reuse Policy, which adaptive reuse project policy was initially approved by resolution of the members of the Agency on October 22, 2019.

“Administrative Fee” shall mean a charge imposed by the Agency to an Applicant or project occupant for the administration of a project.

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

“Agency” shall mean County of Cattaraugus Industrial Development Agency.

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

“Applicant” shall mean an applicant for financial assistance.

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

“Assessed Value” shall mean, with respect to a particular Parcel, the value of the Parcel in question for purposes of determining payments in lieu of taxes due hereunder

“Assessor” shall mean, with respect to a particular project and with respect to a particular Affected Tax Jurisdiction, the appropriate officer or officers charged by said respective Affected Tax Jurisdiction with assessing the value of real property located within the boundaries of said Affected Tax Jurisdiction for purposes of determining real property taxes levied by said Affected Tax Jurisdiction.

“Brownfield Redevelopment Project” shall mean a project which both (A) involves the redevelopment of a site listed by the New York State Department of Environmental Conservation in its Environmental Site Remediation Database (currently accessible on the worldwide web at <http://www.dec.ny.gov/cfm/extapps/derexternal/index.cfm?pageid=3>) and (B) is an Eligible Project.

“Code” means the Internal Revenue Code of 1986, as amended, including, when appropriate, the statutory predecessor of said Code, and the applicable regulations (whether proposed, temporary or final) of the United States Treasury Department promulgated under said Code and the statutory predecessor of said Code, and any official rulings and judicial determinations under the foregoing.

“Commercial Facility” shall mean any Applicant Project approved by the Agency that is not a Tax-Exempt Facility, a Manufacturing Facility, a Tourism Destination Facility, a Retail Facility or a Residential Facility. A “Qualified Commercial Facility” shall mean a Commercial Facility which commits to retain at least 100% of the number of existing jobs for the Initial Period relating thereto.

“Commercial Solar Facility” means a group of solar panels and related facilities in the same location intended to be used for the production of electric power to be sold to third parties, but shall not include a Small Alternate Energy Facility. In the event of a question whether a solar facility is a Small Alternate Energy Facility or a Commercial Solar facility, the determination of the Agency on that subject shall be final. A Commercial Solar Facility includes all related

equipment determined by the Agency to be necessary or desirable for collecting such electric energy and delivering same to the electric grid, but shall not include the land and improvements that were included on the tax rolls of the Affected Tax Jurisdictions prior to the commencement of the project of which such Commercial Solar Facility is a part (see Section 7(D)(1) herein).

“County” shall mean the County of Cattaraugus.

“Eligible Project” shall mean a project which is an “eligible project” pursuant to the Agency’s Eligible Project Policy.

“Eligible Project Policy” shall mean, at any particular point in time, the then-current version of the Agency’s Eligible Project Policy, which eligible project policy was initially approved by resolution of the members of the Agency on June 7, 2011 pursuant to which the Agency set forth the types of projects which the Agency will consider undertaking.

“FTE” shall mean a full time equivalent employee. To determine the number of FTEs employed by an employer at a particular facility in a particular year, divide the number of hours worked by all employees at such facility in such year by 1900.

“Guaranteed PILOT Payment” shall mean each payment due (i) with respect to a Wind Farm Facility during the Initial Period relating to said Wind Farm Facility pursuant to Section 7(D)(2)(1) of this Uniform Tax Exemption Policy and (ii) with respect to a Commercial Solar Facility during the Initial Period relating to said Commercial Solar Facility pursuant to Section 7(D)(2)(m) of this Uniform Tax Exemption Policy.

“Initial Period” shall mean, with respect to a particular project, the period of time that said project shall receive a real property tax abatement pursuant to the provisions of this Uniform Tax Exemption Policy.

“Lease Policy” shall mean, at any particular point in time, the then-current version of the Agency’s Lease Policy, which lease policy initially approved by resolution of the members of the Agency on November 14, 1995 and modified pursuant to resolutions enacted by the members of the Agency on March 30, 1999, June 8, 2004, February 4, 2010, April 19, 2011 and June 7, 2011, pursuant to which the Agency set forth the circumstances under which the Agency will consider undertaking a straight-lease transaction, as such term is defined in Section 854(15) of the Act.

“Manufacturing Facility” shall have the meaning set forth in Section 144(a)(12)(C) of the Code, which defines said term to include (1) a “manufacturing facility”, i.e. any facility used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property and (2) certain facilities which are directly related and ancillary to a manufacturing facility if such facilities are located on the same site as the manufacturing facility. A “Regular Manufacturing Facility” shall mean a Manufacturing Facility which commits to retain at least 90% of the number of existing jobs for the Initial Period relating thereto. An “Enhanced Manufacturing Facility” shall mean a Manufacturing Facility which commits to retain all existing jobs for the Initial Period relating thereto and additionally commits

to create additional jobs equal to the greater of (a) 50% of the number of existing jobs or (b) 50 jobs.

“Municipality” shall mean each city, town and village located within the County.

“Non-Applicant Project” means a project which is undertaken by the Agency for the benefit of the Agency, and shall not include an Applicant Project.

“Nonexempt Person” shall mean a person not exempt from real property taxation pursuant to the provisions of the Real Property Tax Law of the State of New York.

“Normal Tax” shall mean, with respect to a particular Parcel, the amount of general taxes and general assessments which would be payable to each Affected Tax Jurisdiction if the Parcel in question was owned by a Nonexempt Person and not the Agency by multiplying (1) the Assessed Value of the Parcel in question, by (2) the tax rate or rates of such Affected Tax Jurisdiction that would be applicable to such Parcel if such Parcel was owned by a Nonexempt Person and not the Agency.

“Parcel” shall mean a parcel of land and the improvements located thereon.

“PILOT” or “Payment in Lieu of Tax” shall mean any payment made to the Agency or an Affected Tax Jurisdiction equal to all or a portion of the real property taxes or other taxes which would have been levied by or on behalf of an Affected Tax Jurisdiction with respect to a project but for Tax Exemption obtained by reason of the involvement of the Agency in such project, but such term shall not include Agency Fees.

“PILOT Agreement” or “Payment in Lieu of Tax Agreement” shall mean a payment in lieu of tax agreement.

“Residential Facility” shall mean buildings and appurtenant lands constituting single, duplex or multifamily buildings and appurtenant lands that are leased to or occupied by any person as a residence.

“Retail Facility” shall mean facility (1) where either (a) fifty percent (50%) or more of the total cost of such facility relates to stores and/or professional offices offering goods or services for sale to customers who personally visit such premises to receive such goods or services or (b) fifty percent (50%) or more of the total space in such facility constitutes stores and/or professional offices offering goods or services for sale to customers who personally visit such premises to receive such goods or services, or (2) which constitutes a club where there is an initial fee, annual membership fee or membership is limited.

“School District” shall mean each school district located within the County.

“Small Alternate Energy Facility” means a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar or wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and

a farm waste energy system), (2) that is installed or to be installed in a residence, a farm or a small business located within the County and (3) that is not a Wind Farm Facility or a Commercial Solar Facility.

“Tax-Exempt Facility” shall mean a facility solely occupied by entities exempt from taxation pursuant to Section 115 of the Code or Section 501(c)(3) of the Code and utilized exclusively for the mission of such entity for which exemption was granted pursuant to Section 501(c)(3) of the Code.

“Tax Exemption” shall mean any financial assistance granted to a project which is based upon all or a portion of the taxes which would otherwise be levied and assessed against a project but for the involvement of the Agency in such project.

“Tourism Destination Facility” shall mean a facility in the County that the Agency determines (1) will attract and/or service a significant number of Tourists, (2) will entice more Tourists to come to the County, (3) is linked to other Tourism Destination Facilities in the County, and (4) will agree to pay (a) sales taxes and occupancy taxes related to the operation of said facility and (b) real estate taxes and/or PILOT payments related to such facility.

“Tourist” shall mean customer of a facility who resides outside the Western New York Economic Development Region (as designated by the New York State Department of Economic Development).

“Wind Farm Facility” means a group of wind turbines and related facilities in the same location intended to be used for the production of electric power to be sold to third parties. A Wind Farm Facility includes all related equipment determined by the Agency to be necessary or desirable for collecting such electric energy and delivering same to the electric grid, but shall not include the land and improvements that were included on the tax rolls of the Affected Tax Jurisdictions prior to the commencement of the project of which such Wind Farm Facility is a part (see Section 7(D)(2)(1) herein).

SECTION 3. GENERAL PROVISIONS.

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

(B) Exceptions. Absent special circumstances, the Agency intends to follow the general policy enunciated under subsection (A) of this Section. The Agency reserves the right to deviate from such policy in special circumstances. In determining whether special circumstances exist to justify such a deviation, the Agency may consider the magnitude of the deviation sought and the factors which might make the project unusual, which factors might include but not be limited to the following factors: (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to the proposed project in question; (2) whether the Affected Tax Jurisdictions will be reimbursed by the project occupant if such project does not fulfill the purposes for which Tax Exemption was granted; (3) the impact of such project on existing and proposed businesses and/or economic development projects; the amount of private

sector investment generated or likely to be generated by such project; demonstrated public support for such project; (6) the estimated value of the Tax Exemptions requested; and (7) the extent to which such project will provide needed services and/or revenues to the Affected Tax Jurisdictions. In addition, the Agency may consider the other factors outlined in Section 874(4)(a) of the Act.

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

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

SECTION 4. SALES AND USE TAX EXEMPTION.

(A) General. State law provides that purchases of tangible personal property by the Agency or by an agent of the Agency, and purchases of tangible personal property by a contractor for incorporation into or improving, maintaining, servicing or repairing real property of the Agency, are exempt from sales and use taxes imposed pursuant to Article 28 of the Tax Law. The Agency has a general policy of abating sales and use taxes applicable (1) only to the initial acquisition, construction, reconstruction and/or equipping of an Applicant Project and (2) to any Non-Applicant Project. The Agency has no requirement for imposing a payment in lieu of tax arising from the exemption of an Applicant Project from sales and/or use taxes applicable to the initial acquisition, construction, reconstruction and/or equipping of such project, except (a) as described in subsection (E) below or (b) in the circumstance where (i) an Applicant Project is offered sales and use tax exemption on the condition that a certain event (such as the issuance of bonds by the Agency with respect to the project) occur by a certain date and (ii) such event does not occur, in which case the Agency may require that the Applicant make payments in lieu of sales and use taxes equal to the amount of tax which otherwise may have been due to the New York State Department of Taxation and Finance.

(B) Period of Exemption. Except as set forth in subsection (A) above, the period of time for which a sales and use tax exemption shall be effective (the "Tax Exemption Period") shall be determined as follows:

(1) General. Unless otherwise determined by the Agency, the sales and use tax exemption for an Applicant Project shall be for the Tax Exemption Period commencing with the issuance by the Agency of bonds, notes or other evidences of indebtedness with respect to such project, or the execution and delivery by the Agency of a lease agreement relating to such project pursuant to the Lease Policy, and ending on the date of completion of the project. The Tax Exemption Period for a Non-Applicant Project shall extend for such period of time as the Agency shall determine.

(2) Early Commencement. The Tax Exemption Period for an Applicant Project may, at the discretion of the Agency, commence earlier than (a) the date of issuance by the Agency of the Agency's bonds, notes or other evidences of indebtedness relating to the project or (b) the execution and delivery of the documents relating to a straight lease transaction, provided that (i) the Agency has complied with the requirements of Section 859-a of the Act, (ii) the Agency thereafter adopts a resolution determining to commence such period earlier, (iii) the Applicant agrees to the conditions of such resolution and supplies to the Agency the materials required to be supplied to the Agency thereunder, and (iv) the Chairman or Executive Director of the Agency acknowledges satisfaction of all conditions to the granting of such Tax Exemption set forth in such resolution.

(3) Normal Termination. The Tax Exemption Period for an Applicant Project will normally end upon the completion of such project. On construction or reconstruction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (a) the date which is six (6) months after the actual date of completion of the project or (b) the date which is six (6) months after the estimated date of completion of such project. On non construction projects, the Agency and the Applicant shall agree on the estimated date of completion of the project, and the sales and use tax exemption shall cease on the earlier of (i) the date which is three (3) months after the actual date of completion of the project or (ii) the date which is three (3) months after the estimated date that the last piece of equipment related to the project is expected to be ordered. If the Agency and the Applicant shall fail to agree on a date for completion of the project, the Agency shall on notice to the Applicant make the determination on the basis of available evidence.

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

(C) Items Exempted. The sales and use tax exemption granted by the Agency with respect to an Applicant Project shall normally extend only to the following items acquired during the Tax Exemption Period described in subsection (B) above:

- (1) improvements to and items incorporated into the real property;
- (2) tangible personal property, including furniture, furnishings and equipment used to initially equip the project or otherwise forming part of the project, if purchased by the Applicant as agent of the Agency;
- (3) the rental of tools and other items necessary for the construction, reconstruction and/or equipping of the project, if rented by the Applicant as agent of the Agency; and
- (4) office supplies, fuel and similar items consumed in the process of acquiring, constructing, reconstructing and/or equipping the project, if purchased by the Applicant as agent of the Agency.

(D) Items Not Exempted. A sales and use tax exemption with respect to an Applicant Project shall not be granted by the Agency for the following:

- (1) purchases occurring beyond the Tax Exemption Period described in subsection (B) above;
- (2) repairs, replacements or renovations of the project, unless such repairs, replacements or renovations constitute major capital type expenses approved by the Agency as a separate project in the manner contemplated by the Act; or
- (3) operating expenses, unless such operating expenses constitute major capital type expenses approved by the Agency as a separate project in the manner contemplated by the Act.

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

(F) Confirmation Letter. The final act of granting a sales and/or use tax exemption by the Agency shall be confirmed by the execution by an authorized officer of the Agency of a confirmation letter by the Agency. Such confirmation letter may either be in the form of a letter for the duration of the anticipated construction period relating to the project (where the sales and use tax exemption is permanent, because the Agency is satisfied that any conditions precedent to such sales and use tax exemption, such as the issuance of bonds or the execution of a lease agreement by the Agency, have been satisfied) or a letter having a shorter duration (where such sales and use tax exemption is tentative, because there remain conditions precedent to such sales

and use tax exemption which have not been satisfied). Each such confirmation letter shall describe the scope and term of the sales and use tax exemption being granted.

(G) Required Filings.

(1) The New York State Department of Taxation and Finance requires that proper forms and supporting materials be filed with a vendor to establish a purchaser's entitlement to a sales and use tax exemption. For example, TSBM87(7) outlines the materials that must be filed to establish entitlement to a sales and use tax exemption as an "agent" of the Agency. It is the responsibility of the Applicant and/or project occupant to ensure that the proper documentation is filed with each vendor to obtain any sales and use tax exemptions authorized by the Agency.

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

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

SECTION 5. MORTGAGE RECORDING TAX EXEMPTION.

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

(B) Refinancing. In the event that the Agency retains title to a project, it is the general policy of the Agency to abate mortgage recording taxes on any debt issued by the Agency for the purpose of refinancing prior debt issued by the Agency, and on any modifications, extensions and

renewals thereof, so long as the Agency Fees relating to same have been paid. A refinancing of an Applicant Project shall not result in (1) any real property tax exemption beyond the Initial Period described in Section 7(D) hereof or (2) any additional sales and use tax exemptions with respect to said project.

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

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

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

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

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

(E) Exemption Affidavit. The act of granting a mortgage recording tax exemption by the Agency is confirmed by the execution by an authorized officer of the Agency of an exemption affidavit relating thereto.

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

SECTION 6. REAL ESTATE TRANSFER TAXES.

(A) Real Estate Transfer Tax. Article 31 of the Tax Law provides for the imposition of a tax upon certain real estate transfers. Section 1405(b)(2) of the Tax Law provides that transfers

into the Agency are exempt from such tax, and the New York State Department of Taxation and Finance has ruled that transfers of property by the Agency back to the same entity which transferred such property to the Agency are exempt from such tax. The general policy of the Agency is to impose no payment in lieu of tax upon any real estate transfers to or from the Agency.

(B) Required Filings. It shall be the responsibility of the Applicant and/or project occupant to ensure that all documentation necessary relative to the real estate transfer tax are timely filed with the appropriate officials.

SECTION 7. REAL ESTATE TAX EXEMPTION.

(A) General. Pursuant to Section 874 of the Act and Section 412-a of the Real Property Tax Law, property owned by or under the jurisdiction or supervision or control of the Agency is exempt from general real estate taxes (but not exempt from special assessments and special ad valorem levies). However, it is the general policy of the Agency that, notwithstanding the foregoing, every non-governmental project will be required to enter into a PILOT Agreement, either separately or as part of the project documents. Such PILOT Agreement shall require payment of PILOT payments in accordance with the provisions set forth below.

(B) PILOT Requirement. Unless the Applicant and/or project occupant and the Agency shall have entered into a PILOT Agreement acceptable to the Agency, the project documents shall provide that the Agency will not file a New York State Department of Taxation and Finance, Division of Equalization and Assessment Form EA 412-a (an "Exemption Form") with respect to the project, and the project documents shall provide that the Applicant and/or the project occupant shall be required to make PILOT payments in such amounts as would result from taxes being levied on the project by the Affected Tax Jurisdictions if the project were not owned by or under the jurisdiction or supervision or control of the Agency. The project documents shall provide that, if the Agency and the Applicant and/or project occupant have entered into a PILOT Agreement, the terms of the PILOT Agreement shall control the amount of PILOT payments until the expiration or sooner termination of such PILOT Agreement.

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

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

(1) Determination of Full Assessment.

(a) *Existing Assessment.* Except as otherwise set forth herein, the general policy of the Agency is to minimize the loss of existing assessment, either by avoiding taking title to (or a leasehold interest in) an existing improvement and any portion of the project land not necessary to deliver the tax abatements contemplated by this Uniform Tax Exemption Policy, or, if such is not possible and the Agency takes title to (or a leasehold interest in) an existing improvement and/or any portion of the project land, to require that PILOT payments be made with respect to such existing improvements and existing land in an amount equal to 100% of the Normal Tax with respect thereto. The existing assessment on an existing improvement and/or any portion of the project land acquired by the Agency with respect to which the Agency files an Exemption Form is hereinafter referred to as the "Existing Assessment". The PILOT Agreement may provide that the Existing Assessment is to be frozen at its present level for a period of up to fifteen years.

(b) *New Assessment.* Except as provided in Section 7(D)(10) below, with respect to a project including new construction, the general policy of the Agency is to take title to (or a leasehold interest in) said new construction portion of the project (the "New Construction"), to file an Exemption Form with respect thereto, and to provide that the Assessor of each Affected Tax Jurisdiction will determine the interim assessments of such New Construction as construction progresses thereon (each, an "Interim New Assessment") (the Interim New Assessment and the Existing Assessment being collectively referred to as the "Interim Full Assessment") and a final assessment thereof (the "Final New Assessment") when such New Construction is completed (the Final New Assessment and the Existing Assessment being collectively referred to as the "Final Full Assessment"). Once the Final Full Assessment is fixed, the Final Full Assessment shall be used as the basis of taxation of the project. The Applicant shall pay real estate PILOT payments determined in each tax year as follows: (i) first, determine the assessment of the new construction portion of the project for such tax year (the "Current New Assessment"), which assessment shall be a percentage of the Final New Assessment determined by subtracting the percentage of abatement applicable to such year (as determined pursuant to paragraph (2) below) from 100%; (ii) next, determine the assessment of the project for such tax year (the "Current PILOT Assessment") by adding the Current New Assessment to the Existing Assessment; and (iii) finally, determine the PILOT payment payable to with respect to the project to each Affected Tax Jurisdiction by multiplying the Current PILOT Assessment by the applicable tax rate of the such Affected Tax Jurisdiction.

(2) *Amount of Abatement.* Based upon the categorization of a project (as set forth below), the new assessment portion of said project shall be entitled to the following benefits:

(a) *Tax-Exempt Facility.* If the project qualifies as a Tax-Exempt Facility, (i) the Initial Period shall be such period as the project continues to qualify

as a Tax-Exempt Facility, and (ii) the percentage of exemption in each tax year shall be 100%.

(b) *Regular Manufacturing Facility.* If a project qualifies as a Regular Manufacturing Facility, (1) the Initial Period shall be fifteen years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1 through 15	100%
16 and thereafter	0%

(c) *Enhanced Manufacturing Facility.* If a project qualifies as an Enhanced Manufacturing Facility, (1) the Initial Period shall be twenty years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1 through 15	100%
16	85%
17	70%
18	55%
19	40%
20	25%
21 and thereafter	0%

(d) *Tourism Destination Facility.* If a project qualifies as a Tourism Destination Facility, (1) the Initial Period shall be fourteen years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1 through 10	100%
11	80%
12	60%
13	40%
14	20%
15 and thereafter	0%

(e) *Residential Facility.* If the project qualifies as a Residential Facility, (1) the Initial Period shall be zero years, and (2) the percentage of exemption in each tax year shall be 0%.

(f) *Retail Facility.* If the project qualifies as a Retail Facility, (1) the Initial Period shall be ten years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

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

(g) *Qualified Commercial Facility (Renovation)*. If a project qualifies as a Qualified Commercial Facility which is being renovated, but does not include any new construction, (1) the Initial Period shall be six years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1	60%
2	50%
3	40%
4	30%
5	20%
6	10%
7 and thereafter	0%

(h) *Qualified Commercial Facility (New Construction)*. If a project qualifies as a Qualified Commercial Facility and involves new construction, (1) the Initial Period shall be ten years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

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

(i) *Small Alternate Energy Facility (New Construction)*. If the project qualifies as a Small Alternate Energy Facility, (1) the Initial Period shall be fifteen years, and (2) the percentage of exemption in each tax year shall be 100%.

(j) *Brownfield Redevelopment Project*. If a project qualifies as a Brownfield Redevelopment Project, (1) the Initial Period shall be fourteen years, and (2) the percentage of exemption in each tax year shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1 through 10	100%
11	80%
12	60%
13	40%
14	20%
15 and thereafter	0%

(k) *Adaptive Reuse Project*. If a project qualifies as an Adaptive Reuse Project, (1) the Initial Period shall be ten years, (2) the Existing Assessment shall be frozen for a ten year period, and (3) the percentage of exemption in each tax year with respect to the New Assessment shall be as set forth in the following table:

Tax Year	Percentage of Exemption
1 through 5	100%
6 through 8	75%
9 through 10	50%
11 and thereafter	0%

(l) *Wind Farms*. Consistent with the Agency's "Eligible Project Policy", to potentially qualify as a Wind Farm Facility (also to be referred to herein as a "Wind Farm Project"), the Agency must receive the "letters of support" as so required to be submitted to the Agency pursuant to its "Eligible Project Policy". Said letters of support are to be provided by the Cattaraugus County Legislature and the Project Municipality (or Project Municipalities and said municipal support letters to be collectively referred to herein defined as the "Municipal Support Letters"). The Municipal Support Letters shall contain the following: (i) confirmation of an approved benefit period term (being the Initial Term, and for the avoidance of doubt, the PILOT benefit period), (ii) confirmation of an approved Guaranteed PILOT Payment being equal to a fixed dollar amount per megawatt ("MW") of the Wind Farm Facility's nameplate capacity, and (iii) if desired, confirmation of a definitive percentage escalator on the prior year's PILOT payment.

(m) *Commercial Solar Facility*. If a project qualifies as a Commercial Solar Facility, and if the Agency receives a letter of support for such project from the city, town or village in which such project is located, (1) the Initial Period shall

be twenty-five years, (2) if the Existing Assessment of the underlying parcel and existing improvements does not remain fully taxable on the relevant assessment rolls, the PILOT Agreement shall require that PILOT payments be made with respect to such underlying parcel and existing improvements in an amount equal to 100% of the Normal Tax with respect thereto, and (3) the Commercial Solar Facility shall be required to make Guaranteed PILOT Payments equal to (i) the actual installed capacity of the Solar Panels, calculated on the third (3rd) business day prior to the date on which the related payment is due pursuant to the PILOT Agreement times (ii) the amount per megawatt of installed capacity of the solar panels which comprise a portion of the Commercial Solar Facility (the "Solar Panels") set forth in the following table:

Project Size (in Megawatts)	Amount per Megawatt
0 MW up to but not including 5.0 MW	\$6,000
5.0 MW up to but not including 10.0 MW	\$7,500
10.0 MW up to but not including 25.0 MW	\$9,000
25.0 MW and above	To be negotiated

provided, that, the Guaranteed PILOT Payments are to be increased annually by three percent (3%) to account for estimated annual inflation. Each annual Guaranteed PILOT Payment will be payable on January 1 of each year (commencing on January 1 of the year following the year of expected substantial completion of the Commercial Solar Facility), subject to a thirty (30) day grace period, and shall upon receipt shall be distributed to the Affected Tax Jurisdictions in accordance with a formula based on the tax rates of the Affected Tax Jurisdictions in effect as of the date of execution of the PILOT Agreement. Following the end of the Initial Period, each annual PILOT Payment to be paid by the project occupant pursuant to the terms of the PILOT Agreement shall be in an amount equal to the amount which would be payable to such Taxing Entity with respect to the Commercial Solar Facility if such Commercial Solar Facility was owned by the project occupant and not the Agency.

(3) Reduction for Failure to Achieve Goals. If the Agency's approval of a particular project is predicated upon achievement by the project of certain minimum goals (such as creating and maintaining certain minimum employment levels), the PILOT Agreement may provide for the benefits provided thereby to the project to be reduced or eliminated if, in the sole judgment of the Agency, the project has failed to fulfill such minimum goals.

(4) Payee. Unless otherwise determined by resolution of the Agency, all PILOT payments payable to an Affected Tax Jurisdiction shall be assessed, billed and collected directly by the same officials which assess, bill and collect normal taxes levied by such Affected Tax Jurisdiction. Pursuant to Section 874(3) of the Act, such PILOT payments shall be remitted to each affected tax jurisdiction within thirty (30) days of receipt.

(5) Expiration of Initial Period: Project Additions. Upon expiration of the Initial Period as aforesaid, the assessment of the project shall revert to a normal assessment (i.e., the project will be assessed as if the project were owned by the Applicant and not by the Agency). Also, any addition to the project shall be assessed normally as aforesaid, unless such addition shall be approved by the Agency as a separate project following notice and a public hearing as described in Section 859-a of the Act.

(6) Special District Taxes. As indicated above, the Agency is not exempt from special assessments and special ad valorem levies, and accordingly these amounts are not subject to abatement by reason of ownership of the Project by the Agency. The PILOT Agreement shall make this clear and shall require that all such amounts be directly paid by the Applicant and/or project occupant. However, Applicants and project occupants should be aware that the courts have ruled that an Agency sponsored project is also eligible to apply for an exemption from special district taxes pursuant to Section 485-b of the Real Property Tax Law. If an Applicant or project occupant desires to obtain an exemption from special district taxes pursuant to said Section 485-b, it is the responsibility of the Applicant and/or project occupant to apply for same at its sole cost and expense.

(7) Credit for Taxes Paid. The PILOT Agreement may contain a provision providing that, should the project occupant pay in any fiscal tax year to any Affected Tax Jurisdiction any amounts in the nature of general property taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Project Facility or the interest therein of the project occupant or the occupancy thereof by the project occupant (but not including, by way of example, (a) sales and use taxes, and (b) special assessments, special ad valorem levies or governmental charges in the nature of utility charges, including but not limited to water, solid waste, sewage treatment or sewer or other rents, rates or charges), then the project occupant's obligation to make PILOT Payments in lieu of property taxes attributed to such fiscal tax year to such Affected Tax Jurisdiction under the PILOT Agreement shall be reduced by the amounts which the project occupant shall have so paid to such Affected Tax Jurisdiction in such fiscal tax year.

(8) PILOT Mortgage. Unless otherwise determined by the Agency, all PILOT Agreements shall be secured by a mortgage (a "PILOT Mortgage") upon the real property exempted by the Agency pursuant to the Exemption Form.

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

(10) Late Payments. The PILOT Agreement shall provide that, if the project occupant shall fail to make any payment required by the PILOT Agreement when due, the

project occupant shall be required to pay late payments at least equal to the late payments required by Section 874(5) of the Act (at the time of the last amendment of this Uniform Tax Exemption Policy, a late payment penalty equal to five percent (5%) of the amount due in the first month, and one percent (1%) per month for each month, or part thereof, that the payment due under the PILOT Agreement is delinquent beyond the first month).

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

(F) Real Property Appraisals. Since the policy of the Agency stated in subsection (C)(1) above is to base the value of a project for payment in lieu of tax purposes on a valuation of such project performed by the respective Assessors, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if (1) the Assessor of any particular Affected Tax Jurisdiction requires one or (2) if the valuation of the project for payment in lieu of tax purposes is based on a value determined by the Applicant or by someone acting on behalf of the Applicant, rather than by an Assessor of an Affected Tax Jurisdiction or by the Agency. In lieu of an appraisal, the Agency may require that an Applicant submit to the Agency and each Assessor a certified enumeration of all project costs. If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.

SECTION 8. PROCEDURES FOR DEVIATION.

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

(1) the Agency adopts a resolution (a) setting forth, with respect to the proposed deviation, whether or not a Tax Exemption of any kind shall be granted, the manner in which the proposed Tax Exemption deviates from the provisions set forth in this Uniform Tax Exemption Policy, and the amount and nature and duration of the proposed PILOT payments, (b) indicating the reasons for the proposed deviation and (c) imposing such terms and conditions thereon as the Agency shall deem just and proper; and

(2) as provided in Section 3(C) hereof, the Agency shall give prior written notice of the proposed deviation from this Uniform Tax Exemption Policy to the chief executive officer of each Affected Tax Jurisdiction, setting forth therein a general description of the proposed deviation and the reasons therefor. Such notice to each Affected Tax Jurisdiction shall be given by the Agency at least thirty (30) days prior to the meeting

of the members of the Agency at which the members of the Agency shall consider whether to deviate from the provisions of this Uniform Tax Exemption Policy with respect to such project. Prior to taking any final action on a proposed deviation, the Agency shall allow any representative of an Affected Tax Jurisdiction present at such meeting to address the members of the Agency regarding the proposed deviation.

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

(C) Unusual Projects. Where a project is unusual in nature and requires special considerations related to its successful operations as demonstrated by appropriate evidence presented to the Agency, the Agency may consider the granting of a deviation from this Uniform Tax Exemption Policy in accordance with the procedures provided in Section 3(B) and Section 8(A) hereof. The Agency may authorize a minimum payment in lieu of tax or such other arrangement as may be appropriate.

(D) Potential Factors Supporting A Deviation. The Agency may consider any or all of the following factors (among others) in making a determination to deviate from the provisions of this Uniform Tax Exemption Policy:

(1) The nature of the proposed project (for example, manufacturing, commercial, civic, etc.);

(2) The nature of the property before the project begins (for example, vacant land, vacant building, etc.);

(3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.

(4) The extent to which the project will create or retain permanent, private sector jobs, the number of jobs to be created/retained and/or the salary ranges of such jobs.

(5) The estimated value of tax exemptions to be provided.

(6) The economic impact of the project and the proposed tax exemptions on affected tax jurisdictions.

(7) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.

(8) The amount of private sector investment generated or likely to be generated by the proposed project.

- (9) The likelihood of accomplishing the proposed project in a timely fashion.
- (10) The effect of the proposed project upon the environment and surrounding property.
- (11) The extent to which the proposed project will require the provision of additional services including, but not limited to, educational, transportation, emergency medical or police and fire services.
- (12) The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
- (13) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.

SECTION 9. RECAPTURE OF BENEFITS.

(A) A PILOT Agreement may set forth shall provide that, in the event that in the event that the Agency determines, at its sole discretion and on a case-by-case basis, that (1) said project has failed to meet its intended goals (as set forth in said PILOT Agreement), and (2) the Agency has therefore determined to recapture the value of certain tax exemptions granted to the Applicant or a project occupant pursuant to this Uniform Tax Exemption Policy, such Applicant and/or project occupant agrees to pay to (or upon the order of) the Agency the value of any such exemptions so determined to be recaptured by the Agency

(B) Events that the Agency may determine will trigger recapture may include, but not be limited to:

- (1) Sale or closure of the facility;
- (2) Significant employment reduction;
- (3) Significant change in use of the facility;
- (4) Significant change in business activities or project applicant or operator; or
- (5) Material noncompliance with or breach of terms of Agency transaction documents or of zoning or land use law or regulations or federal, state or local environmental laws or regulations.

(C) If the Agency determines to provide for the recapture with respect to a particular project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture.

SECTION 10. ANNUAL REVIEW OF UNIFORM TAX EXEMPTION POLICY. At least annually, the Agency shall review this Uniform Tax Exemption Policy to determine relevance, compliance with law, effectiveness, and shall adopt any modifications or changes that it shall deem appropriate. The Executive Director shall be responsible for conducting an annual review of this Uniform Tax Exemption Policy and for an evaluation of the internal control structure established to ensure compliance with this Uniform Tax Exemption Policy, which review shall be submitted to the Agency for consideration by the Agency.

EXHIBIT B

Proposed Amendment to Section 7(D)(2)(I) of the Uniform Tax Exemption Policy

(1) *Wind Farms.* ~~If a project qualifies as a Wind Farm Facility, (1) the Initial Period shall be fifteen years, and (2) the project shall be required to make Guaranteed PILOT Payments equal to (i) \$5,000 per megawatt of installed capacity of the wind turbine generators which comprise a portion of the Wind Farm Facility (the "Wind Turbine Facilities") times (ii) the actual installed capacity of the Wind Turbine Facilities, calculated on the third (3rd) business day prior to the date on which the related payment is due pursuant to the PILOT Agreement; provided, that, the Guaranteed PILOT Payments are to be adjusted for inflation per annum using the lesser of the following: (x) five percent (5%); or (y) Bureau of Labor Statistics Consumer Price Index ("CPI") for the Northeast Region for the prior year (e.g., 2010 CPI to adjust the 2011 Guaranteed PILOT Payment). Each annual Guaranteed PILOT Payment will be payable on January 1 of each year (commencing on January 1 of the year following the year of expected substantial completion of the Wind Farm Facility), subject to a thirty (30) day grace period, and shall upon receipt shall be distributed to the Affected Tax Jurisdictions in accordance with a formula based on the tax rates of the Affected Tax Jurisdictions in effect as of the date of execution of the PILOT Agreement. Following the end of the Initial Period, each annual PILOT Payment to be paid by the project occupant pursuant to the terms of the PILOT Agreement shall be in an amount equal to the amount which would be payable to such Taxing Entity with respect to the Wind Farm Facility if such Wind Farm Facility was owned by the project occupant and not the Agency. The Guaranteed PILOT Payments shall be payable notwithstanding any termination of the term of the related Lease Agreement, and shall be secured by a PILOT Mortgage. The PILOT Mortgage associated with a Wind Farm Facility may also secure amounts due and payable pursuant to any host community agreement related to such Wind Farm Facility.~~ Consistent with the Agency's "Eligible Project Policy", to potentially qualify as a Wind Farm Facility (also to be referred to herein as a "Wind Farm Project"), the Agency must receive the "letters of support" as so required to be submitted to the Agency pursuant to its "Eligible Project Policy". Said letters of support are to be provided by the Cattaraugus County Legislature and the Project Municipality (or Project Municipalities and said municipal support letters to be collectively referred to herein defined as the "Municipal Support Letters"). The Municipal Support Letters shall contain the following: (i) confirmation of an approved benefit period term (being the Initial Term, and for the avoidance of doubt, the PILOT benefit period), (ii) confirmation of an approved Guaranteed PILOT Payment being equal to a fixed dollar amount per megawatt ("MW") of the Wind Farm Facility's nameplate capacity, and (iii) if desired, confirmation of a definitive percentage escalator on the prior year's PILOT payment.