

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

Agenda – 493rd Meeting

July 21, 2017-8:30 am

Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer’s Report
5. Public Comment
-Speakers limited to three minutes
6. Executive Director’s Report
7. Committee Reports
8. Unfinished Business
 - a. AIDA By-Laws, Governance and Finance & Audit Committee Charters - amendments
9. New Business
 - a. Strategic Financial Solutions-Amherst Project
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 491st Meeting
June 16, 2017– 8:30 am
Agency Offices, 4287 Main Street

PRESENT: Carlton N. Brock, Jr.
Steven Sanders
Edward F. Stachura
Michael R. Szukala
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

ABSENT: Michele F. Marconi
E. Marshall Wood, Jr.
William M. Tuyn

GUESTS: AIDA Staff
Stephen Watson, Buffalo News
David Tytko, Uniland Development
Daniel O’Neill, Beechwood Health Care Ctr., Inc.

Chairperson Carlton N. Brock, Jr. called the meeting to order and reminded everyone that the meeting was being audio recorded.

MINUTES

The April 2017 minutes were approved as presented.

BILLS & COMMUNICATIONS

The Agency received a letter from the Amherst Supervisor Barry Weinstein providing the Agency with correspondence from PHH Mortgage. The letter stated that PHH Mortgage has officially closed its Amherst operations as of July 1st. PHH issued its final WARN notice with NYS citing its exit from the personal loan business due to decreased business.

TREASURER’S REPORT

The Treasurer’s Reports for April & May 2017 were approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR REPORT

David Mingoia provided an update on Imagine Amherst and the Request for Proposals for zoning and economic analysis of office and industrial properties. He also noted that there were five projects requesting incentives that were deemed ineligible prior to submitting a formal application for benefits.

UNFINISHED BUSINESS

Board members received the AIDA By-Laws, Governance and Finance & Audit Committee Charters. Staff reviewed and are suggesting changes that were highlighted in the documents. Additionally, staff reviewed the documents for operational accuracy and made several additional

changes that reflect Agency functions. Staff proposed that board members review the changes and any questions be communicated to Executive Director Mingoia before the July Executive Committee meeting. Any comments will be presented at the July Board Meeting.

NEW BUSINESS

Beechwood Health Care Center, Inc. - A public hearing was held before the board meeting and this project will be brought to the Amherst Development Corporation in July. The project involves the refinancing of a 2007 AIDA bond issue. The refinancing project is being sought in order to take advantage of more favorable interest rates and to provide capital for facility renovations, equipment purchases and bond issuance costs. Board member Steven Sanders asked if the company could supply a breakdown of the proceeds of the bond at the July meeting. David O'Neill of Beechwood said they would.

8:49 am – meeting adjourned.

BYLAWS
OF
TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

ARTICLE I

Section 1. Name. The name of the Agency shall be "Town of Amherst Industrial Development Agency."

Section 2. Seal of Agency. The seal of the Agency shall be in the form of a circle and shall bear the name of the Agency and the year of its organization.

Section 3. Office of the Agency. The office of the Agency shall be at 4287 Main Street in the Town of Amherst, New York, but the Agency may have other offices at such other places as the Agency may from time to time designate by resolution.ⁱ

ARTICLE II

Section 1. Officers. The officers of the Agency shall be a Chairperson, a Vice Chairperson, a Secretary, a Treasurer, one or more Assistant Secretaries, an Executive Director and a Chief Financial Officer.ⁱⁱ

Section 2. Chairperson. The Chairperson shall be an "independent member" of the Agency within the meaning of Section 2825 of the New York Public Authorities Law and preside at all meetings of the Agency. The Chairperson shall sign all agreements, contracts, deeds and any other instruments on behalf of the Agency, except as otherwise authorized or directed by resolution of the Agency. The Chairperson shall submit his or

herⁱⁱⁱ recommendations and such information as he or she shall deem pertinent concerning the business, affairs and policies of the Agency, at each meeting.

Section 3. Vice Chairperson. The Vice Chairperson shall be a member of the Agency and perform the duties of the Chairperson in the absence or incapacity of the Chairperson. In the event of the resignation or death of the Chairperson, the Vice Chairperson shall become acting Chairperson and perform the duties of the Chairperson until such time as the Agency shall appoint a new Chairperson.

Section 4. Secretary. The Secretary shall be a member of the Agency. The Secretary, shall act as secretary at the meetings of the Agency, and shall keep, or cause to be kept, minutes of the proceedings of the Agency in compliance with the provisions of the Open Meetings Law. The Secretary shall have the power to affix the seal of the Agency to all contracts and other instruments that are authorized by the Agency to be executed, where such seal is required. The Secretary shall perform all duties incident to the office.

Section 5. Assistant Secretary(ies). The Assistant Secretary (or Assistant Secretaries if there are more than one, but no more than two) shall be legal counsel for the Agency, and may not be a member of the Agency. In the absence or incapacity of the Secretary, the Assistant Secretary, or if there are more than one, the Assistant Secretary designated by the Chairperson, shall perform the duties of the Secretary. In case of the resignation or death of the Secretary, the Assistant Secretary, or if there are more than

one, the Assistant Secretary designated by the Chairperson, shall perform the duties of the Secretary until such time as the Agency shall appoint a new Secretary.^{ivv}

Section 6. Treasurer. The Treasurer shall be an “independent member” of the Agency and shall exercise supervision and control over the Chief Financial Officer of the Agency. The Treasurer shall review financial reports prepared by the Chief Financial Officer and shall report to the Board on such measures.

Section 7. Executive Director. The Executive Director shall not be a member of the Agency. The Executive Director shall be the Chief Executive Officer (CEO) of the Agency. The Executive Director shall be appointed by a majority of the members of the Agency for such term of employment as the Agency determines proper and shall exercise supervision and control of all administrative functions of the Agency. The Executive Director shall be responsible for the implementation of all resolutions, orders, programs or projects of the Agency. The Executive Director shall have the power to sign and execute, on behalf of the Agency, all contracts, agreements, deeds, notes, bonds, or other evidence of indebtedness and to affix and attest to the seal of the Agency as authorized by the Agency. The Executive Director shall attend all meetings of the Agency and shall make recommendations to the Agency from time to time. The Executive Director shall have all necessary and incidental powers to perform and exercise any of the duties and functions as specified or lawfully delegated to him or her.

Section 8. Chief Financial Officer. The Chief Financial Officer (CFO) may not be a member of the Agency and shall be appointed by a majority of the members of the

Agency for such term of employment as the Agency determines proper. The Chief Financial Officer shall have the care and custody of all funds of the Agency and shall have all such funds deposited in the name of the Agency in such banks as the Agency may designate. Except as otherwise provided by resolution of the Agency, the Chief Financial Officer shall sign all instruments of indebtedness, orders and checks for the payment of money by the Agency pursuant to the direction of the Agency. Except as otherwise authorized by resolution of the Agency, all such instruments of indebtedness, orders and checks, shall be countersigned by an authorized member of the Board. The Chief Financial Officer shall have regular books of account kept on an accrual basis, showing all receipts and expenditures. The Chief Financial Officer shall report to the Treasurer of the Agency who shall exercise care and supervision of him. The Chief Financial Officer shall provide the information required by the Treasurer to allow the Treasurer to render to the Agency at each regular meeting an account of the financial transactions and current financial condition of the Agency. The Chief Financial Officer shall give such bond for the faithful performance of his or her duties as the Agency may determine. The Agency shall pay the cost of any bond so required by the Agency.

Section 9. Additional Duties. The Officers of the Agency shall perform such other duties and functions as may from time to time be required by the Agency, by its bylaws, or by its rules and regulations.

Section 10. Appointment of Officers. The Chairperson, Vice Chairperson,

Secretary, and Treasurer of the Agency shall be appointed at the annual meeting of the Agency from among the members of the Agency and shall hold office for one year or until their successors are appointed. If the term of an Agency member should terminate, his or her term of office as an officer shall also terminate. The Assistant Secretary(ies) shall be appointed at the annual meeting, but need not be a member of the Agency. The CEO and CFO may not be members of the Agency.^{vi}

Section 11. Vacancies. Should any office become vacant, the Agency shall convene the Nominating Committee to solicit interest from interested members and recommend a successor at the next regular meeting. The appointment shall be for the unexpired term of said office.^{vii}

Section 12. Members of the Agency. The term of office of each member of the Agency shall be established by the Town Board of Amherst and each member shall continue to hold office until his or her successor is appointed. A majority of the members of the Agency must be “independent members” of the Agency within the meaning of Section 2825 of the Public Authorities Law.

ARTICLE III

COMMITTEES

Section 1. Executive Committee. There shall be an Executive Committee which shall consist of the Chairperson, Vice Chairperson and Treasurer. The Executive Director and Chief Financial Officer shall each be non-voting members of the Executive

Committee. The Executive Committee shall function as a steering committee and shall advise and make recommendations to the membership of the Agency.

Section 2. Governance Committee. There shall be a Governance Committee appointed by the Chairperson with the consent of the entire membership of the Agency. The Governance Committee shall consist of the Chairperson and two other members of the Agency and must be “independent members” of the Agency within the meaning of Section 2825 of the New York Public Authorities Law. No more than one member of the Executive Committee may serve on the Governance Committee. The Chairperson may authorize the Vice Chairperson to serve as the Committee Chair in the absence of the Chairperson. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, suggest updates to the Agency’s corporate governance principles and shall advise those responsible for appointing members to the Board of the skills and experience required of potential Board members. The Governance Committee shall also have such other duties and responsibilities as set forth in the Governance Committee Charter, as the same may from time to time be amended.^{viii}

Section 3. Finance & Audit Committee. There shall be a Finance & Audit Committee consisting of the Treasurer and two additional “independent members” appointed by the Chairperson, with the consent of the entire membership of the Agency, which members shall, to the extent practicable, be familiar with corporate financial and accounting practices. No more than one member of the Executive

Committee may serve on the Finance & Audit Committee. The Finance & Audit Committee shall provide assistance to the members of the Agency in fulfilling their fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices. The Finance & Audit Committee shall approve the budget for submission to the Board for approval, review and approve transfers of moneys under the budget and make recommendations to the Board as to other financial matters. The Finance & Audit Committee shall recommend the hiring of a certified independent accounting firm and shall provide direct oversight over the performance of the independent audit performed by the accounting firm hired for such purposes and receive and review reports from such accounting firm. The Finance & Audit Committee shall also ensure that the proper submissions are made to the governmental authorities having audit authority and fiscal oversight of the Agency.

The Finance & Audit Committee shall periodically report to the members of the Agency, at least annually, the findings of the independent accountants and auditors. Such reports shall highlight any weaknesses in the manner in which the Agency is operating and suggest actions that should be taken to correct such weaknesses. The Finance & Audit Committee shall also have such other duties and responsibilities as set forth in the Finance & Audit Committee Charter, as the same may from time to time be amended.^{ix}

Section 4. Nominating Committee. There shall be a Nominating Committee appointed by the Chairperson with the consent of the entire membership of the Agency

annually in October. The Nominating Committee shall consist of three members of the Agency whose terms are not expiring, and must be “independent members” of the Agency within the meaning of Section 2825 of the New York Public Authorities Law. No more than one member of the Executive Committee may serve on the Committee.

The Nominating Committee shall solicit interest for officer and committee positions for the following calendar year and present the slate of candidates to the members of the Agency at the Annual Meeting.^x

ARTICLE IV

MEETINGS

Section 1. Annual Meeting. The annual meeting of the Agency shall be held on the third Friday of January, at 8:30 a.m. at the regular meeting place of the Agency, or at such place and time as the Agency shall designate.^{xi}

Section 2. Regular Meetings. Regular meetings of the Agency may be held at such times and places as from time to time may be determined by the Agency.

Section 3. Special Meetings. The Chairperson of the Agency may when he or she deems it desirable, and shall, upon written request of two members of the Agency, call a special meeting of the Agency for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered personally to each member, or by regular or electronic mail to the business, home, or electronic mail address of each member of the Agency at least two (2) days prior to the date of such special meeting. Waivers of Notice may be signed by any member failing to receive a

proper notice. At such special meeting, no business shall be considered other than as designated in the call, but if all members of the Agency are present at a special meeting, with or without notice thereof, and are all agreeable thereto, any and all business may be transacted at such special meeting.^{xii}

Section 4. Executive Session. Upon majority vote of the members, the Agency may enter into executive session and exclude non-members from such session in accordance with Section 105 of the Open Meetings Law.^{xiii}

Section 5. Quorum. At all meetings of the Agency, a majority of the members of the Agency shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until a quorum is obtained.

Section 6. Order of Business. At the regular meetings of the Agency, the following shall be the order of business:

1. Roll Call
2. Reading and approval of the minutes of the previous meeting
3. Bills and communications
4. Treasurer's Report
5. Public Comment
6. Executive Director's Report
7. Committee Reports
8. Unfinished Business

9. New Business

10. Adjournment

All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency. At its discretion, the members may change the order of business at any meeting by majority vote.^{xiv}

Section 7. Manner of Voting. The voting on all questions coming before the Agency shall be by roll call or by acclamation, but in either case the yeas and nays shall be entered on the minutes of such meeting, except in the case of appointments when the vote may be by ballot. Any action of the Agency shall be binding, upon determination by a majority of the members of the Agency.

ARTICLE V

AMENDMENTS

Section 1. Amendments to Bylaws. The bylaws of the Agency may be amended by affirmative vote of a majority of the members of the Agency at a regular meeting or at a special meeting called for that purpose; but no such amendment shall be adopted unless at least thirty days' written notice thereof has been previously given to all members of the Agency.

ARTICLE VI

POLICIES & PROCEDURES

Section 1. Projects to be considered by this Agency. It is the policy of the Agency that any project shall be considered by it which shall conform to the letter and spirit of the Laws of New York State.

Section 2. Site of Agency Projects.

1. The Agency shall not approve any project to be located on a site or within an area, which does not conform to or has not been granted a variance from the zoning laws of the Town of Amherst.

2. The Agency shall not approve any project, which shall be in violation of the anti-pollution laws of the Federal, State, County or Town government.^{xv} 3. The Agency shall not approve any project, which shall be in violation of the health, labor or other laws of the State of New York or the United States, or the local laws of the County of Erie or local laws and ordinances of the Town of Amherst.

Section 3. Payment in Lieu of Taxes. The Agency shall provide to the Town Board any changes in its payment in lieu of tax policy prior to their adoption.

Section 4. Audit of Records and Accounts

1. The Agency shall annually file a copy of the audit prepared by the certified independent accounting firm retained by the Board upon the recommendation of the Finance & Audit Committee with the Town Board of Amherst within one hundred and twenty days after the close of the Agency's fiscal year for its proceedings and its activities during the preceding fiscal year.^{xvi}

2. The Agency may require any other operating statements, which it shall determine are required for daily operation.

Section 5. Conveyance of Property. The Agency may insert in a contract for a project that upon the payment in full of all notes, bonds and indebtedness incurred in connection with a project that the Agency will convey the lands, buildings and equipment involved in said project and so paid for to the tenant or operator of the same upon terms set forth in such contract that the additional consideration for such conveyance may be nominal.

Section 6. The Agency by resolution may adopt such rules, regulations, policies and procedures as it may deem necessary and appropriate to the operation so long as the same shall not be contrary to these bylaws as they may be amended from time to time.

Section 7. Any sale or disposal of property of the Agency must be in compliance with the provisions of Title 5-A of the Public Authorities Law.

ⁱ Section 1 amended 2006 reflecting new address.

ⁱⁱ Section 1 amended 2016 to add additional Assistant Secretary and eliminate Assistant Treasurer.

ⁱⁱⁱ Several areas of the By-Laws amended in 2016 to account for gender neutrality in positions.

^{iv} Section 5 amended 1990 to allow for legal counsel to act as Assistant Secretary.

^v Section 5 amended 2016 to account for more than one Assistant Secretary.

^{vi} Section 10 amended 2016 to clarify term and service of board members.

^{vii} Section 11 amended 2016 establishing the role of the Nominating Committee to fill officer positions.

^{viii} Section 2, Committees, amended 2016 to reflect Governance Committee duties noted in its Charter.

^{ix} Section 3, Committees, amended 2016 to reflect Audit & Finance Committee duties noted in its Charter.

^x Section 4, Committees, establishes in 2016 a Nominating Committee.

^{xi} Section 1 amended 1990.

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- ^{xii} Section 3, Meetings, establishes in 2016 means by which Members of the Agency are notified of Special Meetings.
- ^{xiii} Section 4, Meetings, establishes in 2016 when the Agency can enter into Executive Session.
- ^{xiv} Section 6, Meetings, amended in 2016 to reflect current order of business of Agency.
- ^{xv} Section added in 1990.
- ^{xvi} Section amended in 1990.

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.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

AMENDED AND RESTATED
GOVERNANCE COMMITTEE CHARTER

This Amended and Restated Governance 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 the ____ day of _____, 2017.

ARTICLE I
Core Responsibilities

The responsibilities of the Governance Committee (the “Committee”), in compliance with Section 2824(7) of the New York Public Authorities Law, shall include:

- a. Keeping the Board of Directors (the “Board”) informed of current best practices in corporate governance;
- b. Reviewing corporate governance trends for their applicability to the Agency;
- c. Recommending updates to the Agency's corporate governance principles and practices;
- d. Advising those responsible for appointing directors to the Board of the skills, qualities and professional or educational experiences necessary to be effective Board members;
- e. Examining ethical and conflict of interest issues that are referred to the Committee by the Ethics Officer or the Board;
- f. Performing Board self-evaluations; and
- g. Recommending bylaws which include rules and procedures for the conduct of Board business.

ARTICLE II
Powers

The Board has delegated to the Committee the power and authority necessary to discharge its duties under this Charter, including the right to: (i) meet with and obtain any information it may require from Agency staff; and (ii) obtain advice and assistance from Agency counsel as the Committee deems necessary.

ARTICLE III
Composition and Selection

The Committee shall be comprised of the Chairperson of the Agency 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 at the annual meeting 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 should be knowledgeable or become knowledgeable in matters pertaining to corporate governance. Committee members will serve at the discretion of the Board. The Chairperson of the Agency shall serve as the Committee Chair. The Chairperson may authorize the Vice Chairperson to serve as the Committee Chair in the absence of the Chairperson. 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 are 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 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 Committee meetings shall comply with the requirements of Article 7 of the New York Public Officers Law (the “Open Meetings Law”). The Committee will meet at least once per year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in this Charter. All Committee members are expected to attend each meeting in person or via videoconference.

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.

Meeting agendas will be prepared for every meeting and provided to the Committee members at least five (5) days in advance of the scheduled meeting, along with the appropriate materials needed to make informed decisions. 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 shall constitute an act of the Committee. Minutes of Committee meetings shall be kept and maintained by the Agency.

ARTICLE V

Committee Reports

The Committee shall:

- a. Report its actions and recommendations to the Board at each regular meeting of the Board following a meeting of the Committee and when otherwise requested by the Board; and
- b. Report to the Board, regarding any proposed changes to this Charter.

ARTICLE VI

Duties

The Board of Directors has delegated to the Committee the responsibility to review, develop, draft, revise and oversee policies and practices for which the Committee has specific expertise, as follows:

- a. Develop the Agency's governance practices that shall address transparency, independence, accountability, fiduciary responsibilities and management oversight;
- b. Identify the competencies and personal attributes required of directors to assist those authorized to appoint members to the Board in identifying qualified individuals;
- c. Develop and recommend to the Board the number and structure of committees to be created by the Board;
- d. Develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled Board member training to be obtained from state-approved trainers;
- e. Develop and provide recommendations to the Board regarding performance evaluations, including coordination and oversight of such evaluations of the Board, its committees and senior management in the Agency's governance process;

- f. Develop, review on a regular basis and update as necessary the Agency's code of ethics and written policies regarding conflicts of interest (such code of ethics and policies shall be at least as stringent as the laws, rules, regulations and policies applicable to state officers and employees);
- g. Develop and recommend to the Board any required revisions to the Agency's written policies regarding the protection of whistleblowers from retaliation;
- h. Develop and recommend to the Board any required revisions to the Agency's equal opportunity and affirmative action policies;
- i. Develop and recommend to the Board any required updates to the Agency's written policies regarding procurement of goods and services, including policies relating to the disclosure of persons who attempt to influence the Agency's procurement process;
- j. Develop and recommend to the Board any required updates to the Agency's written policies regarding the disposition of real and personal property;
- k. Develop and recommend to the Board any other policies or documents relating to the governance of the Agency, including rules and procedures for conducting the business of the Agency's Board, such as the Agency's bylaws; and
- l. Oversee the implementation and effectiveness of the bylaws and other governance documents and recommend modifications as needed.

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 Board of ADC.

PROJECT PROFILE: STRATEGIC FINANCIAL SOLUTIONS

\$750,000

July 21, 2017



ELIGIBILITY

- NAICS Code— 5614 (Business Support Services)

COMPANY INCENTIVES

- Sales Tax = \$65,625

PROJECT BENEFITS (EST.)

- Income Taxes \$3,756,156
- Sales Taxes = \$3,305,899

EMPLOYMENT

- 300 New Full-Time Jobs
- Salary of Positions Range from \$45 - \$130,000 Annually Plus Benefits

PROJECT SCHEDULE

- August 2017 Equipment/ Renovation Begins
- March 2019 Project Expected To Be Complete

Project Address:

115 Lawrence Bell Drive
Amherst, New York 14221
(Williamsville Central School District)

Investment:

Renovation: \$250,000
Equipment: \$250,000
Soft Costs: \$250,000

Company Description:

Strategic Financial Solution (SFS) is a leading debt resolution business in the United States. The New York City Headquartered company employs approximately 450 employees and services 25,000 active clients. SFS has been recognized as one of the 50 fastest growing companies in New York City for two straight years and one of the top 500 fastest growing companies in the United States. The company maintains a “A” rating with the Better Business Bureau. 94% of the company’s services are provided to customers outside of New York State.

Project Description:

The Applicant is seeking Agency assistance to renovate and equip an approximately 20,000 square foot vacant office building located at 115 Lawrence Bell Drive. This project represents Phase 1 of what is anticipated to be multi-phase investment that could reach 1,500 jobs.

SFS considered locations in New Jersey, Georgia and Florida for this expansion. All locations offered the company confidential packages of tax and hiring incentives. Empire State Development, which acted as lead agency on this project, is also providing tax incentives based on hiring goals.



PROJECT PROFILE:

STRATEGIC FINANCIAL SOLUTIONS

\$750,000

AIDA COMPANY HISTORY:

None

MATERIAL TERMS:

1. Achievement of 255 total full-time equivalent jobs at the project location two years after project completion, and retention of such jobs for three additional years.
2. Investment of not less than \$637,500 at the project location as noted in the application.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project



Board Report

Table 1: Basic Information

Project Name	SFS 2017
Project Applicant	Strategic Financial Solutions
Project Description	\$750,000 Investment by Strategic Financial Solutions for Phase 1 of a multi-year project. Phase 1 is expected to reach 300 jobs.
Project Industry	Administrative and Support Services
Type of Transaction	Tax Exemptions
Project Cost	\$750,000
Direct Employment Expected to Result from Project (Annual FTEs)	300

Figure 1: Estimated State & Regional Benefits / Estimated Project Incentives (Discounted Present Value*)



Table 2: Estimated State & Regional Benefits / Estimated Project Incentives Analysis (Discounted Present Value*)

Total State and Regional Benefits	\$7,062,055	
Total Project Incentives	\$52,500	
Projected Employment	State	Region
Total Employment	424	424
Direct**	300	300
Indirect***	38	38
Induced****	83	83
Temporary Construction (Direct and Indirect)	2	2

Table 3: Estimated State & Regional Benefits (Discounted Present Value*)

Total State and Regional Benefits	\$7,062,055
Income Tax Revenue	\$3,756,156
Sales Tax Revenue	\$3,305,899

Table 4: Estimated Project Incentives (Discounted Present Value*)

Total Project Incentives	\$52,500
Sales Tax	\$52,500

RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE RENOVATION AND EQUIPPING OF APPROXIMATELY 20,000 +/- SQUARE FEET OF OFFICE SPACE BY STRATEGIC FINANCIAL SOLUTIONS, LLC LOCATED AT 115 LAWRENCE BELL DRIVE, AMHERST, NEW YORK FOR SALE OR LEASE TO THE AGENCY AND SUBSEQUENT RECONVEYANCE OR LEASE PURSUANT TO AN INSTALLMENT SALE CONTRACT OR LEASE TO STRATEGIC FINANCIAL SOLUTIONS, LLC, THE EXECUTION OF AN INSTALLMENT SALE CONTRACT AND/OR LEASE AGREEMENTS, AND THE TAKING OF OTHER ACTIONS.

WHEREAS, the Town of Amherst Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 914-a of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Strategic Financial Solutions, LLC, for itself or for related individuals or entities (the “Company”), has entered into negotiations with officials of the Agency with respect to the renovation and equipping by the Agency without the proceeds of a bond issue of approximately 20,000 +/- square feet of office space to be used for back-office operations and support (the “Project”) and conveyance of the Project pursuant to an Installment Sale Contract or the lease of the Project to the Company, such Project to be located at 115 Lawrence Bell Drive, Amherst, New York (the “Premises”); and

WHEREAS, the Company has submitted an application and other materials and information (collectively, the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the renovation and equipping of approximately 20,000 +/- square feet of office space located at 115 Lawrence Bell Drive, Amherst, New York, for back-office operations and support purposes, all at a cost of approximately \$750,000.00; that the Project will allow the Company to expand its operations into the Western New York area, and expand its back-office support system, all to expand its growing consumer debt resolution business which services customers across the country; that due to the nature of the proposed facility and the Company’s proposed future expansion plans, the Company will eventually have 50% of its workforce employed in the Town of Amherst; that the Company anticipates that three hundred (300) new full-time jobs will be created as a result of the Project at the end of two (2) years of operation thereof; that (i) there will be no substantial adverse disruption

of existing employment of facilities of a similar nature in the Town of Amherst; (ii) the Project will provide substantial employment and substantial capital investment; and (iii) Agency financing will help to encourage the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the financial assistance to be provided by the Agency in connection with the Project, in the form of exemptions from sales and use taxes will not exceed \$100,000.00, therefore no public hearing with respect to the Project is required pursuant to General Municipal Law Section 859-a; and

WHEREAS, the Agency has reviewed the Application and a cost-benefit analysis with respect to the Project, including the extent to which the Project will create and retain permanent, private-sector jobs, the value of tax exemptions to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

WHEREAS, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, the Company has completed and submitted to the Agency Part 1 of an Environmental Assessment Form (“EAF”) in accordance with the provisions of the State Environmental Quality Review Act and regulations adopted pursuant thereto (collectively, “SEQRA”); and

WHEREAS, the Agency has completed Part 2 of the EAF and has considered the proposed Project and reviewed the EAF and the criteria set forth in SEQRA in order to determine whether the Project will have a significant effect on the environment and wishes to make the findings required of an agency under SEQRA.

NOW, THEREFORE, THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby resolves that the proposed Project will not have a significant impact on the environment for the reasons more particularly set forth in the negative declaration prepared by the Agency and, in accordance with SEQRA, hereby adopts such negative declaration with regard to the Project.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$750,000.00 (the “Financial Assistance”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the Compliance

Period (as defined below) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) compliance with the Agency’s Local Labor Policy in connection with the construction of the Project;
- (b) creation within two (2) years of Project completion of two hundred fifty-five (255) new full time jobs and retention of such jobs throughout the Compliance Period; and
- (c) investment of not less than 85% of the total Project cost of \$750,000.00 in the renovation and equipping of the Project prior to Project completion.

The “Compliance Period” shall mean the three (3) calendar years following the Company initially achieving compliance with the Material Factors.

Section 3. The Agency hereby determines that the Project and the financing thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act.

Section 4. The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and to make renovations thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

Section 5. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

Section 6. The Company is authorized, as agent of the Agency, to initiate the construction of building renovations constituting the Project, and the acquisition of machinery, equipment, fixtures and furnishings which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$750,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 7. The Agency is hereby authorized to enter into a Project Agreement with respect to the provision of the Financial Assistance authorized herein (the “Project Agreement”) and to acquire an interest in the Project and the execution and delivery of an Installment Sale Contract (the “Installment Contract”) between the Agency and the Company and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Installment Contract and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 8. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 9. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 10. In the event an Installment Contract is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest. In addition to the foregoing, in the event the Agency determines that Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the Compliance Period or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies

and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 11. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company each hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 12. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Installment Contract or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 13. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 14. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the

Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 9 and 10 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency's fee schedule.

Section 15. This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: July ____, 2017

ACCEPTED AND AGREED TO: _____, 2017

STRATEGIC FINANCIAL SOLUTIONS, LLC

By: _____