

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Agenda – 536th Meeting
Friday, September 16, 2022-8:30 am

James J. Allen Boardroom
Agency Offices – 4287 Main Street, Amherst, NY 14226

1. Roll Call of Members
2. Reading and Approval of Minutes
3. Bills & Communications
4. Treasurer's Report
5. Public Comment
 - a. Speakers Limited to Three (3) Minutes
6. Executive Director's Report
7. Committee Reports
 - a. Governance Committee
8. Unfinished Business
9. New Business
 - a. Authorization Resolution – Ingram Micro
10. Adjournment

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY
Minutes of the 535th Meeting
Friday, May 20, 2022 – 8:35 am – via Zoom
James J. Allen Boardroom
Agency Offices, 4287 Main Street

PRESENT: William Tuyn
Anthony Agostino
Timothy Drury
Hadar Borden
Frank LoTempio, III
Nicole Gavigan
David S. Mingoia, Executive Director
Kevin J. Zanner, Hurwitz & Fine PC

EXCUSED: Carlton N. Brock, Jr.

GUESTS via Zoom: AIDA Staff
Jacqueline Berger, TOA Councilmember
David Tytka, Uniland Development
Paul Bliss, MEL Investors, LP

Vice Chairman William Tuyn called the meeting to order and reminded everyone the meeting was being video recorded and live-streamed.

MINUTES

Upon a motion by Frank LoTempio, seconded by Anthony Agostino and unanimously carried, the minutes of the April 2022 meeting were approved as presented.

BILLS & COMMUNICATIONS

The board was provided a copy of the Town of Amherst 2022 PILOT Exemption Report which found that the PILOTs collected in 2022 were in order and that there were no reportable findings. There were no comments.

TREASURER’S REPORT

Upon a motion by Frank LoTempio, seconded by Hadar Borden and unanimously carried, the Treasurer’s Report for April 2022 was approved as presented.

PUBLIC COMMENT

There was no Public Comment at this meeting.

EXECUTIVE DIRECTOR’S REPORT

Attached to the minutes is the Executive Director’s Report.

Executive Director Mingoia asked the Board to join him in congratulating AIDA staff member Jon O’Rourke on his upcoming retirement. Mr. Mingoia presented Mr. O’Rourke with a plaque thanking him for his service to the Town of Amherst and to the Agency.

COMMITTEE REPORTS

There were no Committee Reports presented at this meeting.

UNFINISHED BUSINESS

There was no Unfinished Business presented at this meeting.

NEW BUSINESS

I. 6842 Main Street, LLC – Authorization Resolution

The applicant is requesting authorization for an approximately \$18,700,000 lease transaction for property located at 6842-6846 Main St. The project will be a mixed-use, comparable to the recently completed building at 6770-6790 Main St. The site is currently vacant and generates \$38,839 in annual town, county & school taxes. Project is located within the Clarence Central School District.

The project is located within a Town Designated Enhancement Zone and an adopted Retrofit Zoning District and includes approximately 80,000 square feet of apartments and 10,000 square feet of retail/office space. The project will contain 67 apartments with the developer targeting ten units for workforce housing to enhance live, work play opportunities in a walkable setting.

The applicant states that Agency assistance is necessary to complete the project as approved by the Town given the enhanced building materials and improvements required in the mixed-used districts and the design advisory board. Project financing is now much more difficult due to COVID-19 and now requires increased equity on already higher construction and labor costs. Projects including commercial space are less attractive to lenders. The inclusion of the workforce housing priced for employees working at nearby businesses is an additional cost to the project.

Frank LoTempio made a motion to approve the project, with Anthony Agostino seconding the motion.

After discussion, votes to approve the authorization resolution for 6842 Main Street, LLC project were cast by Tuyn, Agostino, Drury, Borden, LoTempio and Gavigan. Motion to approve passed by a vote of 6-0.

9:07 am - Frank LoTempio made a motion to adjourn the meeting. Anthony Agostino seconded the motion to adjourn. The motion to adjourn passed unanimously by a vote of 6-0.

Committee Reports – Governance Committee

The Governance Committee met on June 2, 2022 and reviewed all of the existing Amherst IDA policies. The Governance Committee recommends changes to the following policies, which are included at the end of the Board Packet:

1. AIDA/ADC Shared Services Policy
2. Board of Directors Statement of Duties
3. Credit Card Policy
4. Data Gathering Policy
5. Fixed Asset Policy
6. Investment Policy
7. Procurement Policy
8. Property Disposal Policy
9. Travel and Expenses Policy

The Governance Committee does not recommend changes to the following policies, found at AmherstIDA.com/policies, but affirms their accuracy per State guidelines:

1. Code of Ethics
2. Compensation
3. Conflict of Interest
4. Defense & Indemnification
5. Fee Schedule
6. Local Labor
7. Recapture of Benefits Policy
8. Real Property Acquisition
9. Whistle-Blower
10. Sexual Harassment

**PROJECT PROFILE:
INGRAM MICRO 2022**
\$13,600,000
September 16, 2022



ELIGIBILITY

- Commercial Project under NYS Law
- Eligible Company Under Countywide Uniform Tax Exemption Policy

COMPANY INCENTIVES (EST.)

- Property Tax = \$1,770,827
- Sales Tax = \$743,750
- Mortgage Tax= \$105,000

PROJECT BENEFITS (EST.)

- Property Taxes = \$634,693
- Income Taxes = \$111,726,163
- Sales Taxes = \$38,017,930

EMPLOYMENT

- 71 Construction and Related Jobs Created
- 1,670 Full-Time Equivalent Jobs Retained
- Site Payroll = \$125,000,000

PROJECT SCHEDULE

- January 2023 - Project Begins
- April 2026 - Project Complete

Project Address:
1759 Wehrle Drive
Williamsville, New York 14221
(Williamsville Central School District)

Investment:
Construction: \$10,200,000
Equipment: \$3,400,000



Project Summary:

Ingram Micro works with businesses to fully realize the promise of technology by leveraging its global infrastructure to deliver cloud and specialty technology solutions. It delivers a broad spectrum of technology, Cloud, ITAD and Reverse Logistics and Repairs to its customers. The company supports global operations through an extensive sales and distribution network in 61 countries that supports 170,000 customers in approximately 200 countries. Among its suppliers is a who’s who in the technology space—Acer, Apple, Cisco, HP, IBM, Lenovo, Microsoft, Samsung and others. 98% of the company’s sales are outside of New York State.

Ingram Micro is the sole tenant leasing approximately 200,000 square feet of existing office buildings located at the project site. The company is negotiating to purchase the buildings, which will require substantial renovations on interior improvements and new furniture, fixtures and equipment. The current property pays \$259,525 annually in property taxes.

Ingram Micro is evaluating options of where to deploy capital across its network which includes similar facilities in Miami, Florida, Scottsdale, Arizona and Greer, South Carolina. This particular investment is evaluated against the Miami facility, which according to an economic analysis conducted by CBRE’s Americas Consulting team, would cost \$4.8 million more in Amherst over a 10-year period.

Ingram Micro is seeking approval of Amherst IDA incentives before making a final decision. The company is also working with other economic development entities, including Empire State Development, on additional incentives.

**PROJECT PROFILE:
INGRAM MICRO 2022
\$13,600,000**

AIDA COMPANY HISTORY:

1. Ingram begins construction on first of two phases of the 1759 Wehrle Drive building in 1991 assisted by the AIDA and Empire State Development. The \$9.6 million project retained 247 jobs with projected increases up to 1,159 full time positions.
2. Ingram purchases 395 Youngs Road for \$5.3 million for a Training Center in 1997.
3. Ingram invests \$11 million in the purchase of new equipment and minor renovations to 1759 Wehrle in 2013. Ingram employed approximately 1,350 at that time.

MATERIAL TERMS:

1. Attainment of 1,670 Full-Time Equivalent Positions at the project location after completion and maintenance of these positions for the duration of the PILOT.
2. Investment of not less than \$11,560,000 at the project location as noted in the application.
3. Compliance with the Agency's Local Labor Policy in connection with the construction of the Project

Town of Amherst Industrial Development Agency

MRB Cost Benefit Calculator



Date: September 16, 2022
 Project Title: Ingram Micro 2022
 Project Location: 1759 Wehrle Drive, 14221

Economic Impacts

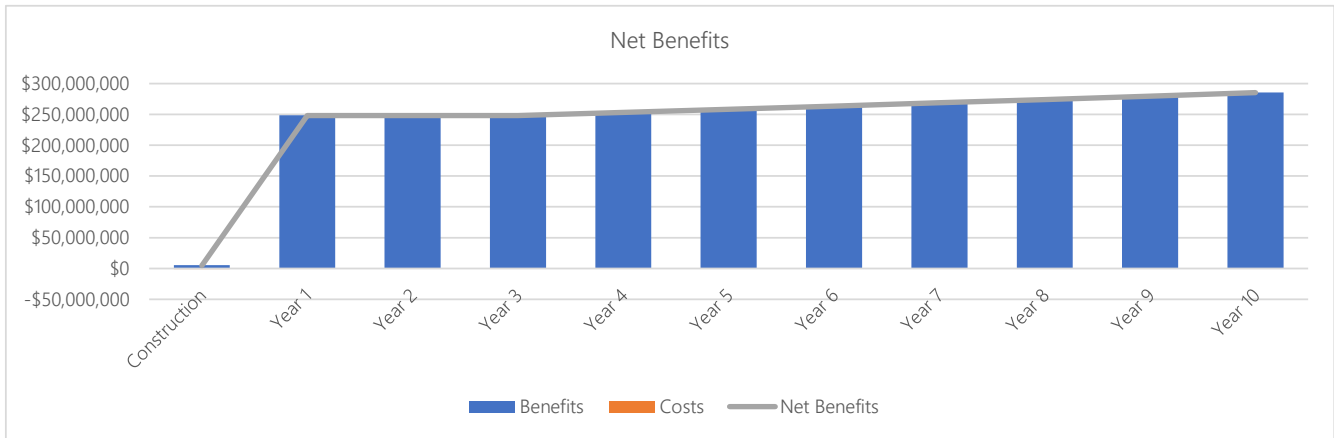
Summary of Economic Impacts over the Life of the PILOT

Project Total Investment
 \$10,200,000

		Temporary (Construction)		
		Direct	Indirect	Total
Jobs		39	33	71
Earnings		\$3,415,927	\$1,865,620	\$5,281,548
Local Spend		\$8,160,000	\$5,777,576	\$13,937,576

		Ongoing (Operations)		
		Direct	Indirect	Total
Jobs		1670	2295	3965
Earnings		\$1,325,516,874	\$1,152,005,192	\$2,477,522,065

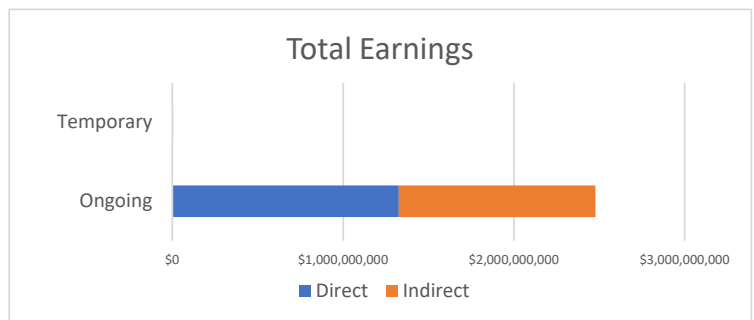
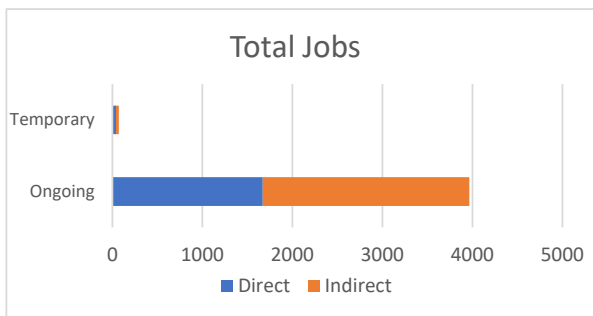
Figure 1



Net Benefits chart will always display construction through year 10, irrespective of the length of the PILOT.

Figure 2

Figure 3



Fiscal Impacts



Cost-Benefit Analysis Tool powered by MRB Group

Estimated Costs of Exemptions

	Nominal Value	Discounted Value*
Property Tax Exemption	\$1,770,827	\$1,600,301
Sales Tax Exemption	\$743,750	\$743,750
Local Sales Tax Exemption	\$403,750	\$403,750
State Sales Tax Exemption	\$340,000	\$340,000
Mortgage Recording Tax Exemption	\$105,000	\$105,000
Local Mortgage Recording Tax Exemption	\$35,000	\$35,000
State Mortgage Recording Tax Exemption	\$70,000	\$70,000
Total Costs	\$2,619,577	\$2,449,051

State and Local Benefits

	Nominal Value	Discounted Value*
Local Benefits	\$2,506,671,861	\$2,246,010,023
To Private Individuals	\$2,482,803,613	\$2,224,626,135
Temporary Payroll	\$5,281,548	\$5,281,548
Ongoing Payroll	\$2,477,522,065	\$2,219,344,587
Other Payments to Private Individuals	\$0	\$0
To the Public	\$23,868,248	\$21,383,888
Increase in Property Tax Revenue	\$634,693	\$560,478
Temporary Jobs - Sales Tax Revenue	\$43,903	\$43,903
Ongoing Jobs - Sales Tax Revenue	\$20,594,402	\$18,448,302
Other Local Municipal Revenue	\$2,595,250	\$2,331,205
State Benefits	\$129,105,788	\$115,680,559
To the Public	\$129,105,788	\$115,680,559
Temporary Income Tax Revenue	\$237,670	\$237,670
Ongoing Income Tax Revenue	\$111,488,493	\$99,870,506
Temporary Jobs - Sales Tax Revenue	\$36,971	\$36,971
Ongoing Jobs - Sales Tax Revenue	\$17,342,654	\$15,535,412
Total Benefits to State & Region	\$2,635,777,649	\$2,361,690,582

Benefit to Cost Ratio

	Benefit*	Cost*	Ratio
Local	\$2,246,010,023	\$2,039,051	1101:1
State	\$115,680,559	\$410,000	282:1
Grand Total	\$2,361,690,582	\$2,449,051	964:1

*Discounted at 2%

Additional Comments from IDA

2022 Project Investment to Purchase and Renovate 1759 Wehrle Drive

Does the IDA believe that the project can be accomplished in a timely fashion? Yes



PILOT DETERMINATION SCORING WORKSHEET

Baseline Requirements (Must Achieve All)

- Application Complete
- Eligible Project Per Countywide UTEP
- Local Labor Compliance
- Planning Approval (If Applicable)

PILOT Scoring Metrics

1 Point Per Checked Box Except Where Noted
 Investment, Employment, and Construction Employment are Cumulative Categories

- Location**
- Distressed Census Tract
 - Designated Development Area
 - Historic Preservation
 - Building Re-use
 - Infill Development
 - Transit
 - Green Building
 - Brownfield

- Investment *(Cumulative)**
- Under \$10 Million
 - \$10 Million - \$20 Million
 - Over \$20 Million

- Community**
- Out of Region Sales > 30%
 - In Region Purchase > 50%
 - Average Wage > Median
 - ROI Ratio > 15 to 1
 - Local Revenue/Abatement Ratio > 2 to 1
 - Workforce Housing
 - MWBE
 - Out of Area Option(s)

- Strategic Industry (2pts)**
- Advanced Manufacturing
 - Back Office
 - Life Sciences
 - Technology
 - Distribution/Logistics
 - Agriculture
 - Renewable Energy
 - Regional Tourism/Arts

- Employment *(Cumulative)**
- New Jobs**
- 1-15
 - 16-40
 - 41-85
 - 86-150
 - 151+

- Construction Employment * (Cumulative)**
- 1-50
 - 51-100
 - 101+

- Retained Jobs**
- 1-75
 - 76-150
 - 151+

5-Year PILOT = 1-6 Points (75,65,55,45,35)
 7-Year PILOT = 7-12 Points (95,90,85,80,75,70,65)
 10-Year PILOT = 13+ Points (95,90,85,85,80,80,80,75,75,70,65)



RESOLUTION OF THE TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE RENOVATION AND EQUIPPING OF AN APPROXIMATELY 170,000 SQUARE FOOT OFFICE BUILDING BY INGRAM MICRO INC., TO BE LOCATED AT 1759 WEHRLE DRIVE, AMHERST, NEW YORK FOR SALE OR LEASE TO THE AGENCY AND SUBSEQUENT LEASE OR RECONVEYANCE PURSUANT TO AN INSTALLMENT SALE CONTRACT TO INGRAM MICRO INC., THE EXECUTION OF A MORTGAGE AGREEMENT, LEASE AGREEMENT AND/OR INSTALLMENT SALE CONTRACT AND PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.

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

WHEREAS, Ingram Micro Inc., for itself or for related individuals or entities (the “Company”), has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the renovation, remodeling, maintenance and repair of an existing 170,000+/- square foot office building and related site improvements (the “Improvements”); (ii) the acquisition and installation therein, thereon or thereabout of certain machinery, equipment and related personal property (the “Equipment”); and (iii) the conveyance of the Project pursuant to the lease of the Project to the Company, such Project to be located at 1759 Wehrle Drive in the Town of Amherst, New York (the “Premises”); and

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

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for the renovation involving the remodeling, maintenance and repair of an existing 170,000+/- square foot office building and related site improvements located at 1759 Wehrle Drive, Amherst, New York for commercial purposes, all at a cost of approximately \$13,600,000.00; that the Company anticipates that 1,670 full-time equivalent positions will be retained as a result of the Project at the end of two (2) years of operation thereof; that (i) there will be no substantial adverse disruption of existing employment of facilities of a similar nature in the Town of Amherst, (ii) the Project will retain present substantial employment and result in substantial capital investment; (iii) that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project in the Town of Amherst; and

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on September 1, 2022, and has considered all oral and written presentations made at or in connection with said public hearing; and

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

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

WHEREAS, the Company is expected to undertake and complete the Project by obtaining a conventional loan from a third party, and the Company has requested that the Agency execute any and all documents required by the parties, including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

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

WHEREAS, the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to undertake the Project; and

WHEREAS, based on the Agency’s review of the Application and the EAF, the Project qualifies as a Type II action under SEQRA and therefore no further environmental review is required.

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

Section 1. The Agency, based upon the representations made by the Company to the Agency in the Application and EAF, hereby finds and determines that the Project qualifies as a Type II action pursuant to Sections 617.5(c)(1) and 617.5(c)(31) of the SEQRA regulations and no further environmental review is required.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance to be provided in connection therewith include: an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$8,500,000.00, an exemption from mortgage recording taxes for a mortgage having a principal amount not to exceed \$14,000,000.00 and an abatement from real property taxes in accordance with the Agency’s standard ten (10) year payment

in lieu of tax schedule (collectively, the “Financial Assistance”). In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the “Compliance Period”) to comply with the following covenants and agreements, each of which shall constitute a “Material Factor”:

- (a) Investment of not less than \$11,560,000.00 at the Project location as noted in the Application;
- (b) Attainment of 1,670 full-time equivalent job and maintenance of those jobs throughout the Project’s PILOT term; and
- (c) Compliance with the Agency’s Local Labor Policy.

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

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

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

Section 6. The Company is authorized, as agent of the Agency, to initiate the renovation of the building constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$8,500,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the “Commissioner”), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 7. The Agency is hereby authorized to enter into a Project Agreement with

respect the provision of the Financial Assistance authorized herein (the “Project Agreement”) and to acquire an interest in the Project site and renovate the facility thereon, and the execution and delivery of a lease by the Lessee to the Agency (the “Company Lease”), an Agency Lease Agreement (the “Agency Lease Agreement”) or Installment Sale Contract (the “Installment Sale Contract”) between the Agency and the Company, a Payment in Lieu of Tax Agreement between the Agency and the Company (the “PILOT Agreement”), and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the “Project Documents”), in form satisfactory to Agency counsel, are hereby authorized. The PILOT Agreement shall provide for payments in accordance with the Agency’s standard ten (10) year payment in lieu of tax schedule. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 8. In the event the Company obtains one or more conventional loans to finance the cost of the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages on the Project given to secure such loans (“Mortgage Agreement”), and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel provided that the aggregate amount of such mortgages shall not exceed \$14,000,000.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and any Assistant Secretary are each authorized to execute such collateral mortgages and other documents executed and delivered in connection therewith, and, following the closing, are each also authorized to make or approve amendments or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such amendments or modifications do not materially alter the risk to the Agency.

Section 9. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 10. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 11. In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims

an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that the Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of the Town of Amherst within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a “Recapture Event”), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agent for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Agreement, (y) any exemption from real estate taxes received by reason of the Agency’s leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency’s involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 12. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company’s purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The

Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 13. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any “hazardous substance” (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 14. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Agreement, Company Lease, the Mortgage Agreement, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 15. Should the Agency’s participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency’s counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 16. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company and Lessee pursuant to Sections 10 and 11 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company and Lessee to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency’s fee schedule.

Section 17. This Resolution is subject to compliance with all local building and zoning requirements.

ADOPTED: September 16, 2022

ACCEPTED AND AGREED TO: _____, 2022

Ingram Micro Inc.

By: _____

Name:

Title:

SECOND AMENDED AND RESTATED
SHARED SERVICES AGREEMENT

THIS SECOND AMENDED AND RESTATED SHARED SERVICES AGREEMENT (the "Agreement"), made as of the 1st day of June, 2018, 2022, by and between TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation ("AIDA"), and TOWN OF AMHERST DEVELOPMENT CORPORATION, a New York not-for-profit local development corporation ("ADC") (individually, a "Party" and collectively, the "Parties").

RECITALS:

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

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

WHEREAS, the Parties entered into a Shared Services Agreement dated December 1, 2009, ~~which was subsequently amended and restated by that certain Amended and Restated Shared Services Agreement dated as of July 20, 2018; and pursuant to which AIDA agreed to provide all administrative and staffing services to the ADC (including but not limited to legal, accounting, marketing, and any other professional services) related to issuance of bond obligations, and the ADC agreed to compensate the AIDA in an amount equal to the administrative fees charged and received by the ADC relative to any bond obligation issued by the ADC on behalf of the Town; and~~

~~WHEREAS, Section 1411 of the New York Not For Profit Corporation Law authorizes local development corporations to engage in a broader range of economic development activities than industrial development agencies, including the provision by local development corporations of grants and loans of their own funds for economic development purposes; and~~

~~WHEREAS, it is contemplated by the Parties that the ADC will have an expanded role in economic development projects in the Town that extends beyond the ADC's current limited role as an issuer of tax exempt and taxable bonds, notes, or other obligations on behalf of the Town; and~~

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

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

Parties, the Parties hereby agree as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

TOWN OF AMHERST INDUSTRIAL
DEVELOPMENT AGENCY

By: _____

Name: _____

Title: _____

TOWN OF AMHERST DEVELOPMENT
CORPORATION

By: _____

Name: _____

Title: _____

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 ensure 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

& 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~~this organization.

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 AMHEST
INDUSTRIAL DEVELOPMENT AGENCY
~~DEVELOPMENT CORPORATION~~**

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
 - o 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
~~TOWN OF AMHERST DEVELOPMENT CORPORATION~~

FIXED ASSET CAPITALIZATION POLICY

Adopted: March 18, 2011

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 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

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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 depositories' 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

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money was provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable of 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 issued, or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.
- ~~iii.~~iii. 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.~~iv. 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.~~v. 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.~~vi. Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- ~~vi.~~vii. 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.~~viii. Obligations of domestic corporations rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- ~~viii.~~ix. 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.~~x. 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.xi. Zero coupon obligations of the United States government marketed as "Treasury strips".

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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. Procurement Officer. The Executive Director of the Agency shall serve as the procurement officer for purposes of this Procurement Policy.

2. Determination Required - Prior to commencing any procurement of goods and services, the ~~CFO~~Executive Director 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~~Executive Director or such authorized designee in a specially designated procurement file.

3. 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~~Executive Director 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 ~~\$2035~~,000 for the performance of any public works contract (services, labor or construction), and (2) more than ~~\$4020~~,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).
- b. The ~~CFO~~Executive Director 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.

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- e-
- c. The ~~CFO~~Executive Director or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to Agency Counsel.¹

34. 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).

45. Procedures for the Purchase of Commodities, Equipment or Goods under ~~\$1020,000~~.

- a. Up to ~~\$500~~1,000: The discretion of the ~~CFO~~Executive Director or authorized designee.
- b. ~~\$501—\$31,001 - \$6,000~~: Documented verbal quotations from at least three vendors.
- c. ~~\$36,001 - \$1020,000~~: Written/fax quotations from at least three vendors.

56. Procedures for the Purchase of Public Works or Services under ~~\$2035,000~~.

- a. Up to ~~\$1000~~1,750: The discretion of the ~~CFO~~Executive Director or authorized designee.
- b. ~~\$1,001—\$5,000~~751 - \$8,750: Documented verbal quotations from at least three vendors.
- c. ~~\$5,001—\$208,751 - \$35,000~~: Written/fax quotations from at least three vendors.

67. Basis for the Award of Contracts - Contracts will be awarded to the lowest responsible vendor who meets the specifications.

78. Circumstances Justifying an Award to Other than the Lowest Cost Quoted.

- a. Delivery requirements;
- b. Quality requirements;

¹ Adopted January 18, 2008.

e. Quality;

- d. Past vendor performance;
- e. The unavailability of three or more vendors who are able to quote on ~~procurement~~² 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.

89. Documentation

- a. For each purchase made, the ~~CFO~~Executive Director 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~~Executive Director 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.iii.~~ _____ opinions of Agency Counsel, if any; and/or
 - ~~v.iv.~~ _____ 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.

~~Adopted January 18, 2008.~~

² Adopted January 18, 2008.

910. 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~~Executive Director 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.³⁻³
 - d. Single Source — Defined as a situation where, even though two or more vendors are available to supply the required goods or services, the Agency determines that: (i) one particular vendor has unique knowledge or expertise with respect to the required goods, services or project, rendering the use of competitive procedures impractical; and (ii) considering the benefits, the cost to the Agency is reasonable. Approval of the Executive Director after consultation with the officers of the Agency is necessary, which shall be documented in the procurement file along with an explanation of the basis for concluding that a single source procurement was in the best interests of the Agency and the manner in which the Agency identified the selected vendor.
 - ~~d.e.~~ 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.f.~~ 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.g.~~ 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.
- ~~1011.~~ Minority and Women Business Enterprises - The Agency shall comply with all applicable legal requirements relating to the hiring of such businesses.

³ Adopted January 18, 2008.

~~11~~12. 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~~13. Annual Review - the Agency shall annually review its policies and procedures.

~~13~~14. 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 \$15,000.⁴⁻⁴

~~³Adopted January 18, 2008.~~

~~³Adopted _____, 2017.~~

1415. 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.

16. Approval Thresholds - The following approval thresholds shall apply to the procurement of all goods and services, except those procurements made under Section 10(a):

- a. §The Executive Director of the Agency is authorized to procure goods and services in an amount up to \$10,000. Prior to procuring such goods or services, the Executive Director shall confer with the Treasurer to confirm that the proposed expenditure is within budgetary limits.
- b. The procurement of goods and services in an amount greater than \$10,000 shall require the approval of the AIDA Board of Directors. By resolution, the Board may delegate to AIDA executive staff or a committee of the Board the authority to procure goods or services in an amount greater than \$10,000 without Board approval.

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);
- ~~ii.~~
- 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. Except as otherwise permitted herein, aAll 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
& 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 (¹or in the case of the Executive Director/President to the Board Chair) for approval.

~~Director/President to the Board Chair~~) 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 ~~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.

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.

C. 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.

D. 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.~~

Wherever possible the AIDA's New York State sales tax exemption should be claimed.

C.E. 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

F. 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

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

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.

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