
PUBLIC HEARING

A public hearing pursuant to Section 874 of the New York State General Municipal Law will be continued by the New Rochelle Industrial Development Agency (the "Agency") on the 22nd day of September, 2011 at 5:30 p.m., local time, at City Hall, 515 North Avenue, New Rochelle, New York 10801, in connection with the amendment by the Agency of the Agency's Uniform Tax Exemption Policy, a copy of which is available at the City Clerk's Office, 515 North Ave., New Rochelle, NY 10801 and on the city's web site www.newrochelleny.com.

**New
Rochelle
Industrial
Development
Agency**



City Hall - Department of Development

515 North Avenue

New Rochelle, New York 10801



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Uniform Tax Exempt Policy (UTEP)
New Rochelle Industrial Development Agency

UTEP stands for Uniform Tax Exempt Policy, which is a policy “blueprint” designed to outline the types of development incentives offered by the City of New Rochelle through its Industrial Development Agency, prescribe how these incentives will be applied, and dictate when and how they may be expanded upon should the public objectives of the city be pursued.

SECTION 1 - MISSION AND OVERVIEW

NRIDA Mission

The mission of the New Rochelle Industrial Development Agency (NRIDA) is to provide business support through financial assistance and tax incentives to eligible projects in order to promote economic vitality and prosperity, as well as recreational opportunities for the entire New Rochelle community.

Statutes Authorizing IDAs

Industrial Development Agencies (IDAs) are formed under Article 18-A of the New York State General Municipal Law as public benefit corporations. IDAs, as local authorities, actively promote, encourage, attract and develop job and recreational opportunities and economically sound commerce and industry in cities, towns, villages and counties throughout New York State. The NRIDA is further authorized under the Charter of the City of New Rochelle.

State Statute Authorizing UTEPs

New York General Municipal Law 874 requires an Industrial Development Agency to establish a Uniform Tax Exemption Policy applicable to grants of financial assistance and providing guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Industrial Development Agencies are also required to establish a procedure for deviation from the Uniform Tax Exemption policy for projects not meeting the standard criteria.

Policy

The policy of the New Rochelle Industrial Development Agency is to grant applicants exemptions from sales and use taxes, mortgage recording taxes and real estate tax abatements, as described below. The NRIDA may, as part of its standard policy, grant enhanced benefits on a case-by-case basis, after following the process for deviation, for projects expected to have a significant economic impact on the City of New Rochelle, as determined by the Agency’s members. The NRIDA acknowledges that previous models of development, e.g., heavy manufacturing deals, are no longer likely in New Rochelle, but the NRIDA can assist in achieving other development goals such as housing, commercial, retail, adaptive re-use projects, etc., that might be a better fit for the city’s economic, land use and zoning needs and landscape, as a first-tier, inner ring suburban community.

The UTEP seeks to address the goals and objectives of the city by giving greater consideration to projects that adhere to the tenets of its policy documents, such as the:

- Comprehensive Plan;

- Local Waterfront Revitalization Plan;
- HUD Consolidated Plan;
- GreeNR Sustainability Plan;
- Zoning Code; and
- Others ratified by the New Rochelle City Council.

As the Comprehensive Plan creates a blueprint for the future development and preservation of a community, the UTEP is intended to assist the city in attaining these goals through financing measures. It is important to ensure that the city has the tools in place to reflect current conditions. The UTEP supports and helps implement projects that have been vetted by the city’s boards, committees and City Council, that have gone through the SEQR process and that complement the Comprehensive Plan as a policy guide which ascertains that investments made in neighborhoods help residents lead safe, affordable, and productive lives; that the buildings we invest in are energy efficient; and that the growth of our region strengthens the local economy and provides opportunities for all residents.

UTEP Policy & Purpose – designed to carry out said mission

Program Objectives

The purpose of the NRIDA is as an economic development tool—often in conjunction with other financing and economic development programs--to provide support to projects for industrial, commercial, research, retail, rental residential, educational, health-related, tourism and other businesses in order to offer economic incentives to New Rochelle businesses. It furthermore seeks to stimulate desirable economic development in the city in order to create and retain quality employment opportunities and to strengthen the local tax base. Its support consists of serving as a vehicle for medium and long term, low interest, financial assistance for capital projects through the issuance of Industrial Revenue Bonds (IRBs) and other incentives. Eligible costs include: acquisition, construction, expansion, rehabilitation, and purchase of equipment.

Financial Assistance

IDAs provide four basic forms of financial assistance through tax incentives to qualified applicants in order to promote the economic welfare, prosperity and recreational opportunities for residents of a municipality:

- Mortgage recording tax exemption;
- Sales and use tax exemption (as related to the construction of a project);
- Real property tax reduction via a payment-in-lieu-of-taxes (PILOT) phased in to full assessment over the duration of the project term; and
- Lower Interest Rates for Debt Incurred as Part of the Project.

All four instruments will be evaluated to assist the NRIDA in optimizing the incentive package not solely for the applicant, but also for the city (e.g., sales tax may be less costly than a PILOT; mortgage recording may be less costly to city than other incentives but still offer value to an applicant).

SECTION 2 - STANDARD INCENTIVE PROGRAM

Standard Incentive Program for Commercial Development/Minimum Thresholds

In making the discretionary decision to provide Financial Assistance, the NRIDA will first:

- Determine if there is a qualified project, according to New York State IDA Act eligible categories (e.g., industrial development such as manufacturing, re-manufacturing, assembly, processing, product research and non-industrial development such as warehouse, wholesale/distribution, qualified retail, office, hotel, general commercial, rental residential, etc.) which is consistent with the city’s Zoning Code definitions (see Glossary Appendix); and
- Consider the following criteria--which are consistent with those in the of the Agency’s Uniform Application--to determine if the standard incentive program has been met.
 1. Whether Financial Assistance is required to induce the Project and “but for” such assistance, the project could not move forward;
 2. The extent to which the project will create or retain permanent, private sector jobs;
 3. Geographic location of project (e.g., downtown, transit-oriented-development radius, distance within urban interstate highway (I-95) exit, West End, waterfront, Urban Renewal Area, Community Development Block Grant Target Area)
 4. The estimated value of the financial assistance to be provided to the recipient;
 5. The estimated value of any other benefits that the city may be providing;
 6. Whether affected taxing jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purpose for which an exemption was provided;
 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 completing the proposed project in a timely fashion;
 10. The effect of the proposed project on 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 municipal and school district;
 13. Whether the Project will use an apprenticeship program approved by the New York State Department of Labor;
 14. The financial feasibility of the Project;
 15. Where the Project involves an industry or activity which the City seeks to develop, retain and foster in accordance with the City’s policy documents; and
 16. Public support for, or opposition to, the proposed Project.

SECTION 3 - FINANCIAL ASSISTANCE TOOLS

Mortgage Recording Tax Exemption

Whenever a county clerk records a mortgage in New York State, the Mortgagor must pay a .75% to 1.5% (of the mortgaged amount) mortgage recording tax. The NRIDA can, however, qualify a Company for a mortgage recording tax exemption.

Sales and Use Tax Exemption

The Sales and Use Tax in New York State generally ranges from 7% to 8.75%. Under GML §874, all purchases made by an IDA or its agents are exempt from the Sales and Use Tax. The exemption is generally limited to the construction, reconstruction or installation period and cannot cover ongoing

operational costs. Depending on the size of the project, the cost savings for the Company under this arrangement can be significant.

Real Property Tax Abatement

In New York State, property owners pay a real property tax based on the assessed value of improvements to a site. Any real property owned or controlled by an IDA is not subject to ad valorem real property taxes. However, real property owned or controlled by an IDA continues to be subject to special assessments and user fees. When an IDA takes title to or a leasehold interest in real property, the property becomes 100% exempt from ad valorem real property taxes. To accommodate the needs of the local taxing jurisdictions, however, the IDA generally negotiates a Payment-In-Lieu-Of-Tax Agreement ("PILOT Agreement") with the Company. The IDA will then direct, or receive and forward, these payments-in-lieu-of-taxes to the affected taxing jurisdictions. IDAs generally limit the period an exemption is in effect with the assumption that the abatement generally results in more revenue for the taxing jurisdictions than was generated by the property before the IDA's involvement.

Terms

It is the NRIDA's standard policy to limit PILOT terms to:

- 10-year term for all commercial, mixed-use or large residential rental projects; and
- 15-year term for affordable, rental housing projects (consistent with the length of tax credit financing requirements).

SECTION 4 - PAYMENT-IN-LIEU-OF-TAX ("PILOT") DISCOUNT ("DEVIATION")

PILOT Discount ("Deviations")

NRIDA can exercise flexibility in allowing for greater incentives in the discounting of property taxes and can go beyond its standard terms of years, based a project consistency with the city's policy documents, plans and development studies and the determination on a case-by-case basis of significant impact and public achievement.

In addition to or in lieu of the foregoing the Agency may determine, on a case-by-case basis, to deviate from the standards outlined above or provide enhanced benefits for a project expected to have significant impact in the locality where the project will be located. The Agency may consider any or all of the following factors in making such determination and may provide enhanced or diminished benefits from this suggested tax exemption policy, no single one of which is determinative.

Deviations for consideration based on the following types of development and conditions:

The NRIDA may "deviate," thus increasing the level of public subsidy and/or the term it is in effect should an applicant's business and/or development program include:

- Nature of Deal
 - Expanding business
 - Relocation of business
 - New development

- Complementary Development
 - Providing a sustainable mix of uses (e.g., increasing supply of office and/or retail space balancing residential in the downtown)
- Type of Development
 - Residential Rental
 - Commercial Development in Targeted Geographic Areas
 - Mixed-Use
 - Retail as part of mixed-use
 - Affordable Housing Component
 - Transit-Oriented Development (T-O-D)
 - Positively impacts health and community, the environment and economy. Providing a mix of uses near housing can increase foot traffic to local businesses. Rising demand for housing and commercial space in highly walkable or transit-accessible areas can also decrease car use, result in higher tenancy rates and higher retention of property values, even in tough economic time.
 - Parking
 - Project provides municipal/public parking or exceeding parking requirements of the applicable zone.
- Green Building & Energy-Related Investments
 - Places less stress on municipal infrastructure
- Employment Impact
 - Number of permanent jobs
 - Percentage New Rochelle resident hires
 - Percentage minority hires
 - Comparable to current state-wide norms for cost/job average
- Tourism/Cultural Destination
- Adaptive Re-use/In-fill/Revitalization/Vacant/Underutilized
- Architecturally Significant
- Local Partnerships (e.g., Municipal Housing Authority, college, etc.)
- Other Investment/Matching dollars

Any deviations from the Agency's standard policy will be made only with the specific approval of the Agency's members based on the factors listed in this section and those, if any, described in the New York State General Municipal Law Section 874. Additionally, the Agency will notify the affected tax jurisdictions of the proposed deviation from such policy and the reasons therefore.

Depth of Subsidies

NRIDA may adjust the number of years for a PILOT and its amount, but in no case can the subsidy from NRIDA be more than 10% of total investment.

Cost-Benefit Analysis

NRIDA will conduct a cost-benefit analysis to determine the need for deviation and total PILOT value, which shall include:

- Financial documentation including a comparison of standard vs. proposed abatement;
- An explanation of the financial assumptions used in the analysis;
- Operational budget vs. capital cost of project; and
- Public infrastructure costs and impacts (e.g., school district).

If tax incentives are offered, amounts established shall be based on said cost-benefit analysis of public costs and the return on municipal investment must exceed the break-even point between costs and benefits during the duration of a specific term of years.

General Financial Information Necessary to Apply

- Composition of developer's current real estate portfolio at the time of pre-application (including type of project and number of SF or units owned and/or managed).
- Developer's recent history in obtaining financing commitments for real estate development projects, detailing type of project, financing source and amounts committed.
- Bank references for the developer and financial equity partner.
- Financial Statements for the past three years prior to the time of pre-application from developer and each participating principal, partner, or co-venturer, that includes the value of assets each participant would contribute to the proposing entity and verifications that such assets are available. The financial statement may also include any additional information that will be useful in evaluating the developer's financial reliability and past ability to finance projects. (If audited financial statements are not available, please provide certified financial statements. All statements, audited or certified, should be in accordance with Generally Accepted Accounting Principles).
- For developer and development team, a statement regarding any debarments, suspensions, bankruptcy or loan defaults on real estate development projects and/or government contracts.
- A statement describing the expected equity requirements and sources, the anticipated sources of working capital, and the anticipated sources for financing the project, including its construction.

SECTION 5 - RECAPTURE/CLAWBACK GUIDELINES

The NRIDA board reserves the right to annually review and re-set project policy parameters based on return on investment and market conditions for the length of a project contract. The IDA may choose to assist or scale-back project benefits in various ways recognizing fluctuating levels and percentage of activity completion and realization of public benefits in relation to target value within the life cycle of a project vs. external economic realities. PILOT and sales tax discounts shall be directly tied to recapture.

Recapture Agreement

The Recapture Agreement provides for the recapture of the economic benefits consisting of real property tax abatements, sales or use tax exemptions and mortgage recording tax exemptions granted by the Agency.

Recapture/Clawback Principles

Benefits may be recaptured or suspended upon the occurrence and continuation of a recapture/clawback trigger event as listed below. Clawbacks may be based on project performance of established benchmarks. Conversely, the NRIDA retains the ability to charge additional fees if investment is greater than initially projected. 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.

Specific Recapture/Clawback Trigger Events

1. Sale or closure of a facility within the time period the applicant receives Agency benefits
2. Departure of the business or organization from the City of New Rochelle
3. Significant employment reductions or failure to meet stated employment goals in any particular tax year
4. Significant change in use of facility or in business activities by project applicant or operator
5. Significant diminution of the business or organization's activities in the City of New Rochelle
6. Ceasing to be an eligible project under the IDA Act
7. Material noncompliance with or breach of terms of Agency transaction documents or breach of any zoning, land use or federal, state or local environmental laws or regulations, material obligations by the project occupant to the United States, New York State, any of its political subdivisions, the affected taxing jurisdictions in which obligations were imposed in connection with the project
8. Decrease in projected revenues and/or projected economic benefits from the project in any given year
9. Failure to comply with annual reporting requirements or provide the agency with the requested information

Underwriting & Independent Verification

Applicants shall be required to provide documentation such as bank commitment letters to show financial stability and real estate appraisals for expert and independent opinions.

SECTION 6 - APPLICATION PROCESS

Process

Environmental Compliance

Before undertaking any project, an IDA must comply with the New York State Environmental Quality Review Act.

Preliminary Meeting

Project owner and financial officer meet with the NRIDA Executive Director and Assistant Secretary to review the eligibility requirements.

Introduction of Agency Counsel

Discussions with Agency Counsel as to eligibility under IDA Act and IRS Code.

Underwriter Meeting

Project owner and financial officer meet with investment bankers to underwrite potential financing and/or bond issue.

Application Submittal

Project owner submits completed application to the NRIDA Executive Director (see Appendix).

- Review by staff
- Independent, third-party cost-benefit analysis
- Presentation to IDA (or its subcommittee)

IDA Inducement Resolution

Project is induced by initial resolution allowing IDA Executive Director, Assistant Secretary and Chief Financial Officer to continue negotiations with the project owner relating to issues concerning bond issues and/or sales/use, mortgage and property related tax benefits, IDA subcommittee to participate in negotiations.

Public Hearing Notification

Public hearing notice summarizing the details of the project and the financial assistance is published in the official newspaper with 10 days notice prior to hearing date.

Public Hearing Meeting

Applicant/proponent of the project must make a presentation at each public hearing scheduled in connection with the project.

IDA Action

Agency Counsel will prepare authorizing resolution for the board to vote on.

Forms of Security

Underwriter will arrange a letter of credit or other form of security for bond issues.

Bond Offering

Underwriter and Agency Counsel coordinate preparation of bond offering documents.

Closing

Contracts and other documents necessary to consummate transaction with are executed by the company, agency and any other owner interests. Bond funds are escrowed and available for disbursement to the project company.