

# AUBURN INDUSTRIAL DEVELOPMENT AUTHORITY

## UNIFORM TAX EXEMPTION POLICY

Pursuant to the authority vested in it by Article 8, Title 15 of the Public Authorities Law of the State of New York, the Auburn Industrial Development Authority (the "**Authority**") may provide financial assistance to qualified applicants for qualified projects benefiting the City of Auburn (the "**City**"), in the form of issuance of its Tax-Exempt Bonds, Taxable Bonds or by participation in straight lease transactions. The Authority has adopted this Uniform Tax Exemption Policy to provide guidelines for granting real property, sales and use, and mortgage recording tax exemptions (the "**Policy**").

### **A. Real Property Tax**

The uniform exemption from real property taxes is for a period of ten (10) years at a percentage equal to one hundred percent (100%) of the real property taxes which would otherwise be due for the first year of operation of the project, declining in an amount of ten percent (10%) per year after such commencement until the exemption equals zero.

#### 1) *Payment in Lieu of Taxes Agreement:*

The Applicant must sign an agreement to make payments in lieu of taxes ("**PILOT Agreement**"). All payments in lieu of taxes shall be distributed pro-rata with the affected taxing jurisdictions.

#### 2) *Real property Appraisal:*

The value of a project for payment in lieu of taxes purposes is based on a valuation performed by the assessor of the City; therefore a real property appraisal is generally not required. However, the Authority may require the submission of a real property appraisal if:

- a) the assessor of any particular affected taxing jurisdiction requires one; or
- b) if the valuation of the project for payment in lieu of taxes purposes is based on a value determined by the Applicant or by someone acting on behalf of the Applicant, rather than by an assessor for a taxing jurisdiction or by the Authority.

If the Authority requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser, acceptable to the Authority.

#### 3) *Renewable Energy Projects:*

The Authority may provide real property tax abatements to renewable energy facilities constructed within the City of Auburn, including wind, hydro-electric, photo-voltaic and biomass energy production facilities (collectively, "Renewable Energy Facilities"). In recognition of the significant amount of capital investment associated with Renewable Energy Facilities, the

Authority has developed a standard formulary to be incorporated into PILOT Agreements for Renewable Energy Facilities, as follows:

a) a standard PILOT term of fifteen (15) years with a minimum annual base PILOT Payment reflecting the current land assessment of the improved parcel (“Base Value”), plus a fixed dollar amount per megawatt (MW) ‘face plate’ charge (the “Base Payment”), such Base Payment to escalate annually at no less than two percent (2.0%) per annum, compounded; and

b) an energy price incentive payment to be determined upon the area within which the proposed Renewable Energy Facility project is to be located (the “Incentive Payment”), such Incentive Payment to be negotiated on a project-by-project basis depending upon whether the project operator intends to sell energy to the open market or through one or more power purchase agreements (“PPA”).

The Authority shall annually establish a minimum fixed dollar amount to establish the Base Payment, as defined above. The Base Payment for each project will be determined based upon criteria such as total MW generation, current land use and value, land ownership and lease structure, intended distribution structure (PPA, community distribution, etc.), and others as determined by the Board. Any participation by the Authority in sponsoring a Renewable Energy Facility project shall take into account whether a project sponsor is required to enter into one or more host municipality agreement(s). The Authority further requires that a public hearing be held within the municipality(ies) where the project is proposed.

## **B. Sales and Use Tax**

The exemption from sales and use tax relates to construction, renovation or equipping of a project, to the fullest extent permitted by New York State law, during the period of construction, renovations or equipping, or until the earlier of:

1. the completion date of project; or
2. three (3) years measured from commencement of construction, renovation or equipping of the project.

The Applicant must comply with the reporting requirements established by Sections 2326 and 2326-a of the New York Public Authorities Law and Section 875 of the New York General Municipal Law.

## **C. Mortgage Recording Tax**

The exemption from the mortgage recording tax is available for all projects, to the fullest extent permitted by New York State law, in which the mortgage on the project is granted as security for the Authority’s obligations or a mortgage to secure conventional financing in a straight lease transaction.

#### **D. PROCEDURES FOR DEVIATION FROM POLICY**

Deviation from the Policy will be considered on a case-by-case basis where a project is expected to have a significant impact on the City. Any deviation from the Policy requires written notification from the Authority to each of the affected taxing jurisdictions. The Authority may consider any or all of the following factors in making such determination, no single one of which shall be determinative:

1. The nature of the project (*e.g.*, manufacturing, commercial, civic).
2. The nature of the property before the project begins (*e.g.*, vacant land, vacant buildings)
3. The economic condition of the area at the time of the application.
4. The extent to which a project will create or retain permanent, private sector jobs.
5. The estimated value of tax exemptions to be provided.
6. The impact of the project and the proposed tax exemptions on the 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 project upon the environment.
11. The extent to which the proposed project will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or 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 City.
14. Demonstrated public support for the proposed project.

If after consideration of the above-stated factors the Authority determines that a deviation from the Policy is warranted, it shall adopt a resolution stating:

1. that with respect to the specified project, the Authority determines that a deviation from the Policy is warranted; and
2. the reasons for which the Authority determines the deviation is warranted.

Upon passage of such resolution the affected local taxing jurisdictions shall be notified of the proposed deviation and the reasons therefor.

**E. RECAPTURE**

The PILOT Agreement shall set forth grounds upon which the value of tax exemptions must be repaid to the Authority. Events that may trigger a recapture include, but are not limited to the following:

1. liquidation of operations (absent showing of extreme hardship);
2. relocation of Applicant’s operations from the project site to another site;
3. transfer of a substantial number of jobs out of the City;
4. sublease of the project site in violation of the project agreements; or
5. sale or disposition of the project property.

The Authority’s Policy for the amount to be repaid is set as a percentage of benefits received, depending on the years after closing in which the event occurs as follows:

<b><u>Years:</u></b>	<b><u>% of Benefits Recaptured</u></b>
1 - 6	100%
7	80%
8	60%
9	40%
10	20%

The Authority may deviate from the Policy’s recapture based upon the factors described above.

If the Applicant fails to meet and/or continuously maintain the goals established through the term of the PILOT Agreement, the Authority may terminate the PILOT Agreement or impose penalties and/or sanctions, at its discretion, not to exceed those set forth in the PILOT Agreement. Any monetary penalties or sanctions shall be deemed independent obligations of the Applicant, which shall survive termination of the PILOT Agreement.