

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

AMENDED AND RESTATED
FINANCE AND AUDIT COMMITTEE CHARTER

This Amended and Restated Finance and Audit Committee Charter (“Charter”) is adopted by the Board of Directors of the Town of Amherst Industrial Development Agency (the “Agency”), a public benefit corporation established under the laws of the State of New York, on this ____ day of _____, 2017.

ARTICLE I
Core Responsibilities

The responsibilities of the Finance and Audit Committee (the “Committee”), in compliance with Sections 2824(4) and 2824(8) of the New York Public Authorities Law, shall include:

- a. Providing assistance to the Agency’s Board of Directors (the “Board”) in fulfilling its fiduciary responsibilities relating to accounting, reporting and regulatory compliance matters;
- b. Reviewing and approving transfers of money under the budget and making recommendations to the Board regarding other financial matters;
- c. Recommending to the Board the hiring of a certified independent accounting firm for the Agency, establishing the compensation to be paid to the accounting firm and providing direct oversight of the performance of the independent audit performed by the accounting firm;
- d. Providing an avenue of communication between management, the independent auditors, the internal auditors and the Board;
- e. Approving the budget for submission to the Board for approval;
- f. Reviewing proposals for the issuance of debt by the Agency and its affiliates;
- g. Making recommendations to the Board concerning the level of debt and nature of debt issued by the Agency;
- h. Making recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency; and
- i. Reviewing proposals relating to the repayment of debt or other long-term financing arrangements by the Agency and its affiliates.

ARTICLE II

Powers

The Board has delegated to the Committee the power and authority necessary to discharge its duties, including the right to:

- a. Oversee the work of any independent accounting firm employed by the Agency;
- b. Conduct or authorize investigations into any matters within its scope of responsibility;
- c. Seek any information it requires from Agency employees, all of whom should be directed by the Board to cooperate with Committee requests;
- d. Meet with Agency staff, independent auditors or Agency counsel as necessary to perform the duties of the Committee; and

The Board shall ensure that the Committee has sufficient resources to carry out its duties.

ARTICLE III

Composition and Selection

The Committee shall consist of the Treasurer and two (2) additional members of the Agency, all of whom shall be “independent members” within the meaning of Section 2825 of the New York Public Authorities Law.¹ The two additional members shall be appointed by the Chairperson with the consent of the entire membership of the Agency. No more than one member of the Executive Committee may serve on the Committee. Appointees are required to possess the necessary skills to understand the duties and functions of the Committee, and they should be knowledgeable or become knowledgeable in matters pertaining to financing and governmental financial reporting and auditing. Committee members will serve at the discretion of the Board. The Treasurer shall serve as the Committee Chair. Each Committee member shall serve for a term of one (1) year and until his or her successor shall be duly appointed. The term of office of a Committee member shall terminate upon the Committee member’s resignation or retirement or his or her removal by the Board. When feasible, the immediate past Committee Chair will continue serving as a member of the Committee for at least one year to ensure an orderly transition.

Committee members shall be prohibited from being an employee of the Agency or an immediate family member of an employee of the Agency. In addition, Committee members shall not: (i) engage in any private business transactions with the Agency; (ii) receive

¹ An independent member is one who: (a) is not, and in the past two years has not been, employed by the Agency or an affiliate in an executive capacity; (b) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars for goods and services provided to the Agency or received any other form of financial assistance valued at more than fifteen thousand dollars from the Agency; (c) is not a relative of an executive officer or employee in an executive position of the Agency or an affiliate; and (d) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Agency or an affiliate.

compensation from any private entity that has material business relationships with the Agency; or (iii) be an immediate family member of an individual that engages in private business transactions with the Agency or receives compensation from an entity that has material business relationships with the Agency.

ARTICLE IV **Committee Structure and Meetings**

All meetings shall comply with the requirements of Article 7 of the New York Public Officers Law (the “Open Meetings Law”). The Committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in this Charter. Members of the Committee are expected to attend each Committee meeting in person or via videoconference. The Committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary. The Committee will meet with the Agency’s independent auditor at least annually to discuss the financial statements of the Agency.

Meeting agendas will be prepared for every meeting and provided to the Committee members along with briefing materials five days before the scheduled Committee meeting. A quorum of the Committee shall consist of a majority of the members then serving on the Committee. The affirmative vote of a majority of the members of the Committee shall constitute an act of the Committee. Minutes of these meetings shall be kept and maintained by the Agency.

ARTICLE V **Committee Reports**

The Committee shall:

- a. Annually review this Charter, reassess its adequacy and recommend to the Board any proposed changes including, but not limited to, those changes required as a result of amendments to applicable laws, regulations, accounting and auditing standards.

ARTICLE VI **Duties**

The Board has delegated to the Committee responsibilities related to: (1) independent auditors and annual financial statements; (2) internal auditors; (3) oversight of management's internal controls, compliance and risk assessment practices; (4) special investigations and whistleblower policies; (5) the issuance of debt by the Agency; (6) the Agency’s annual budget; (7) the Agency’s investments; (8) the Agency’s capital requirements and capital plan; (9) the Agency’s financial and procurement thresholds; and (10) other miscellaneous issues related to the financial practices of the Agency, as follows:

1. Independent Auditors and Financial Statements

The Committee shall:

- a. Recommend to the Board the hiring of a certified independent accounting firm for the Agency.
- b. Compensate and oversee independent auditors retained by the Agency and pre-approve all audit services provided by the independent auditor.
- c. Establish procedures for the engagement of the independent auditor. The Agency's independent auditor is prohibited from providing non-audit services unless it has received previous written approval from the Committee. Non-audit services include tasks that directly support the Agency's operations such as bookkeeping or other services related to the accounting records or financial statements of the Agency, financial information systems design and implementation, appraisal or valuation services, actuarial services, investment banking services and other tasks that may involve performing management functions or making management decisions.
- d. Review and forward the Agency's audited financial statements to the Board and report on internal controls and all other auditor communications.
- e. Review significant accounting and reporting issues, including complex or unusual transactions and management decisions, and recent professional and regulatory pronouncements and identify their impact on the financial statements.
- f. Meet with the independent auditor to discuss any significant issues identified during the course of the audit.
- g. Review the independent audit findings and recommendations, discuss any significant risks reported and assess the responsiveness and timeliness of management's follow-up activities pertaining to the same.

2. Internal Auditors

The Committee shall:

- a. Review with management and the internal audit director this Charter and the activities, staffing and organizational structure of the internal audit function.
- b. Ensure that the internal audit function is organizationally independent from Agency operations.

- c. Review the results of internal audits and approve procedures for implementing accepted recommendations of the internal auditor.

3. Internal Controls, Compliance and Risk Assessment

The Committee shall review management's assessment of the effectiveness of the Agency's internal controls and review the report on internal controls by the independent auditor as a part of the financial audit engagement.

4. Special Investigations

The Committee shall:

- a. Ensure that the Agency has an appropriate confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, criminal activity, conflicts of interest or abuse by the directors, officers or employees of the Agency or any persons having business dealings with the Agency and breaches of internal control.
- b. Develop procedures for the receipt, retention, investigation and/or referral of complaints concerning accounting, internal controls and auditing to the appropriate body.
- c. Request and oversee special investigations as needed and/or refer specific issues to the appropriate body for further investigation (for example, issues may be referred to the State Inspector General or other investigatory organization).
- d. Review all reports delivered to it by the Inspector General and serve as a point of contact with the Inspector General.

5. Issuance of Debt

The Committee shall make recommendations to the Board and review proposals for the issuance of debt by the Agency and its affiliates.

6. Annual Budget

The Committee shall:

- a. Review the Agency's proposed annual operating budget as presented by Agency management for the upcoming fiscal year.
- b. Recommend the annual budget to the Board for approval after incorporating necessary amendments.

- c. Monitor and report to the Board on the Agency's compliance with its adopted budget during the fiscal year (actual vs. estimated budget).

7. Agency Investments

The Committee shall:

- a. Annually review the Agency's investment policy and evaluate allocation of assets.
- b. Annually review the Agency's audit of investments as provided by independent auditors.

8. Agency Capital Requirements and Capital Plan

The Committee shall:

- a. Assess the financial requirements of the Agency's capital plans. The assessment is to include current and future capital needs, a justification of why such capital expenditure is required and an explanation of funding sources for capital projects such as grants, issuance of debt or specified pay-as-you-go resources.
- b. Review the financial aspects of major proposed transactions, significant expenditures, new programs and services and proposals to discontinue programs or services and make recommendations to the Board based on such review.

9. Agency Financial and Procurement Thresholds

The Committee shall:

- a. Review and make recommendations to the Board regarding any proposed procurements submitted to the committee by the Agency's procurement officer.
- b. Review and recommend changes to the Agency's procurement policy and its thresholds for procuring goods and services.
- c. Review and recommend changes to the Agency's fee schedules.
- d. Review the scope and terms of the Agency's insurance policies and liability coverage on an annual basis.

10. Other Responsibilities of the Committee

The Committee shall obtain any information and training needed to enhance Committee members' understanding of the role of internal audits and the independent auditor,

the risk management process, internal controls and a certain level of familiarity in financial reporting standards and processes.

ARTICLE VII
Amendments

This Charter may be amended upon affirmative vote of a majority of the Board.

ARTICLE VIII
Agency Affiliates

This Charter shall also be applicable to the Town of Amherst Development Corporation (“ADC”) upon approval by the ADC Board.