

## PART 21

### AGENCY ADMINISTRATIVE AND OTHER FEES

SECTION 2101. PURPOSE AND AUTHORITY. The purpose of this Part is to establish such procedures relating to the imposition of fees of the City of Albany Industrial Development Agency (the “Agency”) in connection with Agency Projects. An Agency Project is defined as any “project” (as defined in Section 854(4) of the Act) that is provided “financial assistance” (as defined in Section 854(14) of the Act) by the Agency.

SECTION 2102. TYPES OF FEES. The types of fees imposed by the Agency in connection with Agency Projects shall consist of (A) application fees, (B) administrative fees, and (C) other Agency administrative fees.

SECTION 2103. APPLICATION FEES. (A) Finance Transactions. The Agency will charge a nonrefundable application fee for finance transactions equal to \$1,500 upon the submission of the Agency’s Application For Financial Assistance. Finance Transactions shall include projects involving the issuance of tax-exempt obligations, taxable obligations and refunding obligations and the execution and delivery of straight lease transactions. The application fee is in addition to the administrative fee payable to the Agency.

(B) Modification/Amendment Transactions. The Agency will charge a nonrefundable application fee for modification/amendment transactions equal to \$500 upon the submission of a letter to the Agency explaining in detail the requested action. Such letter may be accompanied by the Agency’s Application For Financial Assistance, if required by the Agency. Modification/Amendment Transactions shall include actions to modify or amend existing documents previously executed by the Agency. The application fee is in addition to any administrative fee payable to the Agency.

#### SECTION 2104. ADMINISTRATIVE FEES.

(A) Timing. The Agency will charge an administrative fee in connection with an Agency Project. In the case of an Agency Project involving the issuance of bonds, notes or other obligations issued by the Agency, such administrative fee shall be payable upon the successful conclusion of the sale of the obligations. In the case of an Agency Project involving a straight-lease transaction or other transaction not involving the sale of obligations of the Agency, the fee shall be payable upon the execution and delivery of the documents providing the financial assistance.

(B) Amount: Bond Transactions. The amount of the administrative fee for an Agency Project involving the sale of obligations issued by the Agency shall be computed as follows:

Tax-Exempt Obligation: Except as provided below, one percent (1.0%) of the aggregate principal amount of the obligations the interest on which is not subject to federal income tax issued with respect to the Agency Project.

Tax-Exempt Not-for-Profit Obligations: One percent (1.0%) of the aggregate principal amount of the obligations the interest on which is not subject to federal income tax issued with respect to the Agency Project. This fee formula is applicable to Agency Projects which benefit not-for-profit corporations.

Taxable Obligations: One percent (1.0%) of the aggregate principal amount of the obligations subject to federal income tax issued with respect to the Agency Project.

The Agency may modify the amount of the administrative fee computed herein if Bond Counsel advises the Agency that such modification is necessary in order to ensure that the interest on the obligations is excludable from gross income for federal income tax purposes.

(C) Amount: Refunding Bond Transactions. The amount of the administrative fee for an Agency Project involving the sale of obligations to refund an outstanding amount of obligations shall be computed as follows:

If the outstanding obligations were originally issued by the Agency and the amount of the refunding obligations does not exceed the amount of the existing obligations, the administrative fee shall be one-quarter of one percent (.25%) of the aggregate principal amount of the refunding obligations to be issued.

If the outstanding obligations were originally issued by the Agency and the amount of the refunding obligations does exceed the amount of the outstanding obligations, an administrative fee shall be payable on such difference based on the formula contained in Section 2104(B) above.

If the outstanding obligations were not originally issued by the Agency, an administrative fee shall be payable on the total aggregate principal amount of the refunding obligations based on the formula contained in Section 2104(B) above.

The Agency may modify the amount of the administrative fee computed herein if Bond Counsel advises the Agency that such modification is necessary in order to ensure that the interest on the refunding obligations is excludable from gross income for federal income tax purposes.

(D) Amount: Straight Lease Transactions. The amount of the administrative fee for an Agency Project involving straight lease transactions shall be computed as follows:

One percent (1.0%) of the cost of the Agency Project. The cost of the Agency Project shall be the greater of (A) the amount financed by the applicant in

undertaking the Agency Project, or (B) the cost incurred by the applicant in undertaking the Agency Project. Notwithstanding the one percent (1%) fee formula for Straight Lease Transactions noted above, in cases where the Straight Lease Transaction provides the applicant sales tax and/or mortgage recording tax exemptions (but not real property tax exemptions), the Agency administrative fee shall be one-half of one percent (0.5 of 1%) of the cost of the Agency Project. The costs of the Agency Project shall be determined as noted above. If the administrative fee is to be determined by the cost incurred by the applicant in undertaking the Agency Project, the applicant shall deliver to the Agency at the closing an affidavit certifying as to the cost of the Agency Project.

(E) Additional Fee for Low Income Housing/Tax Credit (9% only) Projects. An annual administrative fee equal to \$10,000 shall be payable annually by the project applicant on each January 1 for a term equal to ten (10) years. This annual administrative fee is in addition to the standard administrative fee for Straight Lease Transactions noted above and is applicable to Agency Projects which provide for low income housing/tax credit (9% only) projects.

SECTION 2105. OTHER AGENCY ADMINISTRATIVE FEES.

(A) Other Agency Administrative Fees. The Agency will also charge certain other administrative fees described in this Section 2105 in connection with Agency Projects. Such fees include post-closing modification/amendment transaction fees, URTIP Project fees, New York State Cost Recovery fees, and special meeting fees. Such administrative fees shall typically be payable upon the execution and delivery of documents completing the transaction.

(B) Amount: Post-Closing Modification/Amendment Transactions. The amount of the administrative fee for Post-Closing Modification/Amendment Transactions shall be determined by the staff of the Agency, with the review and approval by the Agency. The minimum administrative fee for such transactions shall equal \$500, payable at the time the applicant submits the application to the Agency.

(C) URTIP Projects. By resolution of the Agency, any project seeking assistance from the Agency under the Agency’s URTIP Policy may also be subject to an administrative fee based on a percentage of the present value of the real property tax abatements provided pursuant to the Agency’s URTIP Policy. The staff of the Agency shall (1) review with the applicant whether an administrative fee is due and (2) calculate the amount of the administrative fee.

(D) New York State Cost Recovery Fees. Chapter 85 of the Laws of 2002 (the “2002 Act”) imposes certain “cost recovery” fees on the Agency. The amount of the fee is based on the principal amount of bonds issued by the Agency, as described below:

| <u>Principal Amount of Bonds</u> | <u>Fee</u> |
|----------------------------------|------------|
| \$1,000,000 or less              | .168%      |
| \$1,000,000 to \$ 5,000,000      | .336%      |
| \$5,000,001 to \$10,000,000      | .504%      |

|                              |      |
|------------------------------|------|
| \$10,000,001 to \$20,000,000 | .672 |
| More than \$20,000,000       | .84% |

Under the 2002 Act, the Agency is obligated to pay such fee no later than 15 days after the end of the calendar month in which the bonds of the Agency are issued. The Agency will collect the amount of the fee from the applicant and in turn pay such fee to the applicable office of New York State. The Agency will cooperate with applicants in preparing and delivering any letters or forms prepared by the applicant or Bond Counsel necessary to enable the Agency (and the applicant) to qualify for a waiver from such fee. Bond Counsel will prepare and review with Agency staff any forms required to be prepared and filed in connection with the provisions of the 2002 Act.

(E) Amount: Special Meeting Fees. The amount of the administrative fee for the holding of a special meeting of the Agency shall equal \$500.

(F) Other Miscellaneous Fees. The Agency reserves the right to determine and impose other administrative fees on Agency Projects in consideration for the financial assistance being granted by the Agency and/or the costs incurred by the Agency.

SECTION 2106. EXPENSES. In addition to any application fees and administrative fees an Agency Project is subject, the Agency may also charge its reasonable expenses incurred in connection with an Agency Project. Such expenses include the following: publication charges, stenographer and transcription expenses and the expenses and fees of Agency Counsel. Any moneys generated by the payment of the expenses of the Agency pursuant to this Section 2106 shall become the property of the Agency and part of its general fund.

SECTION 2107. REIMBURSEMENT. The application and administrative fees provided for in this Part 21 are designed to cover operating and other expenses of the Agency. Such fees are not charged to collect any real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction (as defined in Section 854(16) of the Act).

SECTION 2108. DEVIATION. The Agency may provide for a different application fee and/or a different administrative fee and/or an additional administrative fee for a particular project by resolution duly adopted by the Agency.