

RESOLUTION OF THE TOWN OF CLARENCE, ERIE COUNTY,
INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY")
ADOPTING A COMBINED FEE SCHEDULE FOR THE AGENCY

WHEREAS, the Agency has previously adopted fee schedules for various Agency activities; and

WHEREAS, the Agency has determined that it would be in the best interest of the Agency to have all Agency Fees set forth on a single fee schedule.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Agency does hereby adopt the attached fee schedule as the combined fee schedule of the Agency.
2. This resolution shall take effect immediately.

Adopted: January 21, 2010

**TOWN OF CLARENCE, ERIE COUNTY, INDUSTRIAL DEVELOPMENT AGENCY
FEE SCHEDULE
(Adopted January 21, 2010)**

Application Fee: At the time of application for approval by the Agency of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00). If the request is for refinancing of an existing Project of the Agency where no public hearing is required, this Application Fee will be applied as an offset against all or a portion of the Agency Administrative Fee Due.

For an extension of an inducement, each extension of six months shall require payment of one quarter of the Agency Administrative Fee.

Agency Administrative Fees:

1. New Projects

The Agency Administrative Fee for new Projects shall be 1% of the dollar amount of the Project as determined by the Agency. One quarter of the Agency Administrative Fee or .25% must be received by the Agency prior to the issuance of a Sales Tax Letter by the Agency except for installment sale transactions when the entire Agency Administrative Fee of 1% is due at time of the issuance of the Sale Tax Letter. The balance of the Agency Administrative Fee or .75% shall be due on the closing of the transaction.

2. Refinacings

The Agency Administrative Fee for refinacings shall be \$500 plus one percent (1%) of any new money being financed.

By way of illustration, if the Agency authorized a Project with a Project Cost of \$1,200,000, the initial Agency Administrative Fee payable would have been a total of \$12,000 with .25% or \$3,000 due at the time of the sales tax letter and \$9,000 payable at the closing. For purpose of illustration, we will assume that the Project was financed through bonds or a note and mortgage in the principal amount of \$1,000,000. At the end of five years, the Lessee comes to the Agency for assistance in refinancing the Project with a new borrowing of \$1,300,000. The Lessee will have to advise the Agency of the outstanding principal balance remaining on the bond or note. For purpose of illustration, we will assume that the principal balance has been reduced by \$100,000 leaving a remaining principal balance of \$900,000. The Lessee would have to pay an Agency Administrative Fee of 1% on the amount over the original \$1,200,000 authorized and for which the Agency Administrative Fee was paid or 1% of \$100,000 (\$1,000) plus an administrative fee of 1% on the difference between the \$1,000,000 originally borrowed and the remaining principal balance or 1% of \$100,000 (\$1,000) because that amount would also constitute new money. This would be in addition to the \$500 refinancing fee for a total Agency Administrative Fee of \$2,500.

3. Sublease Approvals

The Agency fee for approval of a new sublease for the entire Project shall be \$500.

4. Approval of Lease Assignment and Assumptions

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall be one quarter percent (.25%) of Agency Administrative Fee which would have been due if the Project was a new Project but reduced by the percentage of the benefit already received with respect to real property tax abatement.

By way of illustration, if it is assumed that the Agency provided a ten year real property tax abatement as set forth below

Year	Tax Paid	Abatement
1997	20%	80%
1998	25%	75%
1999	30%	70%
2000	35%	65%
2001	40%	60%
2002	45%	55%
2003	50%	50%
2004	55%	45%
2005	60%	40%
2006	60%	40%
Total Abatement		5.8 years of abatement

If after year 2002, an application was received requesting that the Agency approve the assignment and assumption of the lease agreement, four years of abatement are remaining. If you add up the percentage of abatement for each year the total remaining abatement is 1.75 years of abatement. The fee would be .25% of the percentage remaining of the real property tax abatement ($1.75 \text{ divided by } 5.8 = .301724138 \times .25 \text{ times the original Project Cost}$) Assuming the original Project Cost was \$1,000,000, the fee at the time of the original Project would have been \$10,000. The fee for the assignment and assumption would be $\$1,000,000 \times .0025 \times .301724138 = \754.31 .

For Projects that were induced after January 1, 2010, the same methodology would be utilized but using the new seven or ten year fee schedule as the case may be.

Additional Fees

Additional costs associated with meeting the Agency's current environmental policy are the responsibility of the Applicant.

If the Project Application is withdrawn or does not close, the Applicant is responsible for any costs, including Agency Counsel Fees, incurred by the Agency on behalf of the Project.

Agency Counsel Fees

<u>Bond/Mortgage/Lease Project Cost</u>	<u>Legal Fee</u>
to \$750,000	\$5,000*
\$750,001 to \$1,500,000	\$7,500
\$1,500,001 to \$3,000,000	\$10,000
\$3,000,001 to \$5,000,000	\$12,500
\$5,000,001 to \$10,000,000	\$15,000
above \$10,000,000	\$20,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect of Agency Counsel for the additional time only which hourly rates are currently \$250 per hour.

Legal Fees for refinancings shall be based upon the dollar amount refinanced in accordance with the above schedule. In the case of minor amendments of the prior loan documents, Agency Counsel Fees shall be charged on a time basis at the hourly rate then in effect for Agency Counsel. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole reasonable discretion.

<u>Ordinary Installment Sale Transactions</u>	<u>Legal Fee</u>
to \$750,000	\$3,000*
\$750,001 to \$1,500,000	\$5,000
\$1,500,001 to \$3,000,000	\$7,500
over \$3,000,000	\$10,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two

drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect of Agency Counsel for the additional time only.

Installment Sale Transactions for Enhancement Zone Projects Only

Agency Administrative Fee

For Sales Tax Only Projects with costs under \$100,000	\$500
For Sales Tax Only Projects with costs of \$100,000-\$200,000	\$1,000
For Sales Tax Only Projects with costs of \$200,000-\$300,000	\$1,500*

Agency Legal Fees

For Sales Tax Only Projects with costs under \$100,000	\$450*
For Sales Tax Only Projects with costs of \$100,000-\$200,000	\$750*
For Sales Tax Only Projects with costs of \$200,000-\$300,000	\$1500*

*This is contingent on not more than two drafts (preliminary and final) and closing within 60 days sending of preliminary draft. If additional drafts are required or if closing period is extended for more than 60 days from the date of the preliminary draft, Agency Counsel reserves the right to charge for additional time.

Legal Fees for Assignment and Assumptions shall be on a time basis.

In addition to counsel fees, disbursement of up to \$1,000 will be added to each closing. If additional transcripts above the normal amount are required (5 for lease only and 7 for bond or mortgage transactions), they will be billed to reflect the additional copy cost and the additional binding costs and may exceed the \$1,000 total.