

TOWN OF AMHERST DEVELOPMENT CORPORATION

CONFLICT OF INTEREST POLICY

1. Purpose.

This Conflict of Interest Policy is intended to protect the Town of Amherst Development Corporation (“ADC”) when considering entering into a transaction or arrangement that might benefit the private interest of a Related Party, and to set forth procedures for handling potential or actual Conflicts of Interest and Related Party Transactions in accordance with the requirements of the New York Not-for-Profit Corporation Law.

2. Definitions.

“Conflict of Interest.” A Conflict of Interest exists if an outside interest or activity influences (or reasonably appears to influence) the ability of an individual to exercise objectivity, impairs the individual’s ability or independence in fulfilling his or her duties to ADC or reasonably tends to conflict with the proper discharge of his or her duties to ADC.

“Financial Interest.” An individual has a Financial Interest if the individual has, directly or indirectly, through business, investment or a Relative:

- (i) An ownership or investment interest in any entity with which ADC has a transaction or arrangement;
- (ii) A compensation arrangement with ADC or with any entity or individual with which ADC has a transaction or arrangement; or
- (iii) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which ADC is negotiating a transaction or arrangement.

“Key Person” means any person, other than a director or officer, whether or not an employee of ADC, who: (i) has responsibilities, or exercises powers or influence over ADC as a whole similar to the responsibilities, powers, or influence of directors and officers; (ii) manages ADC, or a segment of ADC that represents a substantial portion of the activities, assets, income or expenses of ADC; or (iii) alone or with others controls or determines a substantial portion of ADC’s capital expenditures or operating budget.

“Related Party” means: (i) any director, officer or Key Person of ADC or any affiliate of ADC; (ii) any Relative of any director, officer or Key Person of ADC or any affiliate of ADC; or (iii) any entity in which an individual described in clauses (i) or (ii) of this paragraph has a thirty five percent (35%) or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent (5%).

“Related Party Transaction” means any transaction, agreement or any other arrangement in which a Related Party has a Financial Interest and in which ADC or any affiliate of ADC is a participant, except that a transaction shall not be a Related Party Transaction if: (i) the transaction or the Related Party’s Financial Interest in the transaction is de minimis; (ii) the transaction would not customarily be reviewed by ADC’s Board of Directors (the “Board”) or boards of similar organizations in the ordinary course of business and is available to others on the same or similar terms; or (iii) the transaction constitutes a benefit provided to a Related Party solely as a member of a class of the beneficiaries that ADC intends to benefit as part of the accomplishment of its mission which benefit is available to all similarly situated members of the same class on the same terms.

“Relative” of an individual means his or her (i) spouse, domestic partner, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren.

3. Procedures for Disclosure and Resolution of Conflicts of Interest.

(a) Promptly upon learning of the existence of an actual or potential Conflict of Interest and/or Related Party Transaction, the individual (the “Interested Person”) shall disclose the matter and his or her Financial Interest, if applicable. Disclosure shall be made orally at a meeting of the Board or any committee thereof, or by written or electronic communication to the ADC Ethics Officer or ADC legal counsel.

(i) If disclosure is made at a meeting of the Board, the Board shall, at its option: determine whether a Conflict of Interest and/or Related Party Transaction exists; or direct the matter to the ADC’s Governance Committee (the “Governance Committee”) for such determination.

(ii) If disclosure is made at a meeting of any ADC committee or to the ADC Ethics Officer, the committee’s chair or the Ethics Officer, as applicable, shall direct the matter to the Governance Committee for determination of whether a Conflict of Interest and/or Related Party Transaction exists.

(b) The Interested Person shall, at the request of the Board or the Governance Committee, as applicable, explain the circumstances of the actual or potential Conflict of Interest and/or Related Party Transaction. The Interested Person shall not, however, be present at, participate in, or attempt to influence the Board or Governance Committee deliberation or vote regarding whether a Conflict of Interest and/or Related Party Transaction exists.

(i) If the Board or the Governance Committee, as applicable, determines that the agreement, transaction or arrangement is a Related Party Transaction, then the Board or the Governance

Committee shall follow the procedures for Related Party Transactions set forth in Section 4 of this policy.

- (ii) If the Board or the Governance Committee, as applicable, determines that a Conflict of Interest exists, but the agreement, transaction or arrangement does not constitute a Related Party Transaction, then the Board or the Governance Committee may proceed with its consideration of the transaction, provided however, that the Interested Person shall abstain from deliberation and voting regarding the transaction.
- (iii) If the Board or the Governance Committee, as applicable, determines that a Conflict of Interest does not exist, then the Board or the Governance Committee may proceed with its consideration of the transaction, and the Interested Person may participate in the deliberation and voting regarding the transaction.
- (iv) The existence and resolution of the potential Conflict of Interest and/or Related Party Transaction shall be documented in the minutes of the meeting(s) at which the matter was discussed and voted upon.

4. Related Party Transactions.

(a) ADC may enter into a Related Party Transaction only if the Board or the Governance Committee determines that the transaction is fair, reasonable and in ADC's best interest at the time of such determination (such determination shall be documented in the minutes of the meeting at which the Related Party Transaction was approved); provided, however, that prior to entering into the transaction, the Board or the Governance Committee shall consider alternatives to the extent available.

(b) Related Party Transactions shall be approved by not less than a majority vote of the Board (not counting the Interested Person for purposes of voting or quorum). The Board shall contemporaneously document in the meeting minutes the basis for approval, including its or the Governance Committee's consideration of alternative transactions.

5. Annual Disclosure.

Prior to the initial election of any director or officer, and annually thereafter, he or she shall complete, sign and submit to the Secretary a written statement identifying, to the best of his or her knowledge, any entity of which he or she is an officer, director, trustee, member, owner (either as a sole proprietor or as partner), or employee, and with which ADC has a relationship, and any transaction in which he or she might have a conflicting interest. Compliance with the financial disclosure requirements of the Town of Amherst, if applicable, shall be deemed compliance with the requirements of this Section.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

CODE OF ETHICS

ARTICLE I

Statement of Purpose

The Code of Ethics (this “Code”) is a public statement by the Agency that sets clear expectations and principles to guide practice and inspire professional excellence. The Agency believes a commonly held set of principles can assist in the individual exercise of professional judgment. This Code speaks to the core values of public accountability and transparency. The purpose of having a code of ethics and practices is to protect the credibility of the Agency by ensuring high standards of honesty, integrity, and conduct of staff. To that end, this Code articulates the ethical standards to be observed by the Agency in pursuing and implementing economic development initiatives, and it sets rules and policies that prevent conflicts of interest.

ARTICLE II

Conflicts of Interest

No officer, member of the Agency’s Board of Directors (the “Board”) or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his or her or her duties in the public interest. Officers, Board members and employees are directed to review the Agency’s Conflict of Interest Policy for further guidance.

ARTICLE III

Standards

- a. No officer, member of the Board or employee should accept other employment which will impair his or her or her independence of judgment in the exercise of his or her official duties.
- b. No officer, member of the Board or employee should accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.
- c. No officer, member of the Board or employee should disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.

d. No officer, member of the Board or employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the Agency for private business or other compensated non-Agency purposes.

e. No officer, member of the Board or employee should engage in any transaction as representative or agent of the Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An officer, member of the Board or employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her, unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An officer, member of the Board or employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her, or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An officer, member of the Board or employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No officer, member of the Board or employee employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer, Board member or employee, should sell goods or services to any person, firm, corporation or association which receives financial assistance from the Agency.

j. No officer, member of the Board or employee of the Agency shall accept or arrange for any loan or extension of credit from the Agency or any affiliate of the Agency.

ARTICLE IV

Gifts

Pursuant to and in accordance with Section 805-a(1) of the General Municipal Law, no member, director, officer or employee of the Agency shall directly or indirectly, solicit any gift, or accept or receive any gift having a value of seventy-five dollars or more under circumstances in which it could reasonably be inferred that the gift was intended to influence such individual, or could reasonably be expected to influence such individual, in the performance of the individual's official duties or was intended as a reward for any official action on the individual's part.

ARTICLE V
Implementation and Ethics Officer

This Code shall be provided to all members, directors, officers and employees upon commencement of employment or appointment and shall be reviewed annually by the Agency's Governance Committee.

The Finance & Audit Committee Chair shall serve as the Ethics Officer of the Agency, unless the Board designates by resolution a different officer, member or employee of the Agency to serve as the Ethics Officer. The Ethics Officer shall report to the Board and shall have the following duties:

- Counsel in confidence Board members, officers and employees who seek advice about ethical behavior and potential conflicts of interest;
- Receive and investigate complaints about possible ethics violations;
- Dismiss complaints found to be without substance; and
- Prepare an investigative report of his or her findings for action by the Executive Director or the Board.

ARTICLE VI
Violations

In addition to any penalty contained in any other provision of law, any Agency officer, member of the Board or employee who shall knowingly and intentionally violate any of the provisions of this Code may be fined, suspended or removed from office or employment in the manner provided by law.

ARTICLE VII
Reporting Unethical Behavior

Board members, officers and employees are required to report possible unethical behavior by a Board member, officer or employee of the Agency to the Ethics Officer. Board members, officers and employees may file ethics complaints anonymously and are protected from retaliation as provided in the Agency's Whistleblower Policy.

ARTICLE VIII
Whistleblower Policy

In accordance with Section 2824(1)(e) of the Public Authorities Law, the Agency has adopted a Whistleblower Policy to afford certain protections to individuals who, in good faith, report violations of this Code or other instances of potential wrongdoing within the Agency. The Whistleblower Policy provides Board members, officers, employees and Agency volunteers with a confidential means to report credible allegations of misconduct, wrongdoing or unethical behavior and to protect those individuals, when acting in good faith, from personal or professional retaliation. The Whistleblower Policy is provided and is accessible to all Board members, officers, employees and volunteers of the Agency and is reviewed annually by the Agency's Governance Committee.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

CONFLICT OF INTEREST POLICY

The Town of Amherst Industrial Development Agency (the “Agency”) has adopted a Code of Ethics that applies to all officers, members, employees and contractors and is intended to prevent conflicts of interest arising with respect to any such officer, member, employee or contractor.

The Agency has determined that the Conflict of Interest provisions as set forth in §801 of the General Municipal Law and the other related provisions shall be applicable to the members, officers and employees of the Agency. In the event that a matter has been brought before the Agency and it appears that there is a prohibited conflict of interest, such member, officer or employee shall either resign from the Agency before any matter involving a prohibited conflict comes before the Agency or in the alternative the matter before the Agency shall be withdrawn.

Any member who acts in violation of this policy shall be suspended with a request made to the Town Board that such member be removed for cause, and any employee, or an officer who is not a member, shall be terminated by the Agency Board.

§ 801 of New York State General Municipal Law Article 18.

Conflicts of interest prohibited. Except as provided in section eight hundred two of this chapter, (1) no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, when such officer or employee, individually or as a member of a board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above and (2) no chief fiscal officer, treasurer, or his deputy or employee, shall have an interest in a bank or trust company designated as a depository, paying agent, registration agent or for investment of funds of the municipality of which he is an officer or employee. The provisions of this section shall in no event be construed to preclude the payment of lawful compensation and necessary expenses of any municipal officer or employee in one or more positions of public employment, the holding of which is not prohibited by law.

Town of Amherst Industrial Development Agency & Affiliates Credit Card Use Policy

Objective:

The purpose of this Credit Card Use Policy (Policy) is to outline the policies and procedures of the Town of Amherst Industrial Development Agency, and its affiliates, will follow with respect to the use of Agency issued and personal credit cards in accordance with Section 2824 of the Public Authorities Accountability Act of 2005.

Applicability:

This policy shall apply to the following affiliated corporation: Amherst Development Corporation (ADC). This policy shall apply to every Board member, Officer and employee of these organizations.

General Guidelines:

It is the AIDA's general policy to pay reasonable and necessary travel, conference, meal and entertainment expenses incurred as a result of official business promoting economic development subject to the presentation of appropriate documentation. Eligible expenses are further detailed in the approved *AIDA Expenses, Travel, Conferences, Meals and Entertainment Policy*.

Supporting documentation must be submitted for all charges and include documentation of the business purpose of the expense. A member of the Board of Directors will review and document approval of individual transactions on the Agency's credit card statements.

Use of Agency credit cards for personal expenses is prohibited.

Town of Amherst Industrial Development Agency & Affiliates

DATA GATHERING PROCEDURES

I. Scope

This policy applies to all individuals, companies, agencies or others that receive financial assistance from the Town of Amherst Industrial Development Agency (the “Agency”).

II. Objectives

The primary objectives of the Agency data gathering procedures are to:

- Assure compliance with annual reporting requirements of the New York State Comptroller and the Public Authorities Budget Office
- Assist in measuring the effectiveness of assistance provided

III. Description of Information

The Agency may provide financial assistance in several different forms, including:

- Assistance in the issuance of debt (bonds, notes, etc.)
- Sales tax abatements
- Mortgage tax recording abatements
- Real property tax exemptions (and use of Payment in Lieu of Tax “PILOT” agreements)

Information required to be reported on an annual basis includes:

- In cases where the Agency assisted with the issuance of debt (e.g. IR bonds issued), even though the Agency has no responsibility for repayment of the debt, nor in the case of default, the Agency must report any beginning of year debt balances outstanding, any debt issued, principal payments made and end of year debt balances.
- Sales and mortgage tax abatements during the fiscal year.
- In the case where the Agency has assisted with a real property tax exemption (and PILOT agreement), the Agency must report the amount of real property taxes that would have been paid (to county, town and school district) if no exemptions had been granted, the amount the benefiting company did pay in PILOT’s (to county, town and school district) and the difference between the two

- In all cases where the Agency provides financial assistance, the Agency must report
 - The number of FTE employees at the project location before Agency assistance
 - The original estimate of jobs to be created
 - The original estimate of jobs to be retained
 - The number of current FTE employees
 - The number of jobs created during the fiscal year
 - The number of FTE jobs created during the fiscal year
 - The number of FTE jobs retained during the fiscal year
 - The number of FTE construction jobs created during the fiscal year

This information can only be obtained through direct confirmation with the benefiting companies.

IV. Procedures to Obtain Information

Requirements to provide for the annual reporting of this information will be included in all agreements between the Agency and benefiting companies.

In order to assure compliance with reporting requirements the Agency will perform the following procedures:

1. Confirmation requests will be mailed to companies that have received Agency assistance. Staff will consult with independent auditor for assistance in preparing the confirmation requests. Requests will be mailed on or around December 30th with due date on or around January 31st. Independent auditor and AIDA staff will track responses.
2. If no response is received, a second request for confirmation will be mailed to those companies that have not replied. This shall be done on or around February 1st with a due date of February 15th. Independent auditor and AIDA staff will track responses.
3. If no response is received, a third request for confirmation will be mailed to those companies that have not replied. This shall be done on or around February 16th with a due date of February 28th. Independent auditor and AIDA staff will track responses.
4. If no response is received, AIDA staff/attorney will contact the company to solicit a response. AIDA staff/attorney will track responses.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
DEFENSE AND INDEMNIFICATION OF OFFICERS AND EMPLOYEES POLICY

The Town of Amherst Industrial Development Agency (the "Agency") has determined that it is in the best interest of the Agency that its employees, as that term is defined in §18 of the Public Officers Law, be indemnified in accordance with the terms of §18 of the Public Officers Law.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

EMPLOYEE COMPENSATION PROGRAM

I. Introduction

In accordance with Section 2824(1)(c) of the New York Public Authorities Law, the Town of Amherst Industrial Development Agency hereby adopts a written protocol for determining employee compensation. The compensation program includes employee base compensation, COLA, and related fringe benefit costs (collectively, the “Employee Compensation Program”).

II. Employee Compensation Program Procedures

A preliminary budget for employee and executive compensation, including base compensation and any recommended salary adjustments, together with fringe benefits and COLA shall be proposed annually by the Executive Director/CEO. Base compensation and salary adjustments shall be proposed after taking into consideration the existing compensation ranges and fringe benefit programs and appropriate economic, geographic, and competitive salary ranges and fringe benefits for comparable positions in the region and with respect to New York State industrial development agencies in particular. The Executive Director/CEO will also consider the experience of the individual, the Agency’s budget constraints, and other appropriate discretionary factors in establishing the individual base compensation. The preliminary budget shall also include proposed compensation for the Executive Director/CEO.

The Executive Director/CEO will then submit the proposed preliminary budget for employee and executive compensation to the Finance and Audit Committee for its review and recommendation. The Finance and Audit Committee will review the proposed preliminary budget and either recommend it as submitted or propose modifications. The Executive Director/CEO shall not participate in Finance and Audit Committee deliberations or the vote regarding the compensation of the Executive Director/CEO. The preliminary budget with the recommendations of the Finance and Audit Committee shall then be referred to the Agency Board of Directors (the “Board”) for its review. The Board shall then approve the budget for employee compensation with any modifications that it may deem necessary or appropriate.

Town of Amherst Industrial Development Agency & Affiliates

Expenses, Travel, Conferences, Meals and Entertainment Policy

Objective:

The purpose of this Expenses, Travel, Conferences, Meals and Entertainment Policy (Policy) is to outline the policies and procedures of the Town of Amherst Industrial Development Agency and its affiliates (AIDA or Agency) will follow with respect to these and other related expenditures in accordance with Section 2824 of the Public Authorities Accountability Act of 2005.

Applicability:

This policy shall apply to the following affiliated corporation: Amherst Development Corporation (ADC). This policy shall apply to every Board member, Officer and employee of these organizations.

General Guidelines:

It is the AIDA's general policy to pay reasonable and necessary travel, conferences, meals and entertainment expenses incurred as a result of official business subject to the presentation of appropriate documentation.

Any exceptions or potential exceptions to this Policy must be submitted to the Executive Director/President (or in the case of the Executive Director/President to the Board Chair¹) for approval.

Section 1: Travel

1.1 Approval of Travel:

Travel involving overnight accommodation or travel outside of Western New York and Southern Ontario requires the approval of the Executive Director/President (or in the case of the Executive Director/President to the Board Chair).

1.2 Personal Travel:

Personal Travel is **not** reimbursable. This exclusion applies to personal travel which interrupts official travel, or precedes or follows a business trip.

Personal expenses are not reimbursable even when incurred while on an AIDA trip. Examples of such excluded expenses are pet care, house, or child-care expenses and purchase or repair of personal luggage.

¹ If the Board Chair benefitted from the expenditure then the Finance and Audit Committee Chair will approve the exception. If both the Board Chair and the Finance and Audit Committee Chair benefitted from the expenditure then the full Board must approve the exception.

1.3 Reimbursable Travel Expenses:

Where practicable, employees should perform appropriate due diligence to obtain the lowest reasonable cost for travel expenses.

Transportation expenses shall be reimbursed based on an economical mode of transportation and the most commonly traveled route consistent with the authorized purpose of the trip.

Transportation tickets should be procured in advance in order to obtain any discounts offered by the carrier. Every reasonable effort should be made to cancel reservations on a timely basis to avoid no-show or late cancellation charges.

A. Automobile Travel

i) Personal Vehicle

Travelers may use their personal vehicle for business purposes if it is less expensive than renting a car, taking a taxi, or using alternative transportation, or if it saves time. In most circumstances, mileage shall be computed as the distance traveled to the business destination, less normal commuting miles that would ordinarily have been incurred. Mileage will be reimbursed at the prevailing IRS mileage rate reimbursement limits which are intended to cover the cost of fuel, depreciation, insurance, maintenance and other similar operating costs. Expenses related to the mechanical failure or accidents to personal cars are not reimbursable.

When utilizing a personal vehicle for business, travelers must maintain liability insurance on the vehicle in accordance with New York State requirements.

ii) Rental Cars

A vehicle may be rented when renting would be more advantageous to the AIDA than other means of commercial transportation, such as using a taxi. When the traveler uses a rental car also for a personal side trip, he or she is expected to pay the appropriate portion of both the per-diem and the mileage expense.

The AIDA's insurance company currently provides liability and physical damage coverage if a vehicle is rented in the Agency's name in the U.S. or Canada. Therefore, if similar coverage is offered by the rental company, it should be declined in these circumstances.

iii) Miscellaneous Automobile-related Expenses

Charges for parking, ferries, bridges, tunnels, or toll roads while an individual is traveling on AIDA business will be reimbursed.

B. Air Travel

Whenever practicable, travelers are expected to use tourist, economy, coach or "standard" accommodations for air travel.

C. Surface Transportation Used in Lieu of Air Travel

If advance approval has been obtained, a traveler may use surface transportation for personal reasons even though air travel is the appropriate mode of transportation. The cost of meals and lodging, parking, mileage, tolls, taxis, and ferries incurred while in transit by surface transportation may be reimbursed. Such costs shall not exceed the cost of airfare, based on the cost of regular coach fare available for the location of travel from a standard commercial air carrier plus transportation costs to and from the airport.

D. Other Forms of Transportation

Rail, shuttle, subway or bus transportation may be used if it is convenient and less expensive than alternative transportation or it saves time. If a traveler's destination is served by a regularly scheduled airline, the use of rail or bus transportation shall be reimbursed in accordance with the procedures specified under Surface Transportation in Lieu of Air Travel.

E. Food and Lodging

Lodging, meals, tips, and related miscellaneous expenses while an individual is on travel status for the AIDA will be reimbursed in their actual, reasonable amounts when properly documented. Accommodations are expected to be comfortable and appropriate to the particular purpose of the trip-not luxurious or extravagant. Wherever possible the AIDA's New York State sales tax exemption should be claimed.

F. Miscellaneous Travel Expenses

Examples of miscellaneous travel expenses **that are reimbursable** are the following:

- Reasonable tips for baggage handling, etc.
- Business telephone or internet calls and occasional, reasonable personal calls.
- Highway and bridge tolls.
- Necessary parking fees.
- Small supplies on an emergency basis
- Fees for visas, passports, and inoculations are allowable when they are a specific and necessary condition of fulfilling a work assignment

G. Travel Expenses Not Reimbursed

Expenses that **are not reimbursable** include:

- Lost or stolen tickets, cash, or personal property.
- Fines.
- Accident insurance premiums (the AIDA provides workers compensation and accidental death and disability insurance to employees).
- Child, pet or house-sitting expenses.
- Penalties or fees for cancellation or change of discounted tickets when the cancellation or change came about from personal rather than AIDA choice.
- In-room movie or video game rentals.
- Hotel mini-bar charges.

- Dry cleaning (unless the AIDA requests that the traveler extends their regularly scheduled trip or when the traveler is away from home for more than six days).
- All costs pertaining to spouses, partners or other non-Agency personnel accompanying the traveler

The above listings are not all-inclusive and items not listed will be reviewed on a case-by-case basis.

Section 2: Conferences and Seminars

Reimbursement of conference and seminar fees and related hotel and meal expenses will be limited to those reasonable and necessary expenses. The AIDA will only reimburse reasonable meal and beverage expenses of guests when the purpose of the meeting is to discuss AIDA business.

Section 3: Dues of Professional or Technical Organizations

Dues for approved memberships in professional or technical organizations are reimbursable when they are related to the employee's job responsibilities. The Agency may also choose to pay these directly.

Section 4: Meals & Entertainment

There are occasions when the AIDA may provide meals and light refreshments to Board or committee members, officers, employees, guests or visitors to support the mission of the Agency. As with other AIDA expenditures, authorized officials must exercise prudent business judgment in reviewing proposed expenditures for meals and light refreshments based on their reasonableness and benefit to the AIDA and its mission of promoting economic development. In addition, such expenditures should be cost effective and in accordance with the best use of AIDA-administered funds.

Meals and entertainment costs of a spouse or partner will only be reimbursed if their presence serves a business purpose (such as if he or she has a significant role in the proceedings or makes an important contribution to the success of the event). Official functions to which spouses or partners are invited as a matter of protocol or tradition may be considered as bona fide business-related activities if their inclusion serves a legitimate business purpose.

4.1 Employee morale-building activities Exception

The cost of meals, light refreshments and entertainment for official employee morale-building activities that serve an AIDA business purpose may be treated as an exception to this Policy. Examples of such occasions include a gathering to honor a departing employee who is retiring or who is separating from AIDA employment after at least three years of service, employee recognition receptions, annual staff picnics, and holiday gatherings.

4.2 Entertainment Expenses Not Reimbursed

Expenses that **are not reimbursable** include:

- Entertainment expenses that are lavish or extravagant under the circumstances;
- Entertainment expenses for birthdays, weddings, anniversaries, or farewell gatherings
- Memberships/dues for private clubs such as the Buffalo Club or Saturn Club
- Adult entertainment

Section 5: Advances

Cash advances are not generally provided, because individuals who travel regularly on AIDA business are encouraged to use AIDA issued credit card to charge their travel expenses. Other Agency related expenses, such as purchasing supplies and related materials associated with the care and operation of the office, should use AIDA issued credit cards and adhere to previously discussed documentation requirements.

Section 6: Reimbursement Approval

Reimbursement may be requested as soon as the individual has made the expenditure, completed their Expense Report and had it approved. Expense Reports must be approved by the Executive Director/President (or in the case of the Executive Director/President by the Board Chair). The individual approving the Expense Report should not have personally benefited from the expenditure.

In approving a request to reimburse an individual for expenditures authorized under this Policy, the approving authority must determine that:

- The expenditure serves a clear and necessary business purpose of benefit to the AIDA and its mission of promoting economic development;
- The expenditure of funds is reasonable, cost effective, and in accordance with the best use of AIDA-administered funds;
- Any alternatives that would have been equally effective in accomplishing the desired objectives were considered.

Individuals **may not** approve the reimbursement of their own expenses.²

If a required receipt is lost or unavailable, a written explanation of the circumstances must accompany the reimbursement request.

6.1 Expenses Charged directly to the Agency

Certain expenses may be paid directly by the AIDA either via Agency credit cards or through check. Examples include such items as airline tickets, rental cars, accommodation and seminar registration fees. The fact that certain allowable business expenses may be paid directly by the AIDA does not relieve a traveler from complying with the substantiation requirements of this Policy (receipts and other supporting documentation must be submitted).

Use of the AIDA Corporate credit card for personal expenses is prohibited. If such expenses are inadvertently incurred, the individual must promptly refund the AIDA.

Section 7: Expenses in Foreign Currency

For expenses paid in foreign cash, the exchange rate at which the traveler bought the foreign currency applies, and a receipt for the purchase of that currency should be kept and attached to the Expense Report.

Section 8: Taxability of Reimbursements

In general, where the individual supplies a detailed accounting of bona fide business expenses to the employer, the amounts reimbursed are not taxable income to the traveler. It is therefore in the traveler's interest to carefully follow the AIDA's procedures for reporting and documenting expenses.

² In the case of the Executive Director/President, approval shall be sought from the Board Chair.

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY/
TOWN OF AMHERST DEVELOPMENT CORPORATION
FEE AND EXPENSE SCHEDULE**

The following sets forth the Administrative Fee and Expense Policy of the Town of Amherst Industrial Development Agency (“Agency”) and the Town of Amherst Development Corporation (“ADC”), effective as of _____, 2019.

Application Fee: At the time of application for approval by the Agency or the ADC of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00).

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 For-Profit Projects shall be the greater of: (a) one percent (1%) of the bond amount, if bonds are to be issued, (b) one percent (1%) of the mortgage amount, if a mortgage with note is utilized or (c) one percent (1%) of the project value. 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. Re-financings

The Agency Administrative Fee for For-Profit Re-financings shall be \$1,000 plus one half of one percent (.5%) of any new money being financed for projects that provide additional economic benefit to the community.

3. Second Mortgage

The Agency fee for a second mortgage is one half of one percent (.5%) for all projects requiring a second mortgage that provide additional economic benefit to the community. Second Mortgages that occur for strictly financial purposes are not eligible for a Mortgage Recording Tax Exemption. If the project involves additional PILOT or sales tax benefits, then the fee is one percent (1%) and calculated as explained previously under “**New Projects**”

4. Approval of Lease Assignment and Assumptions

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall one percent (1%) of the Project Cost except as otherwise agreed to by the Agency.

5. Tax-Exempt Financing

The Agency Administrative Fee for approval of all Tax-Exempt projects shall be one half of one percent (.5%) based on the issuance amount of the bond as agreed to by the Agency. This is the fee regardless of whether it is a refinancing of a previous AIDA or ADC bond or a new issuance for a new project. For those bond issuances where a PILOT is necessary, the project fee is one percent (1%) and calculated as previously detailed under "**New Projects**". The fee is due in full at closing.

Tax-exempt Bond Counsel fees for tax-exempt financing projects will be charged separately, based upon time expended with respect to such project. Agency Counsel fees will be charged in accordance with the Bond/Mortgage/Lease schedule below.

6. 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 at any time following submission, or the inducement or authorizing resolution of the Agency relating to the Project expires without extension, or the Project does not close for any reason, the Applicant is responsible for and shall pay costs, including without limitation Agency Counsel Fees, incurred by the Agency in connection with the Project.

Agency Counsel Fees

Agency Counsel fees will be paid by the Applicant in accordance with the following schedules:

Bond/Mortgage/Lease Transactions:

<u>Project Costs:</u>	<u>Legal Fee*:</u>
to \$750,000	\$5,000**
\$750,001 to \$1,500,000	\$9,000
\$1,500,001 to \$3,000,000	\$12,500
\$3,000,001 to \$5,000,000	\$15,000
\$5,000,001 to \$10,000,000	\$17,500
above \$10,000,000	\$22,500 minimum with additional legal fees payable based upon the circumstances and work involved

*The Legal Fee will be paid as follows: One-quarter of the Legal Fee will be due and payable prior to issuance of a Sales Tax Exemption Letter (if applicable). The balance of the Legal Fee will be due at closing or at such time it is determined by the Agency that the Project will not proceed to closing.

** With respect to legal fees for Bond/Mortgage/Lease Transactions up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Applicant 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 Agency Counsel's standard hourly rate then in effect.

Refinancing Transactions

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 Agency Counsel's standard hourly rate then in effect. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole but reasonable discretion.

Normal Installment Sale Transactions

<u>Project Cost:</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

*The Legal Fee will be paid as follows: One-quarter of the Legal Fee will be due and payable prior to issuance of a Sales Tax Exemption Letter (if applicable). The balance of the Legal Fee will be due at closing or at such time it is determined by the Agency that the Project will not proceed to closing.

** With respect to legal fees for Normal Installment Sale Transactions 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 standard hourly rate of Agency Counsel then in effect.

Other Transactions:

Legal Fees for the following transactions will be billed on a time basis at Agency Counsel's current standard hourly rate:

- Lease Assignments and Assumptions
- Lease and PILOT Agreement amendments
- Sublease approvals and modifications
- Lease terminations
- Project reconveyances
- Other miscellaneous transactions

In addition to Agency Counsel fees, disbursements 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.

The above Administrative Fee and Expense Policy have been reviewed and agreed to by the Applicant.

Initial

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
FINANCIAL DISCLOSURE POLICY

The Town of Amherst Industrial Development Agency in compliance with the requirements of the Town of Amherst and the Public Authorities Accountability Act require that all members and employees with executive positions complete an annual disclosure form and that the disclosure form be filed with the Town of Amherst and the Board of Ethics for the County of Erie.

**TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
TOWN OF AMHERST DEVELOPMENT CORPORATION
FIXED ASSET CAPITALIZATION POLICY**

The Town of Amherst Industrial Development Agency (the "Agency") and the Town of Amherst Development Corporation (the "Corporation") will regard fixed assets as capitalized when all of the following criteria are met:

- (1) Assets purchased, built or leased have useful lives of one year or more.
- (2) The cost of the asset (including installation) is \$1,000 or more. Multiple assets whose cost is less than \$1,000 but the aggregate request or total is \$1,000 or more are capitalized
- (3) The cost of repairing or renovating the asset is \$1,000 or more and prolongs the life of the asset.

The Agency and Corporation will regard the purchase of software programs as fixed assets subject to the above capitalization policy and will amortize over an estimated useful life of 3 years. Costs associated with software maintenance and customer support are considered expenditures and will not be capitalized.

All capitalized assets will have a numbered asset tag affixed to it if/when applicable.

Other Considerations:

- (1) REPAIR is an expenditure that keeps the property in ordinary efficient operating condition. The cost of the repair does not add to the value of prolong the life of the asset. All repair expenditures are charged to the appropriate department and fund.
- (2) IMPROVEMENTS are expenditures for additions, alterations and renovations that appreciably prolong the life of the asset, materially increase its value or adapt it to a different use. Improvements of this nature are capitalized.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

INVESTMENT POLICY

ARTICLE I

Scope

This investment policy (this “Policy”) applies to all money and other financial resources available for investment by the Town of Amherst Industrial Development Agency (the “Agency”).

ARTICLE II

Objectives

The primary objectives of the Agency’s investment activities are, in priority order:

- a. To conform with all applicable federal, state and other legal requirements;
- b. To adequately safeguard principal;
- c. To provide sufficient liquidity to meet all operating requirements; and
- d. To obtain a reasonable rate of return.

ARTICLE III

Delegation of Authority

The responsibility for administration of the investment program is delegated to the Agency’s Treasurer who shall establish procedures for the operation of the investment program consistent with these investment guidelines. Such procedures shall include an adequate internal control structure to provide a satisfactory level of accountability based on a data base or records incorporating description and amounts of investments, transaction dates and other relevant information.

ARTICLE IV

Prudence

All participants in the investment process shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair public confidence in the Agency.

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

ARTICLE V
Diversification

It is the policy of the Agency to diversify its deposits and investments by financial institution such that the Agency's deposits and investments do not exceed FDIC coverage and collateral pledged by such institution.

ARTICLE VI
Internal Controls

It is the policy of the Agency that all money collected by any officer or employee of the Agency be transferred to the CFO within 5 days of receipt for deposit into an Agency account.

The CFO is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization, recorded properly and are managed in compliance with applicable laws and regulations.

ARTICLE VII
Designation of Authorized Depositories

The banks and trust companies authorized for the deposit of monies, up to the amounts which are collateralized:

Depository Name

- Citibank (New York State)
- Chase Bank
- M & T Bank
- HSBC
- Bank of Akron
- Key Bank
- Bank of America

ARTICLE VIII
Collateralizing of Deposits

In accordance with the provisions of General Municipal Law §10, all deposits of the Agency, including certificates of deposit and special time deposits, in excess of the amount

insured under the provisions of the Federal Deposit Insurance Act shall be secured by a pledge of “eligible securities” with an aggregate market value, as provided by General Municipal Law §10, equal to the aggregate amount of such deposits (a list of eligible collateral securities are included as Appendix A to this Policy).

ARTICLE IX
Safekeeping and Collateralization

Eligible securities used for collateralizing deposits shall be held by the depositaries’ trust departments and/or a third party bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any, and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events which enable the Agency to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Agency or its custodial bank.

The custodial agreement shall provide securities held by the bank or trust company, or agent of and custodian for the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

ARTICLE X
Authorized Investments

As authorized by General Municipal Law §11, the Agency authorizes the CFO to invest money not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- Special time deposit accounts
- Certificates of deposit; Obligations of the United States of America
- Obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America
- Obligations of the State of New York

All investment obligations shall be payable or redeemable at the option of the Agency within such times as the proceeds will be needed to meet expenditures for purposes for which the

money was provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Agency within one year of the date of purchase.

ARTICLE XI
Monthly Reporting Requirements

At each regularly scheduled monthly meeting of the Agency's Board of Directors, the CFO shall prepare a report of the Agency's cash and investments balances as of the last day of the preceding month. At a minimum such report shall contain:

- The name of each financial institution
- Type of account (checking, savings, certificate of deposit, etc.)
- Current rate of interest
- Account balance as of the last day of the previous month
- Maturity date in the case where funds are not currently available

ARTICLE XII
Annual Monitoring and Reporting

On an annual basis, the Agency will obtain an independent audit of its financial statements, which shall include an audit of its cash and investments and the Agency's compliance with this Policy. The results of the independent audit shall be made available to the Agency Board at the time of its annual review of this Policy.

Pursuant to Section 2925(6) of the Public Authorities Law, Agency staff shall, on an annual basis, prepare and submit for Agency Board approval an investment report which shall include this Policy, amendments to this Policy since the last investment report, an explanation of this Policy and any amendments, the results of the annual independent audit, the investment income record of the Agency and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment associated services to the Agency since the last investment report. The investment report will be distributed to those individuals identified in Section 2925(7)(b) of the Public Authorities Law. The Agency shall make available to the public copies of its investment report upon reasonable request therefor.

APPENDIX A

Schedule of securities eligible for collateralization of Agency deposits:

- i. Obligations issued, or fully insured or guaranteed as to the payment of principal and interest, by the United States of America, an agency thereof or a United States government sponsored corporation.
- ii. Obligations partially insured or guaranteed by any agency of the United States of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.
- iii. Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation of such State or obligations of any public benefit corporation which under a specific State statute may be accepted as security for deposit of public money.
- iv. Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- v. Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- vi. Obligations of counties, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- vii. Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- viii. Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
- ix. Commercial paper and bankers' acceptances issued by a bank, other than the Bank, rated in the highest short term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
- x. Zero coupon obligations of the United States government marketed as "Treasury strips".

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

PROCUREMENT POLICY

A. Introduction

1. Scope - In accordance with Article 18-A of the General Municipal Law, Section 104-b of the General Municipal Law (“GML”), the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009, the Town of Amherst Industrial Development Agency (the “Agency”) is required adopt procurement policies which will apply to the procurement of goods and services not subject to the competitive bidding requirements of Section 103 of the GML and paid for by the Agency for its own use and account.
2. Purpose - Pursuant to Section 104-b of the GML, the primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of a political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest responsible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption.

B. Procurement Policy

1. Determination Required - Prior to commencing any procurement of goods and services, the CFO or an authorized designee shall prepare a written statement setting forth the basis for (1) the determination that competitive bidding is not required for such procurement, and, if applicable, (2) the determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the CFO or such authorized designee in a specially designated procurement file.
2. Procedure for determining whether Procurements are subject to Competitive Bidding - The procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:
 - a. The CFO or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based on Section 103 of the GML which requires competitive bidding for expenditures of (1) more than \$20,000 for the performance of any public works contract (services, labor or construction), and (2) more than \$10,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).
 - b. The CFO or such authorized designee shall review the purchase request against prior years' expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will exceed the amounts set forth in the above competitive bidding procedures and whether such procedures shall be followed for said expenditure.

- c. The CFO or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to Agency Counsel.¹
3. Methods of Competition to be used for Non-Bid Procurements and Procurements Exempt by Statute - Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section except for items excepted herein (see 7 below) or procurements made pursuant to:
 - a. GML, Section 103 (3) (through county contracts);
 - b. GML, Section 104 (through state contracts);
 - c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped); or
 - d. Correction Law, Section 186 (articles manufactured in correctional institutions).
4. Procedures for the Purchase of Commodities, Equipment or Goods under \$10,000.
 - a. Up to \$500: The discretion of the CFO or authorized designee.
 - b. \$501 - \$3,000: Documented verbal quotations from at least three vendors.
 - c. \$3,001 - \$10,000: Written/fax quotations from at least three vendors.
5. Procedures for the Purchase of Public Works or Services under \$20,000.
 - a. Up to \$1000: The discretion of the CFO or authorized designee.
 - b. \$1,001 - \$5,000: Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$20,000: Written/fax quotations from at least three vendors.
6. Basis for the Award of Contracts - Contracts will be awarded to the lowest responsible vendor who meets the specifications.
7. Circumstances Justifying an Award to Other than the Lowest Cost Quoted.
 - a. Delivery requirements;
 - b. Quality requirements;
 - c. Quality;

¹ Adopted January 18, 2008.

- d. Past vendor performance;
- e. The unavailability of three or more vendors who are able to quote on procurement²; and
- f. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.

8. Documentation

- a. For each purchase made the CFO or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
- b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the CFO or such authorized designee and filed with the purchase order or contract therefore.
- c. For those items not subject to competitive bidding such as professional services, emergencies, items purchased under city contracts or procurements from sole sources, documentation should include a memo to the file which details why the procurement is not subject to competitive bidding and include, as applicable:
 - i. a description of the facts giving rise to the emergency and that they meet the statutory criteria;
 - ii. a description of the professional services;
 - iii. written verification of city contracts;
 - iv. opinions of Agency Counsel, if any; and/or
 - v. a description of sole source items and how such determinations were made.
- d. Whenever an award is made to other than the lowest quote, the reasons for doing so shall be set forth in writing and maintained in the procurement file.
- e. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

² Adopted January 18, 2008.

9. Exceptions to Bidding

- a. Emergency Situation - An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality or of the citizens. With approval by the CFO such emergency shall not be subject to competitive bidding or the procedures stated above.
- b. Resolution Waiving Bidding Requirements - The Agency may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.
- c. Sole Source - Defined as a situation when there is only one possible source item which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.³
- d. True Lease - Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.
- e. Insurance - All insurance policies shall be procured in accordance with the following procedures: (1) Premium less than \$10,000 - documented telephone quotations from at least three agents (if available); (2) Premium over \$10,000 - written quotations/fax or proposals from at least three agents (if available).
- f. Professional Services - This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc. For the procurement of professional services, the procedures set forth in Exhibit B shall apply.

10. Minority and Women Business Enterprises - The Agency shall comply with all applicable legal requirements relating to the hiring of such businesses.

11. Input from members of the Agency - Comments concerning the procurement policy shall be solicited from the members of the Agency from time to time.

12. Annual Review - the Agency shall annually review its policies and procedures.

13. Procurement Lobbying Law - The Agency shall follow the applicable provisions of Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005 (the "Procurement Lobbying Law"), for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of \$15,000.⁴

³ Adopted January 18, 2008.

⁴ Adopted _____, 2017.

Unintentional Failure to Comply - The unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the Agency or any officer thereof.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

PROPERTY DISPOSAL GUIDELINES

The Town of Amherst Industrial Development Agency (the “Agency”), a New York public benefit corporation, in compliance with Section 2824(1)(e) of the New York State Public Authorities Law has established these Property Disposal Guidelines (the “Guidelines”) for the disposal of real property and personal property. No less than annually, the Members of the Agency shall review, approve and make any necessary modifications to these Guidelines.

ARTICLE I

Designation of Contracting Officer

The Agency hereby designates the Executive Director of the Agency as the Agency’s Contracting Officer. The Contracting Officer shall hold this position until the Members of the Agency designate a new Contracting Officer.

The Contracting Officer shall have supervision and direction over the disposition of the Agency’s property and shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall cause these Guidelines to be posted on the Agency’s website so that they are available to the general public.

ARTICLE II

Application of Guidelines

The procedures outlined in these Guidelines shall apply to the Agency’s disposal from time to time of all personal property having a fair market value at the time of disposal of more than five thousand dollars (\$5,000) and all interests in real property. As used in these Guidelines, “property” shall include personal and real property. Personal and real property may be distinguished from each other as appropriate in these Guidelines.

The Agency shall dispose of personal property with a fair market value at the time of disposal of Five Thousand Dollars (\$5,000.00) or less in a prudent manner. Property of only nominal value may be donated to a not-for-profit or governmental agency or disposed of in any manner practicable.

ARTICLE III

Purpose

The Agency has adopted these Guidelines (i) to comply with the provisions of the New York Public Authorities Law and (ii) to realize a favorable return on the disposal of Agency property.

ARTICLE IV
Property Disposition Requirements

A. Method of Disposition

1. *Disposition for Fair Market Value.* Subject to the enumerated exceptions in subsection (3) below, the Agency shall dispose of property for not less than the fair market value of such property by sale, exchange or transfer, for cash, credit or other property, with or without warranty, and upon such other terms and conditions as the Contracting Officer deems proper.

2. *Determination of Fair Market Value.* Before disposing of property, the Contracting Officer shall take reasonable measures to determine the fair market value of the property to be disposed. Prior to its disposal, the fair market value of all real property shall be established by an appraisal conducted by an independent qualified professional and shall be included in the record of the transaction. Fair market value of property that is unique in nature and therefore not subject to fair market value pricing shall be determined through an appraisal by an independent qualified professional.

3. *Disposition for Less than Fair Market Value.*

a. *Rule.* The Agency may dispose of its property for less than fair market value if: (a) the transferee is a government or other public entity and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity; or (b) the purpose of the transfer is within the purpose, mission or governing statute of the Agency.

b. *Reporting Information.* In the event a below fair market value asset transfer is proposed, the following information shall be provided to the Agency's Board of Directors and to the public:

- i. a full description of the asset;
- ii. an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Board;
- iii. a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, and the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
- iv. a statement of the value to be received compared to the fair market value;

- v. the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and
- vi. the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

c. *Dispositions outside the Scope of Subsection (a).* In the event that the Agency seeks to transfer property for less than fair market value and such transaction does not fall within one of the enumerated exceptions in subsection (a) of this Section 3, the Agency shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the Temporary President of the Senate, as such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly.¹

B. Award and Approval of Property Disposition Contracts

1. Disposal of Property by Negotiation.

a. *Rule.* The Agency may dispose of property through negotiation or by public auction without regard to the procedure described in subsection (2) below if the Contracting Officer determines that any of the following conditions exist:

- i. the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect, that would tend to increase its value;
- ii. if the personal property is to be sold in such quantity that, if it were disposed of under the procedures described in subsection (2) below, it would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;
- iii. the fair market value of the property does not exceed fifteen thousand dollars (\$15,000);

¹ Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either house of the Legislature shall take the form of a resolution by such house. The Governor shall take any such action within sixty days of receiving notification of such proposed transfer. Each house of the Legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the Legislature receives notification of a proposed transfer during the months of July through December, the Legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the Governor, Senate and Assembly, the Agency may effectuate such transfer.

- iv. prices for the property that were obtained by advertised bid were not reasonable or the bid process did not generate open competition;
- v. disposal of the property to the state or any political subdivision at fair market value can be arranged through negotiation;
- vi. disposal of the property is for less than fair market value consistent with Section (A)(3) of this Article; or
- vii. such action is otherwise authorized by law.

b. Explanatory Statement. The Contracting Officer shall cause to be prepared an explanation of the circumstances of the disposal when property is disposed of through the negotiation process described in subsection (1) above, and any of the following are true:

- i. personal property disposed of has an estimated fair market value in excess of fifteen thousand dollars (\$15,000);
- ii. real property sold has an appraised value in excess of one hundred thousand dollars (\$100,000.00), except that any real property disposed of by lease or exchange shall only be subject to clauses (iii) and (iv) of this subsection (b);
- iii. real property disposed of by lease has an estimated annual rent over the term of the lease in excess of fifteen thousand dollars (\$15,000.00);
- iv. any real property or real and related personal property is disposed of by exchange, regardless of value; or
- v. any part of the consideration for the property disposed of consists of real property.

The Contracting Officer shall cause any and all explanatory statements required under this subsection (b) to be transmitted at least ninety (90) days in advance of disposal by negotiation to the recipients of the yearly report of dispositions required under this Article V of these Guidelines. The Contracting Officer shall maintain a copy of all written statements at the Agency's principal office.

2. Standard Procedure.

a. Advertised Bid. All disposals of Agency property shall be made after public advertisement for bids for the purchase of Agency property. The Contracting Officer shall order the advertising for bids in such a manner and in such publications as the Contracting Officer deems reasonably necessary to permit full and fair competition for the property consistent with the fair market value and nature of the property. All advertisements for soliciting

bids on Agency property shall state the method, place and deadline for the submission of bids, and shall request any other information the Contracting Officer deems necessary to evaluate bids being solicited. All advertisements and announcements soliciting bids shall state the place and time at which the content of all bids received for the property advertised shall be publicly disclosed. The content of all bids received shall be publicly disclosed as announced in the solicitation for bids.

b. Award of Property Subject to Bid. Award of the property for which bids have been solicited shall be made within a timeframe reasonable for the evaluation of the bids received. The Contracting Officer shall evaluate the bids and select the bid most advantageous to the Agency based upon (a) conformance with the invitation for bids, (b) the terms, including but not limited to the price offered, and (c) any other factors that warrant consideration. Notwithstanding the foregoing, the Agency may reject as inadequate all bids received in response to a particular solicitation for bids if the Contracting Officer deems that it is in the public interest to do so.

c. Notification of a Successful Bid. The Agency shall notify the successful bidder in writing of the Agency's acceptance of the bid. This notice shall contain a description of the property, the amount of the successful bid and any other material terms of the bid. The bidder shall be required to make payment to the Agency Treasurer in a form and on terms acceptable to the Agency before taking possession of the property. The Agency shall gather the following information regarding any successful bidder: name, address and telephone number. The Agency shall provide to the successful bidder a deed, bill of sale, lease or other appropriate instrument adequate to transfer to the successful bidder the interest in the property.

d. Contracts to Dispose of Property. The Agency may solicit bids for contracts to dispose of the Agency property covered by these Guidelines. In the event that the Agency determines that the services of a company are necessary to assist the Agency in disposing of certain of its property, the Agency shall follow the same procedures in selecting an organization to dispose of property as the Agency follows under these Guidelines for disposal of property through advertised bid. The Agency's contracting activities shall comply with New York Public Authorities Law §2896, the Agency's enabling legislation and any other applicable law for the disposal of property.

ARTICLE V

Yearly Property Report

Each year the Contracting Officer shall publish a report listing all real and personal property disposed of by the Agency during the previous twelve-month period. The report shall contain a full description of each item of property disposed of, the price received by the Authority and the name of the individual(s) or entity that purchased the property. The Contracting Officer shall cause the report to be published on the Agency's website and delivered to the proper parties as required by the New York Public Authorities Law § 2896(3).

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

AMENDED AND RESTATED
REAL PROPERTY ACQUISITION GUIDELINES

The Town of Amherst Industrial Development Agency (the “Agency”), a New York public benefit corporation, in compliance with Section 2824(1)(e) of the New York State Public Authorities Law, hereby adopts the following Amended and Restated Real Property Acquisition Guidelines (these “Guidelines”) as of April 21, 2017.

These Guidelines shall apply to the acquisition of real property until such time as the Agency adopts new or revised Guidelines. The Board of Directors shall review and approve these Guidelines, with any necessary modifications and revisions, on an annual basis, or more frequently as the Board may determine.

ARTICLE I
Designation of Contracting Officer

The Agency hereby designates the Executive Director of the Agency as the Agency’s Contracting Officer in compliance with the provisions of New York State Public Authorities Law. The Contracting Officer shall hold this position until the Members of the Agency designate a new Contracting Officer.

The Contracting Officer shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall cause these Guidelines to be posted on the Agency’s website so that they are available to the general public.

ARTICLE II
Application of Guidelines

The procedures outlined in these Guidelines shall apply to the Agency’s acquisition of all interests in real property except for acquisitions of interests in real property where the Agency is involved for the benefit of a third party. As used in these Guidelines, “property” shall include all interests in real property. The Agency shall acquire real property in a prudent manner.

ARTICLE III
Purpose

The Agency has adopted these Guidelines (i) to comply with the provisions of Section 2824(1)(e) of the New York State Public Authorities Law and (ii) to protect the Agency’s interests when acquiring real property for its own benefit.

ARTICLE IV
Property Acquisition Requirements

A. Acquisition for Fair Market Value. The Agency shall endeavor not to pay more than fair market value for any property being acquired. Where the property is such that it is required for Agency purposes and other property will not suffice, the Agency may under such circumstances pay such reasonable amount in excess of what an independent qualified professional has determined to be fair market value in order to purchase the property. In such case the Agency shall document the reasons why it is necessary to acquire such property and pay more than what was determined to be fair market value.

B. Determination of Fair Market Value. Prior to acquiring any parcel of real property, excepting property being gifted to the Agency, the Contracting Officer shall take reasonable measures to determine the fair market value of the property to be acquired and shall negotiate the purchase price after determination of the fair market value. The fair market value of all real property shall be established by an appraisal conducted by an independent qualified professional. Fair market value of property that is unique in nature and therefore not subject to fair market value pricing shall be determined through an appraisal by an independent qualified professional. In the case of real property gifted to the Agency, an appraisal shall not be required.

C. Environmental Review. Prior to the acquisition of any interest in real property covered by these Guidelines, the Agency shall take necessary steps to determine whether there are any environmental concerns. The Agency shall order a Phase I Environmental Report and, if warranted by the results of the Phase I Environmental Report, the Agency shall order a Phase II Environmental Report. The Agency shall comply with the New York State Environmental Quality Review Act (SEQRA) in any property purchase.

D. Title Review. The Agency shall have Agency General Counsel review the title documents supplied in connection with the acquisition and shall require fee title insurance unless Agency Counsel determines that title insurance is not required.

E. Execution of Property Acquisition. Agency General Counsel shall handle the purchase of property on behalf of the Agency and the Agency shall pay such reasonable fees as are required in connection with such purchase.

ARTICLE V
Yearly Property Report

Each year the Contracting Officer shall publish a report listing all real property acquired by the Agency during the previous twelve-month period. The report shall contain a full description of each parcel of real property purchased, the price paid by the Agency and the name of the individual(s) or entity that sold the property. The Contracting Officer shall publish the report on the Agency's website and shall deliver the report to the Comptroller, the Director of the Budget, the Commissioner of General Services, the New York State Legislature c/o the Speaker of the House, the Senate Majority Leader and the Authorities Budget Office.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

SEXUAL HARASSMENT PREVENTION POLICY

Introduction

The Town of Amherst Industrial Development Agency (“AIDA”) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of AIDA’s commitment to a discrimination-free work environment. Sexual harassment is against the law¹ and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with AIDA. Employees can also file a complaint with a government agency or in court under federal, state or local antidiscrimination laws.

Policy:

1. AIDA’s policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with AIDA. In the remainder of this document, the term “employees” refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. AIDA will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of AIDA who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or the Executive Director/Chief Executive Officer. All employees, paid or unpaid interns or non-employees who believe they

¹ While this policy specifically addresses sexual harassment, harassment because of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject AIDA to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level, who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. AIDA will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. AIDA will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. AIDA will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Executive Director/Chief Executive Officer.
8. This policy applies to all employees, paid or unpaid interns, and non-employees and all must follow and uphold this policy. This policy must be provided to all employees.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;

- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;

- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. AIDA cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or to the Executive Director/Chief Executive Officer. If the complaint of sexual harassment concerns the Executive Director/Chief Executive Officer, the complaint should be reported to the Chairman of the Board. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the Executive Director/Chief Executive Officer.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Executive Director/Chief Executive Officer (or the Chairman of the Board if the complaint involves the Executive Director/Chief Executive Officer).

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. AIDA will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Executive Director/Chief Executive Officer, or its designee depending on business needs or the nature of the allegations, will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
 - Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
 - Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by AIDA but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at AIDA, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to AIDA does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

STATEMENT OF DUTIES AND RESPONSIBILITIES
OF THE BOARD OF DIRECTORS

ARTICLE I

Purpose

The purpose of this Statement is to set forth the standards of conduct and responsibilities of the Town of Amherst Industrial Development Agency (the "Agency") Board of Directors in furtherance of efficient operations so as to promote and assist economic development in the Town of Amherst and fulfill the purposes of the Agency as set forth in the General Municipal Law.

ARTICLE II

Role and Expectations

It is the responsibility of Board members to: (a) execute direct oversight of the Agency's CEO and other management in the effective and ethical management of the Agency; (b) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency; (c) establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the CEO and management; (d) adopt a code of ethics applicable to each officer, director and employee that, at a minimum, includes the standards established in section seventy-four of the public officers law; (e) establish written policies and procedures on personnel, including policies protecting employees from retaliation for disclosing information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or Board member of the Agency, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services; (f) adopt a defense and indemnification policy and disclose such plan to any and all prospective Board members; and (g) adhere to the fiduciary duties of care and loyalty which they owe to the Agency.

A. Duty of Care. A Board member shall perform his or her duties, including those duties as a member of any committee of the Board upon which he or she may serve, in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.

B. Duty of Loyalty. Board members are bound by their duty of undivided and unqualified loyalty to the Agency, a duty which encompasses good faith efforts to insure that their personal profit is not at the expense of the Agency.

C. Board members may exercise and fulfill these duties by:

1. understanding the Agency's role in the economic development community;

2. regularly attending and constructively participating in meetings of the Board and related committees;
3. reviewing and understanding the materials provided in advance of meetings and any other materials provided to the Board from time to time;
4. informing oneself prior to making decisions by utilizing material information reasonably available;
5. remaining reasonably accessible to the senior management on specific issues which may not require the attention of the entire Board but where an individual Board member's insight may be helpful; and
6. becoming familiar with and understanding the policies adopted by the Agency and the criteria adopted by the Agency to evaluate projects and using their best efforts to evaluate projects before them in light of the adopted policies and criteria established by the Agency.

D. Acknowledgement of Fiduciary Duty. In conformity with Section 2824(h) of the New York Public Authorities Law, at or about the time that each Board member is appointed to or otherwise becomes a member of the Agency, he or she shall execute an Acknowledgement of Fiduciary Duties and Responsibilities in the form prescribed by the New York State Authorities Budget Office, in which the Board member acknowledges that he or she understands his or her role and fiduciary responsibilities and acknowledges that he or she understands his or her duty of loyalty and care to the Agency and commitment to the Agency's mission and the public interest.

ARTICLE III Board Member Conduct

A. Conflicts of Interest. Board members are required to conduct themselves in compliance with the conflict of interest requirements imposed upon members of industrial development agencies under Article 18 of the General Municipal Law and the requirements of the Agency's Code of Ethics.

B. Personal Loans. Board members must refrain from accepting or approving any personal loan from the Agency.

C. Decorum. Board members are expected to observe proper decorum in the conduct of their duties on behalf of the Agency and should not engage in conduct or make any public statement that harms, defames or otherwise brings discredit upon the Agency.

D. Separation of Board and Management. No Board member may serve as the Agency's CEO, Executive Director, CFO, Comptroller or hold any other equivalent position while also serving as a Board member.

ARTICLE IV
Required Filings

Board members are required by New York Public Authorities Law Section 2825 to file annual financial disclosure statements with the Town of Amherst Board of Ethics. A completed financial disclosure form covering the immediately preceding calendar year must be submitted to the Town of Amherst Board of Ethics on or before May 15 of each year.

ARTICLE V
Training

A. Board Members Appointed On or After January 13, 2006.

All Board members appointed on or after January 13, 2006 must participate in State-approved training regarding their legal, fiduciary, financial and ethical responsibilities as Board members of the Agency within one year of appointment.

B. All Board Members.

All Board members must participate in continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

C. Documentation.

The Agency shall maintain documentation of Board member participation in required training and to assure that Board members are compliant with this Article.

ARTICLE VI
Agency Affiliates

This Statement of Duties and Responsibilities shall also be applicable to the Boards of the Town of Amherst Development Corporation (“ADC”) upon approval by the ADC Board of Directors.

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY

WHISTLEBLOWER POLICY

ARTICLE I
General Provisions

The Town of Amherst Industrial Development Agency Code of Ethics (the “Code”) requires Board members, officers, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Board members, officers and employees of the Town of Amherst Industrial Development Agency (the “Agency”) must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations.

It is the policy of the Agency to afford certain protections to individuals who in good faith report violations of the Code or other instances of potential wrongdoing within the Agency. This Whistleblower Policy is intended to encourage and enable Board members, officers, employees and volunteers to raise concerns in good faith within the Agency and without fear of retaliation or adverse employment action.

The objectives of the Town of Amherst Industrial Development Agency Whistleblower Policy (this “Policy”) are to establish policies and procedures for:

- The submission of concerns regarding questionable accounting or auditing matters by Board members, officers, employees and volunteers of the Agency, on a confidential and anonymous basis;
- The receipt, retention, and treatment of complaints received by the Agency regarding accounting, internal controls, or auditing matters; and
- The protection of Board members, officers, employees and volunteers reporting concerns from retaliatory actions.

ARTICLE II
Reporting Responsibility

Each Board member, officer, employee and volunteer of the Agency has an obligation to report in accordance with this Policy (a) fraud or suspected fraud, (b) questionable or improper accounting or auditing matters, and (c) violations and suspected violations of the Code (each a “Concern,” or collectively, “Concerns”).

ARTICLE III
Authority of Finance and Audit Committee

All reported Concerns will be forwarded to the Finance and Audit Committee (the “Committee”) in accordance with the procedures set forth herein. With respect to all reported

Concerns, the Committee shall be responsible for investigating and making appropriate recommendations to the Agency's Board of Directors (the "Board") as provided herein.

ARTICLE IV
No Retaliation

No Board member, officer, employee or volunteer shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion or abuse of authority; and no Board member, officer, employee or volunteer shall interfere with the right of any other Board member, officer, employee or volunteer by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:

- a. No Board member, officer, employee or volunteer who in good faith discloses potential violations of the Code or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action. Information concerning potential wrongdoing is disclosed in "good faith" when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.
- b. All allegations of retaliation against a whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by the Agency.
- c. Any Board member, officer, employee or volunteer who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of the Agency's Code or other instances of potential wrongdoing is subject to discipline up to and including removal from the Board, dismissal from the volunteer position or termination of employment.
- d. Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

ARTICLE V
Reporting Concerns

A. Employees

Employees should first, in a prompt and timely manner, discuss their Concern with their immediate supervisor. If, after speaking with his or her supervisor, the employee has reasonable grounds to believe his or her supervisor has not taken adequate action regarding the Concern, the individual should report the Concern to the Ethics Officer, who has specific and exclusive responsibility to investigate all Concerns. In addition, if the individual is uncomfortable speaking

with his or her supervisor, or the supervisor is a subject of the Concern, the individual should report his or her Concern directly to the Ethics Officer.

If a Concern was reported verbally, the reporting individual, with assistance from the Ethics Officer, shall reduce the Concern to writing. Concerns may also be submitted anonymously. Such anonymous Concerns should be in writing and sent directly to the Ethics Officer.

Should an employee believe in good faith that disclosing information within the Agency pursuant to the procedure above would likely subject him or her to adverse personnel action or be wholly ineffective, the employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable.

B. Board Members, Officers and Volunteers

Board members, officers and volunteers should submit Concerns in writing directly to the Ethics Officer. Contact information for the Ethics Officer may be obtained from the Chief Financial Officer.

Should a Board member, officer or volunteer believe in good faith that disclosing information within the Agency pursuant to the procedure above would likely subject him or her to adverse personnel action or be wholly ineffective, the Board member, officer or other volunteer may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable.

C. Other Legal Rights Not Impaired

This Whistleblower Policy is not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

ARTICLE VI
Handling of Reported Violations

The Committee shall address all reported Concerns. The Ethics Officer shall immediately notify the Committee of any such report and the Committee will notify the sender and acknowledge receipt of the Concern within five business days, if possible. It will not be possible to acknowledge receipt of anonymously submitted Concerns.

All reports will be promptly investigated by the Committee and appropriate corrective action will be recommended to the Board if warranted by the investigation. Action taken must include a conclusion and/or follow-up with the complainant for complete closure of the Concern.

The Committee has the authority to discuss Concerns with Agency Counsel or to retain outside legal counsel, accountants, private investigators or any other resource deemed necessary to conduct a full and complete investigation of the allegations.

ARTICLE VII
Acting in Good Faith

Anyone reporting a Concern must act in good faith and have reasonable grounds for believing the information disclosed indicates an improper accounting or auditing practice or a violation of the Code. The act of making allegations that prove to be unsubstantiated, and that prove to have been made maliciously, recklessly or with the foreknowledge that the allegations are false, will be viewed as a serious disciplinary offense and may result in discipline, up to and including removal from the Board, dismissal from the volunteer position or termination of employment, as applicable. Such conduct may also give rise to other actions, including civil lawsuits.

ARTICLE VIII
Confidentiality

Reports of Concerns, and investigations pertaining thereto, shall be kept confidential to the extent possible consistent with the need to conduct an adequate investigation. Disclosure of reports of Concerns to individuals not involved in the investigation will be viewed as a serious disciplinary offense and may result in discipline, up to and including removal from the Board, dismissal from the volunteer position or termination of employment, as applicable. Such conduct may also give rise to other actions, including civil lawsuits.