

TOWN OF AMHERST DEVELOPMENT CORPORATION

**Finance & Audit Committee Meeting
Agenda**

**February 21, 2020 – 8:30 am
Agency Offices, 4287 Main Street**

1. Roll Call of Members
2. Reading an approval of Minutes
3. New Business
 - a. 2019 Draft ADC Audit
 - b. Legislative Update
4. Adjournment

TOWN OF AMHERST DEVELOPMENT CORPORATION
Minutes of the Finance & Audit Committee Meeting
March 12, 2019 – 12:00 PM
Agency Office, 4287 Main Street

| | |
|----------------------------|---|
| Audit & Finance Committee: | Michael R. Szukala Philip S. Meyer Hadar Borden |
| Guests: | Steven D. Sanders David S. Mingoia, Executive Director Justin Reid, Bonadio Group |

Mr. Szukala opened the meeting at 12:39 PM and requested a motion to approve the previous meeting's minutes. Mr. Meyer made motion, which was seconded by Ms. Borden and carried unanimously.

Mr. Mingoia provided a brief introduction to the draft 2018 Audit and noted that the ADC is beginning to take on its economic development mission beyond tax exempt bond financing with the investment in the Williamsville Co-op effort. He then introduced Mr. Reid to review the draft 2018 Audit. Mr. Reid noted that there were no material deficiencies and that his firm was recommending that the ADC change its future filings from a private foundation to government statements based. He indicated that his firm would follow up with a proposal to solicit IRS approval for this change. After discussion, Ms. Borden made a motion to forward the document to the Board of Directors. The motion was seconded by Mr. Meyer and carried unanimously.

Ms. Borden made a motion to end the meeting at 12:58 PM, seconded by Mr. Meyer and carried unanimously.

TOWN OF AMHERST DEVELOPMENT CORPORATION

**(A Blended Component Unit of the Town of
Amherst, New York)**

**Financial Statements as of
December 31, 2019 and 2018**

**Together with Independent
Auditor's Report**

Bonadio & Co., LLP
Certified Public Accountants

TOWN OF AMHERST DEVELOPMENT CORPORATION
(a Blended Component Unit of the Town of Amherst, New York)

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INDEPENDENT AUDITOR'S REPORT

March 27, 2020

To the Board of Directors of the
Town of Amherst Development Corporation

Report on the Financial Statements

We have audited the accompanying financial statements of the Town of Amherst Development Corporation (the Corporation) (a New York not-for-profit corporation and blended component unit of the Town of Amherst, New York), as of and for the years ended December 31, 2019 and 2018, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Corporation as of December 31, 2019 and 2018, and the changes in financial position and cash flows thereof for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated **March 27, 2020** on our consideration of the Corporation's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Corporation's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Corporation's internal control over financial reporting and compliance.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(a Blended Component Unit of the Town of Amherst, New York)

Management's Discussion and Analysis (Unaudited)
For the years ended December 31, 2019 and 2018

The following Management's Discussion and Analysis (MD&A) of the Town of Development Corporation's (the Corporation) financial position provides an overview of the Corporation's financial activities for the years ended December 31, 2019 and 2018. The MD&A should be read in conjunction with Corporation's financial statements and related notes, which follow the MD&A.

FINANCIAL HIGHLIGHTS

- The assets of the Corporation exceeded its liabilities at December 31, 2019 and 2018 by \$88,555 and \$97,832, respectively.
- The Corporation's net position decreased by \$9,277 in 2019 and increased by \$136,619 in 2018, as a result of 2019 and 2018 operations.
- The Corporation did not have revenue in 2019. In 2018, the Corporation's total revenue was \$144,780.
- The Corporation's total expenses were \$9,277 and \$8,161 in 2019 and 2018, respectively.

OVERVIEW OF THE FINANCIAL STATEMENTS

The statement of net position and the statement of revenue, expenses, and change in net position report information about the Corporation as a whole and about its activities. These statements include all assets and liabilities using the accrual basis of accounting, which is similar to the accounting used by most private-sector companies. All of the current year's revenue and expenses are taken into account regardless of when cash is received or paid.

These two statements report the Corporation's net position and changes in them from one year to the next. The Corporation's net position, the difference between assets and liabilities, is one way to measure the Corporation's financial health, or financial position. Over time, increases or decreases in the Corporation's net position are one indicator of whether its financial health is improving or deteriorating. Consideration should also be given to other factors, such as changes in the Corporation's fee income and the fluctuation of the Corporation's expenses, to assess the overall health of the Corporation.

NOTES TO FINANCIAL STATEMENTS

The financial statements also include notes that explain the information in the financial statements. They are essential to a full understanding of the data provided in the financial statements.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(a Blended Component Unit of the Town of Amherst, New York)

Management’s Discussion and Analysis (Unaudited)
For the years ended December 31, 2019 and 2018

FINANCIAL ANALYSIS

The analysis below summarizes the statements of net position (Table 1) and changes in net position (Table 2) of the Corporation as of and for the years ended December 31, 2019, 2018, and 2017.

| | <u>2019</u> | <u>2018</u> | <u>2017</u> |
|-----------------------|--------------|--------------|----------------|
| ASSETS: | | | |
| Current assets | \$ 134 | \$ 143 | \$ 36 |
| Investments | <u>5</u> | <u>5</u> | <u>5</u> |
| Total assets | <u>139</u> | <u>148</u> | <u>41</u> |
| LIABILITIES: | | | |
| Current liabilities | - | - | 30 |
| Long-term liabilities | <u>50</u> | <u>50</u> | <u>50</u> |
| Total liabilities | <u>50</u> | <u>50</u> | <u>80</u> |
| NET POSITION: | | | |
| Unrestricted | <u>89</u> | <u>98</u> | <u>(39)</u> |
| Total net position | <u>\$ 89</u> | <u>\$ 98</u> | <u>\$ (39)</u> |

The Corporation’s entire net position is unrestricted and available to meet ongoing and future liabilities. The decrease in overall net position from 2018 to 2019 is due to the Corporation incurring expenses but having no revenue-generating projects during the year.

Long-term liabilities consist of the Corporation’s note payable owed to the Amherst Industrial Development Agency.

Overall, as of December 31, 2019, the Corporation reports a positive net position.

Table 2 shows the changes in net position for the years ended December 31, 2019, 2018, and 2017.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(a Blended Component Unit of the Town of Amherst, New York)

Management’s Discussion and Analysis (Unaudited)
For the years ended December 31, 2019 and 2018

Table 2 – Changes in Net Position (000s omitted)

| | <u>2019</u> | <u>2018</u> | <u>2017</u> |
|---------------------------------|---------------|---------------|-------------|
| REVENUES: | | | |
| Administrative fees | \$ - | \$ 144 | \$ 408 |
| Transfer from related party | - | 1 | 6 |
| Total revenues | - | 145 | 414 |
| EXPENSES: | | | |
| Transfer to Town of Amherst IDA | - | - | 408 |
| Management and general | 9 | 8 | 5 |
| Total expenses | 9 | 8 | 413 |
| Change in net position | \$ (9) | \$ 137 | \$ 1 |

Corporation revenues in 2019 decreased from 2018 due to a decrease in the level of refinancings in 2019 when compared with 2018.

The Corporation’s expenses increased 14% from 2018 to 2019 as the Corporation contributed to the financing of the structural report for the Boiler House property at 404 Mill Street in 2019.

FUTURE FACTORS

The Tax Cut and Jobs Act, signed into law by the President of the United States at the end of 2017, created Opportunity Zones (OZ) to attract investment capital into areas that are considered economically distressed or next to areas that qualify. Investors defer tax on capital gains invested in an OZ depending on the length of time the investment remains in an OZ. There are 8,732 OZ in the United States competing for capital that must be invested by 2021.

Amherst’s OZ is a large triangular geography that begins at the nexus of Niagara Falls Boulevard and the I-290 and spreads South and East until the North side of Sheridan Drive. There are several large property owners that own significant tracts (+40-50 contiguous acres) that could take advantage of this program to springboard redevelopment of declining office and retail facilities. Town and ADC efforts are focusing to accelerate repurposing of the Ridge Lea Complex and Boulevard Mall Area, one or both of which could lead to meaningful projects for the ADC.

Overall, The Town has an interest in leveraging the powers of the ADC to facilitate priority projects. Its ability to acquire, effect some change, and sell property (or some combination of) is of interest with planning for the OZ and Amherst Central Park. Additionally, the ADC is viewed as the probable vehicle to underwrite and administer a façade program under consideration for 2019 and acquisition of the Boiler House in Amherst State Park for preparation of private use.

TOWN OF AMHERST DEVELOPMENT CORPORATION
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Management's Discussion and Analysis (Unaudited)
For the years ended December 31, 2019 and 2018

On the State Level, advocates for requiring prevailing wages to be paid on any project that receives state or local incentives is under consideration by both houses of the Legislature. Bills making this a part of the economic landscape have been introduced and supported previously by democratic conferences. Since the State Senate is now firmly in democratic control, there is a heightened risk of passage of this damaging mandate. An independent analysis concluded that this provision would add approximately 28 percent to the cost of an economic development project upstate, drive-up the cost of doing business in the state even higher, and thereby make the entire state less competitive. The increase in construction would effectively eliminate the benefit that a development corporation provides, which is usually between 10-20% of total investment. This mandate would apply to any work or incentives provided by the ADC.

CONTACTING CORPORATION'S ADMINISTRATION

This financial report is designed to provide citizens, taxpayers, customers, investors and creditors with a general overview of the Corporation's finances and to show the accountability for the money received. If you have questions about this report or need additional financial information, contact the Town of Amherst Development Corporation, 4287 Main Street, Amherst, NY 14226.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Statements of Net Position
December 31, 2019 and 2018

| | <u>2019</u> | <u>2018</u> |
|------------------------------|-------------------------|-------------------------|
| ASSETS | | |
| CURRENT ASSETS: | | |
| Cash | \$ <u>133,555</u> | \$ <u>142,832</u> |
| Total current assets | 133,555 | 142,832 |
| INVESTMENTS | <u>5,000</u> | <u>5,000</u> |
| Total assets | <u>138,555</u> | <u>147,832</u> |
| LIABILITIES | | |
| NOTE PAYABLE - related party | \$ <u>50,000</u> | \$ <u>50,000</u> |
| Total liabilities | 50,000 | 50,000 |
| NET POSITION | | |
| UNRESTRICTED | <u>88,555</u> | <u>97,832</u> |
| Total net position | <u><u>\$ 88,555</u></u> | <u><u>\$ 97,832</u></u> |

The accompanying notes are an integral part of these statements.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Statements of Revenues, Expenses, and Change in Net Position
For the years ended December 31, 2019 and 2018

| | <u>2019</u> | <u>2018</u> |
|---|----------------------------|--------------------------|
| OPERATING REVENUE: | | |
| Administrative fees | \$ <u> -</u> | \$ <u> 143,500</u> |
| Total operating revenue | <u> -</u> | <u> 143,500</u> |
| OPERATING EXPENSES: | | |
| Management and general | <u> 9,277</u> | <u> 7,661</u> |
| Total operating expenses | <u> 9,277</u> | <u> 7,661</u> |
| OPERATING INCOME | <u> (9,277)</u> | <u> 135,839</u> |
| TRANSFERS: | | |
| Transfer from Town of Amherst Industrial Development Agency | - | 1,280 |
| Transfer to Town of Amherst Industrial Development Agency | <u> -</u> | <u> (500)</u> |
| Net transfers | <u> -</u> | <u> 780</u> |
| CHANGE IN NET POSITION (DEFICIT) | (9,277) | 136,619 |
| NET POSITION (DEFICIT) - beginning of year | <u> 97,832</u> | <u> (38,787)</u> |
| NET POSITION (DEFICIT) - end of year | <u>\$ 88,555</u> | <u>\$ 97,832</u> |

The accompanying notes are an integral part of these statements.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Statements of Cash Flows

For the years ended December 31, 2019 and 2018

| | <u>2019</u> | <u>2018</u> |
|---|-------------------|-------------------|
| CASH FLOW FROM OPERATING ACTIVITIES: | | |
| Cash received from administrative fees | \$ - | \$ 143,500 |
| Cash paid for management fees | - | (29,620) |
| Cash paid for supporting services | <u>(9,277)</u> | <u>(7,661)</u> |
| Net cash flow from operating activities | <u>(9,277)</u> | <u>106,219</u> |
| CASH FLOW FROM NONCAPITAL FINANCING ACTIVITIES: | | |
| Transfer from Town of Amherst Industrial Development Agency | - | 1,280 |
| Transfer to Town of Amherst Industrial Development Agency | <u>-</u> | <u>(500)</u> |
| Net cash flow from noncapital financing activities | <u>-</u> | <u>780</u> |
| CHANGE IN CASH | (9,277) | 106,999 |
| CASH - beginning of year | <u>142,832</u> | <u>35,833</u> |
| CASH - end of year | <u>\$ 133,555</u> | <u>\$ 142,832</u> |
| RECONCILIATION OF CHANGE IN NET ASSETS (DEFICIT) TO NET CASH FLOW FROM OPERATING ACTIVITIES: | | |
| Change in operating income | \$ (9,277) | \$ 135,839 |
| Adjustments to reconcile change in net assets to net cash flow from operating activities: | | |
| Changes in: | | |
| Accounts payable - related party | <u>-</u> | <u>(29,620)</u> |
| Net cash flow from operating activities | <u>\$ (9,277)</u> | <u>\$ 106,219</u> |

The accompanying notes are an integral part of these statements.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Notes to Basic Financial Statements
December 31, 2019 and 2018

1. NATURE OF ACTIVITIES

The Town of Amherst Development Corporation (the Corporation) was incorporated on May 23, 1977 under Section 402 of the Not-for-Profit Corporation Law to achieve the following lawful public and quasi-public objectives:

- Relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instruction or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding the Town of Amherst (the Town) by attracting new industry hereto and by encouraging the development or retention of industries in the Town and improving the economy and lessening the burdens of government and otherwise acting in the public interest, all within the Town;
- Construct, acquire, rehabilitate and improve for use by others, industrial or manufacturing plants within said Town where projects assisted by the Empire State Development Corporation are to be located, and to assist financially in such construction, acquisition, rehabilitation and improvement and to maintain such plant for others;
- To study and promote, alone or in concert with local officials and interested local groups, the economic growth and business prosperity of the Town and such other areas of Western New York as may relate to and affect the Town and further the solution of other civic problems of the Western New York region.

The Corporation is a blended component unit of the Town of Amherst, New York.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The Corporation's financial statements are prepared in conformity with accounting principles generally accepted in the United States as set forth by the Governmental Accounting Standards Board (GASB) for proprietary funds.

Basis of Presentation

GASB requires the classification of net position into three categories defined as follows:

- Net investment in capital assets - This component of net position consists of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets, if applicable. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds is not included in the calculation of net investment in capital assets. Rather, that portion of the debt is included in the same net position component as the unspent proceeds.
- Restricted net position - This component of net position consists of amounts which have external constraints placed on their use imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Notes to Basic Financial Statements
December 31, 2019 and 2018

- Unrestricted net position - This component of net position consists of net position that do not meet the definition of “net investment in capital assets,” or “restricted.”

When both restricted and unrestricted resources are available for use for the same purpose, the Corporation uses restricted resources first and then unrestricted resources, as needed.

Cash

The Corporation’s only cash as of December 31, 2019 and 2018 is classified as a demand deposit.

Investments

The Corporation, as part of its economic development mission, invests non-public source funds in equity securities for start-up companies. These investments do not have a readily available fair market value and therefore are valued at cost in these financial statements.

Tax-Exempt Bonds

The Corporation is authorized to act on the behalf of the Town for the primary purpose of issuing tax-exempt bonds. The Corporation charges an administrative fee for issuing such bonds that the Town of Amherst Industrial Development Agency (the Agency) would customarily charge. Such fees are recognized when earned and transferred to the Agency.

Income Taxes

The Corporation is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code, therefore, no provision for income taxes is reflected in the financial statements. The Corporation has been classified as a publicly supported organization that is a private foundation under Section 509(a) of the Code. The Corporation presently discloses or recognizes income tax positions based on management’s estimate of whether it is reasonably possible or probable that a liability has been incurred for unrecognized income taxes. Management has concluded that the Corporation has taken no uncertain tax positions that require adjustment in its financial statements.

However, the Corporation is classified as a private foundation and as such, is subject to a federal excise tax of 2% of net investment income. The Corporation did not have any net investment income for the years ended December 31, 2019 and 2018.

Contributed Services

The Corporation recognizes contributed services at their fair value if the services have value to the Corporation, are estimable and require specialized skills, are provided by individuals possessing those skills, and would have been purchased if not provided by contributors.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

Notes to Basic Financial Statements
December 31, 2019 and 2018

3. DEPOSITS WITH FINANCIAL INSTITUTIONS AND INVESTMENTS

The Corporation funds must be deposited in Federal Deposit Insurance Corporation (FDIC) insured commercial banks or trust companies located within the state which have a branch office located within the Town. The Treasurer is authorized to use demand accounts and certificates of deposit.

Collateral is required for demand deposits and certificates of deposit at 102% of the amount of all deposits not covered by federal deposit insurance. Obligations that may be pledged as collateral are outlined in chapter 623 of the laws of the State of New York.

Cash and equivalents of the Corporation are stated at fair value, which approximates cost. Cash and equivalents balances as of December 31, 2019 and 2018 were fully FDIC insured.

The Corporation, as part of its economic development mission, invests non-public source funds in equity securities for start-up companies. These investments do not have a readily available fair market value and therefore are valued at cost.

4. RELATED PARTY TRANSACTIONS

The Corporation is related to the Agency through members of its Board of Directors. At December 31, 2019 and 2018, the Corporation had a \$50,000 non-interest bearing note payable to the Agency. In December 2019, the Board of Directors approved the repayment of this note in full to the Agency in early 2020.

In addition, the Agency provides office space and personnel at cost to the Corporation. The Corporation reimburses the Agency for the use of office space and personnel through its management fee. During the year ended December 31, 2019, the Corporation did not transfer any amount to the Agency, as the Corporation did not have any revenue-generating projects during the year. For the year ended December 31, 2018, the Corporation transferred \$500 to the Agency for office space and personnel.

5. NOTE PAYABLE

As mentioned previously, the Corporation had a \$50,000 non-interest bearing note payable to the Agency at December 31, 2019 and 2018. There were no payments made on this note during 2019 or 2018.

6. SUBSEQUENT EVENTS

Subsequent events have been evaluated through March 27, 2020, which is the date the financial statements were available to be issued.

INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

March 27, 2020

To the Board of Directors of
Town of Amherst Development Corporation

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Town of Amherst Development Corporation (the Corporation), a blended component unit of the Town of Amherst, New York, for the year ended December 31, 2019, and the related notes to the financial statements, which collectively comprise the Corporation's basic financial statements, and have issued our report thereon dated March 27, 2020.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Corporation's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control. Accordingly, we do not express an opinion on the effectiveness of the Corporation's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Corporation's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* .

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

**TOWN OF AMHERST
DEVELOPMENT CORPORATION
(A Blended Component Unit
of the Town of Amherst, New York)**

**Communication of Matters Related to Internal Control
Over Financial Reporting and Other Matters
March 2020**

Draft - Subject to Change

March 2020

To the Board of Directors of the
Town of Amherst Development Corporation:

In planning and performing our audit of the financial statements of the Town of Amherst Development Corporation (the Corporation) as of and for the year ended December 31, 2019, in accordance with auditing standards generally accepted in the United States of America, we considered the Corporation's internal control over financial reporting (internal control) as a basis for designing auditing procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Corporation's internal control. Accordingly, we do not express an opinion on the effectiveness of the Corporation's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses. Given these limitations during our audit, we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

This communication is intended solely for the information and use of management, the Board of Directors, the Audit Committee, and others within the Corporation and is not intended to be and should not be used by anyone other than these specified parties.

TOWN OF AMHERST DEVELOPMENT CORPORATION
(A Blended Component Unit of the Town of Amherst, New York)

**COMMUNICATION OF MATTERS RELATED TO INTERNAL CONTROL OVER FINANCIAL REPORTING AND
OTHER MATTERS**
MARCH 2020

OTHER MATTERS FOR THE CONSIDERATION OF MANAGEMENT

1. POLICIES

Observation

We noted that the Corporation's policies refer to the Town of Amherst Industrial Development Agency within the documentation.

Recommendation

We recommend new policies be adopted that clearly delineate the policies are applicable to the Corporation.

LEGISLATIVE UPDATE: PREVAILING WAGE

The Governor included language in his budget proposal to expand the State's prevailing wage mandates to private construction projects. Several versions of this proposal were introduced last year, including a bill that would require prevailing wage mandates and benefits be applied to any project receiving a single dollar of public support. The final version, introduced by the Governor, would have exempted New York City from these mandates, imposing them on the states more economically distressed regions, particularly Upstate. We know the devastating effects from the Ulster County IDA and City of Yonkers that enacted a similar prevailing wage provision: No Projects.

The Governor's language would apply prevailing wage mandates on projects that receive thirty percent (30%) or more in public benefit and have a total construction cost of \$5 million or more. These prerequisites are paired with a lengthy list of carve-outs and exemptions intended to protect certain development projects. Some of the exemptions in this proposal include family dwellings, certain non-profit and affordable housing construction, Downtown Revitalization Initiative investments and the value of brownfield and historic rehabilitation credits. Additional carve outs are specific to New York City development, including construction of supermarkets, schools and certain small business incubator development, alongside the City's crucial 421-A tax abatement program.

The most troubling aspect of the bill is the creation of the Public Subsidy Board, which has the authority to rewrite the bill. This board, consisting of 11 members 9 of which are appointed by the Governor, could decide with "the full force and effect of law", to modify the percentage and total construction cost thresholds, add or remove benefit programs or make other fundamental changes to the proposal, without any legislative oversight. Since this is part of the budget, everything regarding its final form is fluid and part of budget negotiations.

A number of efforts are underway to defeat this measure, or minimize its impact, including Unshackle Upstate, Chambers of Commerce, Faith Based Organizations and Minority Contractors. Our statewide organization, New York State EDC, is working with these entities and others on providing meaningful data showing the negative effects this bill will have if enacted, including a white paper expected at the end of the month.