

SECOND AMENDED AND RESTATED  
SHARED SERVICES AGREEMENT

THIS SECOND AMENDED AND RESTATED SHARED SERVICES AGREEMENT (the "Agreement"), made as of the 16th day of September, 2022, by and between TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation ("AIDA"), and TOWN OF AMHERST DEVELOPMENT CORPORATION, a New York not-for-profit local development corporation ("ADC") (individually, a "Party" and collectively, the "Parties").

RECITALS:

WHEREAS, the Town Board of the Town of Amherst has authorized and designated the ADC to act on behalf of the Town of Amherst ("Town") for the purpose of issuing bonds, in accordance with and for the purposes set forth in the resolution of the Town Board of the Town adopted on October 5, 2009, as may be amended by the Town Board from time to time; and

WHEREAS, that such designated powers include those powers described in Section 1411 of the New York Not-For-Profit Corporation Law and its Certificate of Incorporation, with the power to issue tax exempt and taxable bonds, notes, or other obligations on behalf of the Town in furtherance of its purposes; and

WHEREAS, the Parties entered into a Shared Services Agreement dated December 1, 2009, which was subsequently amended and restated by that certain Amended and Restated Shared Services Agreement dated as of July 20, 2018; and

WHEREAS, the Parties desire to further amend and restate the Shared Services Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Parties hereby agree as follows:

Section 1. Administrative and Staffing Services. AIDA executive and administrative staff shall provide all administrative and staffing services to the ADC (such services to include, but not be limited to: legal, accounting, marketing, and any other professional services) related to the issuance of bond obligations and other economic development activities undertaken by the ADC (the "Services").

Section 2. Payment for Services. In consideration for the Services, the ADC shall compensate the AIDA from the administrative fees charged and received by the ADC relative to any bond obligation issued by the ADC on behalf of the Town, and from such other sources of income as the ADC may have from time to time. The AIDA will issue invoices to ADC setting forth the fees due and payable by the ADC for the Services. Such invoices will be issued by the AIDA on not less than an annual basis. The Parties agree that ninety percent (90%) of each administrative fee received by ADC relative to any bond obligation issued by the ADC on behalf

of the Town shall be remitted to AIDA, and the balance retained by ADC for its general operations.

Section 3. Exculpatory Provisions. All covenants, stipulations, promises, agreements and obligations of any Party contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of such Party and not of any member, director, officer, employee or agent of such Party in his or her individual capacity, and no recourse shall be had for any claim hereunder against any member, director, officer, employee or agent of any of the Parties.

Section 4. Term. Unless otherwise agreed, the term of this Agreement shall continue unless and until any Party delivers a notice of termination to the other Party upon thirty (30) days written notice.

Section 5. Applicable Law. This Agreement shall be governed by and interpreted, construed and enforced in accordance with, and subject to, the laws of the State of New York.

Section 6. Waiver. No waiver by any Party of any breach, default or violation of any term, warranty, representation, agreement, covenant, condition or provision hereof shall constitute a waiver of any subsequent breach, default or violation of the same or any other term, warranty, representation, agreement, covenant, condition or provision hereof.

Section 7. Severability. The provisions of this Agreement shall be severable, and if any clause, sentence, paragraph, provision or other part hereof shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, which remainder shall continue in full force and effect.

Section 8. Captions. The captions herein are for convenience only and are not to be construed as a part of this Agreement, nor shall the same be construed as defining or limiting in any way the scope or intent of the provisions hereof.

Section 9. Successors and Assigns. The provisions of this Agreement shall bind and benefit the successors and assigns of the Parties hereto, provided that no Party shall assign this Agreement, or any of their rights or obligations hereunder, without the prior written consent of the other Party hereto. This Agreement is made for the sole benefit of the Parties hereto, and no other person or entity shall have any rights hereunder.


Section 10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 11. Notices. All notices that may be given in connection with this Agreement shall be in writing and shall be delivered personally or mailed postage prepaid, by regular mail, to the Party at 4287 Main Street, Amherst, New York 14226. Notices shall be effective from the date of delivery if delivered personally, or from the day of deposit with the U.S. mail, if mailed.

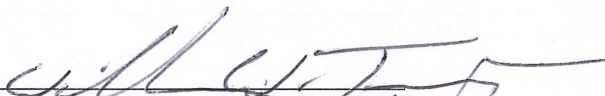
Section 12. Entire Agreement. Each Party hereto acknowledges its full understanding of this Agreement, that there are no verbal promises, undertakings or agreements in connection herewith and that this Agreement can be modified only by a written agreement signed by the Parties hereto. All previous negotiations and agreements between the Parties hereto with respect to the transactions set forth herein are merged into this instrument which fully and completely expresses the entire agreement between the Parties, setting forth all the Parties' rights and obligations.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF AMHERST INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Carlton V. Brock Sr  
Title: Chair

TOWN OF AMHERST DEVELOPMENT  
CORPORATION

By:   
Name: William W. Terry  
Title: VICE CHAIR