

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY

POLICY MANUAL

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AUDIT COMMITTEE CHARTER

This Audit Committee Charter was adopted by the Board of Directors of the Town of Hamburg Industrial Development Agency (the "Agency"), a public benefit corporation established under the laws of the State of New York, on this 28th day of March, 2008.

Purpose

The purpose of the audit committee shall be to (1) assure that the Agency's board fulfills its responsibilities for the authority's internal and external audit process, the financial reporting process and the system of risk assessment and internal controls over financial reporting; and (2) provide an avenue of communication between management, the independent auditors, the internal auditors, and the board of directors.

Powers of the Audit Committee

It shall be the responsibility of the audit committee to:

- Appoint, compensate, and oversee the work of any public accounting firm employed by the Agency.
- Conduct or authorize investigations into any matters within its scope of responsibility.
- Seek any information it requires from Agency employees, all of whom should be directed by the board to cooperate with committee requests.
- Meet with Agency, independent auditors or outside counsel, as necessary.
- Retain, at the Agency's expense, such outside counsel, experts and other advisors as the audit committee may deem appropriate.

The Agency's board will ensure that the audit committee has sufficient resources to carry out its duties.

Composition of Committee and Selection of Members

The audit committee shall consist of the Treasurer and at least two other members of the board of directors who are independent members as defined in the Public Authorities Law. The Chairman will appoint the two additional audit committee members with the consent of the Board. The Treasurer shall chair the audit committee.

Audit committee members shall be prohibited from being an employee of the Agency or an immediate family member of an employee of the authority. In addition, audit committee members shall not engage in any private business transactions with the Agency or receive compensation from any private entity that has material business relationships with the Agency, or be an immediate family member of an individual that engages in private business transactions with the authority or receives compensation from an entity that has material business relationships with the Agency.

The members shall serve until their resignation, retirement, removal by the Board or until their successors shall be appointed and qualified. When feasible, the immediate

past audit committee chair will continue serving as a member of the audit committee for at least one year to ensure an orderly transition.

Ideally, all members on the audit committee shall possess or obtain a basic understanding of governmental financial reporting and auditing.

The audit committee shall have access to the services of at least *one financial expert*; whose name shall be disclosed in the annual report of the Agency.

The audit committee's financial expert should have 1) an understanding of generally accepted accounting principles and financial statements; 2) experience in preparing or auditing financial statements of comparable entities; 3) experience in applying such principles in connection with the accounting for estimates, accruals and reserves; 4) experience with internal accounting controls and, 5) an understanding of audit committee functions.

Meetings

The audit committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in the charter.

Members of the audit committee are expected to attend each committee meeting, in person or via telephone or videoconference. The audit committee may invite other individuals, such as members of management, auditors or other technical experts to attend meetings and provide pertinent information, as necessary.

The audit committee will meet with the Agency's independent auditor at least annually to discuss the financial statements of the Agency.

Meeting agendas will be prepared for every meeting and provided to the audit committee members along with briefing materials 5 business days before the scheduled audit committee meeting. The audit committee will act only on the affirmative vote of a majority of the members at a meeting or by unanimous consent. Minutes of these meetings will be recorded.

Responsibilities

The audit committee shall have responsibilities related to: (a) the independent auditor and annual financial statements; (b) the Agency's internal auditors; (c) oversight of management's internal controls, compliance and risk assessment practices; (d) special investigations and whistleblower policies; and (e) miscellaneous issues related to the financial practices of the Agency.

A. Independent Auditors and Financial Statements

The audit committee shall:

- Recommend the appointment of the independent auditor and oversee the performance of the independent auditors and assist in determining the audit services to be provided by the independent auditor.
- Establish procedures for the engagement of the independent auditor to provide permitted audit services. The Agency's independent auditor shall be prohibited from

providing non-audit services unless having received previous written approval from the audit committee. Non-audit services include tasks that directly support the Agency's operations, such as bookkeeping or other services related to the accounting records or financial statements of the authority, financial information systems design and implementation, appraisal or valuation services, actuarial services, investment banking services, and other tasks that may involve performing management functions or making management decisions.

- Review and approve the Agency's audited financial statements, associated management letter, report on internal controls and all other auditor communications.
- Review significant accounting and reporting issues, including complex or unusual transactions and management decisions, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
- Meet with the independent audit firm at least annually to discuss any significant issues that may have surfaced during the course of the audit.
- Review and discuss any significant risks reported in the independent audit findings and recommendations and assess the responsiveness and timeliness of management's follow-up activities pertaining to the same.

B. Internal Auditors

The audit committee shall:

- Review with management and the CFO, the charter, activities, staffing and organizational structure of the internal audit function.
- Ensure that the internal audit function is organizationally independent from Agency operations.
- Review the reports of the CFO, and have authority to review and approve the annual internal audit plan.
- Review the results of internal audits and approve procedures for implementing accepted recommendations of the CFO.

C. Internal Controls, Compliance and Risk Assessment

The audit committee shall:

- Review management's assessment of the effectiveness of the Agency's internal controls and review the report on internal controls by the independent auditor as a part of the financial audit engagement.

D. Special Investigations

The audit committee shall:

- Ensure that the authority has an appropriate confidential mechanism for individuals to report suspected fraudulent activities, allegations of corruption, fraud, criminal activity, conflicts of interest or abuse by the directors, officers, or employees of the Agency or any persons having business dealings with the Agency or breaches of internal control.
- Develop procedures for the receipt, retention, investigation and/or referral of complaints concerning accounting, internal controls and auditing to the appropriate body.
- Request and oversee special investigations as needed and/or refer specific issues to the appropriate body for further investigation (for example, issues may be referred to the State Inspector General or, other investigatory organization.)
- Review all reports delivered to it by the Inspector General and serve as a point of contact with the Inspector General.

E. Other Responsibilities of the Audit Committee

The audit committee shall:

- Present annually to the Agency's board a written report of how it has discharged its duties and met its responsibilities as outlined in the charter.
- Obtain any information and training needed to enhance the committee members' understanding of the role of internal audits and the independent auditor, the risk management process, internal controls and a certain level of familiarity in financial reporting standards and processes.
- Review the committee's charter annually, reassess its adequacy, and recommend any proposed changes to the board of the Agency. The audit committee charter will be updated as applicable laws, regulations, accounting and auditing standards change.
- Conduct an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the board approval for proposed changes.

BY-LAWS
of
TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
ARTICLE I
THE AGENCY

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

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

Section 3. Office of the Agency. The office of the Agency shall be at the Hamburg Town Hall, S-6100 South Park Avenue, Hamburg, New York 14075, but the Agency may have other offices at such other places as the Agency from time to time designates by resolution.

Section 4. Members of the Agency. The membership of the Agency, in accordance with Section 925 of the General Municipal law shall consist of nine members from among leaders in business, government and the community and shall be appointed by the governing body of the Town of Hamburg.

ARTICLE II
OFFICERS

Section 1. Officers. The Officers of the Agency shall be: a Chairman, a Vice Chairman, a Secretary, Assistant Secretary, a Treasurer, one or more Assistant Treasurers, a Chief Executive Officer (CEO) and a Chief Financial Officer (CFO). The officers of the Agency shall enjoy a term of office of one (1) year.

Section 2. Chairman. The Chairman shall be a member of the Agency and preside at all meetings of the Agency. The Chairman shall sign all agreements, contracts, deeds and any other instruments on behalf of the Agency, except as otherwise authorized or directed by resolution of the Agency. The Chairman shall submit his recommendation and such information as he shall deem pertinent concerning the business, affairs, and policies of the Agency at each meeting.

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

Section 4. Secretary. The Secretary may or may not be a member of the Agency. He shall keep all records of the Agency, shall act as a Secretary at the meetings of the Agency, shall keep a record of all votes thereat. He shall record the proceedings of the Agency in a journal of proceedings to be kept for such purpose. He shall perform all duties incident to this

office. He shall have custody of the seal of the Agency, and shall have the power to affix such seal to all contracts and other instruments authorized by the Agency to be executed.

Section 4(a). Assistant Secretary. The Assistant Secretary may or may not be a member of the Agency. The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary. In the event of the resignation or death of the Secretary, the Assistant Secretary shall become the Acting Secretary and perform the duties of the Secretary until such time as the Agency shall appoint a new secretary.

Section 5. Treasurer. The Treasurer shall be a member of the Agency and shall exercise supervision and control over the Chief Financial Officer of the Agency. He shall receive and review financial reports prepared by the Chief Financial Officer and shall report to the board on such measures.

Section 5 (a) . Assistant Treasurer. The Assistant Treasurer may or may not be a member of the Agency. The Assistant Treasurer shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer. In the event of the resignation or death of the Treasurer the Assistant Treasurer shall become Acting Treasurer and perform the duties of the Treasurer until such a time as the Agency shall appoint a new Treasurer.

Section 6. Additional duties. The officers of the Agency shall perform such other duties and functions as may from time to time be required by the Agency, by its by-laws, or by its rules and regulations.

Section 7. Appointment of Officers. All officers of the Agency except the first Chairman shall be appointed at the annual meeting of the Agency. Officers shall hold office for one (1) year or until their successors are appointed. If the term of an agency member shall terminate, his term of office as an officer shall also terminate, his term of office as an officer shall also terminate.

Section 8. Vacancies. Should any office become vacant, the Agency shall appoint a successor at the next regular meeting, and such appointment shall be for the unexpired term of said office.

ARTICLE III EXECUTIVE DIRECTOR (CEO) AND CHIEF FINANCIAL OFFICER (CFO)

Section 1. Executive Director. The Executive Director may not be a member of the Agency. He shall be the Chief Executive Officer of the Agency, and shall be hired by a majority of a quorum of the Agency for such term of employment as such a majority of a quorum deems proper. He shall exercise supervision and control of all administration functions of the Agency. He shall be responsible for the implementation of all resolutions, orders, programs or projects of the Agency. The Executive Director shall have the power to sign and execute on behalf of the Agency all contracts, agreements, deeds, notes, bonds, or other evidence of indebtedness and to affix and attest to the seal of the Agency as follows: The Executive Director shall have full authority to execute contracts up to and including the amount of \$5,000.00 for purchases on

behalf of the Agency so long as said contracts are in accordance with the budget of the Agency or in accordance with any grants, Federal, State, County, local or otherwise received by the Agency and any such guidelines as may be promulgated thereunder. The Executive Director shall have full authority to execute contracts up to and including the amount of \$10,000.00 for consultant's services so long as said contracts are in accordance with the budget of the Agency or in accordance with any grants, Federal, State, County, local or otherwise received by the Agency and any such guidelines as may be promulgated thereunder. The Executive Director shall have full authority to execute any other contracts on behalf of the Agency up to and including the amount of \$5,000.00 so long as said contracts are in accordance with the budget of the Agency or in accordance with any grants, Federal, State, County, local or otherwise received by the Agency and any such guidelines as may be promulgated thereunder. He shall attend all meetings of the Agency with the right to take part in discussions and to recommend such measures as he may deem necessary or expedient, in the event that he is not a member of the Agency, and he shall perform such other duties and have such other powers as may be prescribed for him by law or by the Agency. The Executive Director shall have all necessary incidental powers to perform and exercise any of the duties and functions as specified above or lawfully delegated to him.

Section 2. Chief Financial Officer. The Chief Financial Officer may not be a member of the Agency, and shall be hired by a majority of a quorum of the Agency for such term of employment as such a majority of a quorum deems proper. He shall be the Chief Financial Officer shall have the care and custody of all funds of the Agency and shall have all such funds deposited in the name of the Agency in such banks as the Agency may designate. Except as otherwise provided by resolution of the Agency, the Chief Financial Officer shall sign all instruments of indebtedness, orders and checks for the payment of money by the Agency pursuant to the direction of the Agency. Except as otherwise authorized by resolution of the Agency, all such instruments, orders and checks shall be countersigned by the Chairman. The Chief Financial Officer shall have regular books of account kept on an accrual basis showing all receipts and expenditures. He shall report to the Treasurer of the Agency who shall exercise care and supervision over him. He shall provide the information required by the Treasurer to allow the Treasurer to render to the Agency at each regular meeting, an account of the financial transactions and current financial condition of the Agency. He shall give such bond for the faithful performance of his duties as the Agency may determine to be necessary or appropriate.

ARTICLE IV COMMITTEES

Section 1. Executive Committee. There shall be an Executive Committee which shall consist of the Executive Director, the Chairman, the Vice-Chairman, and two other members of the Agency, designated by a majority of a quorum of the Agency. The Executive Committee shall function as a steering committee and shall advise and direct the membership of the Agency in said Agency's accomplishment of its purposes. Three (3) members shall constitute a quorum, of the Executive Committee. A majority of a quorum of the Agency shall elect a Chairman of the Executive Committee to preside over such committee's meetings. The term of office for members of the Executive Committee shall be for one (1) year.

Section 2. Nominating Committee. There shall be a nominating committee which shall consist of three members of the Agency selected by a majority of a quorum of the Agency to nominate such members of the Agency as they deem appropriate for the offices of Chairman, Vice-Chairman, Secretary, Treasurer, and the three members of the Agency to be selected by a majority of a quorum of the Agency to serve upon the Executive Committee. Members of the Nominating Committee shall serve a term of one (1) year.

Section 3. Governance Committee. There shall be a Governance Committee appointed by the Chairman with the consent of the entire membership of the Agency. The Governance Committee shall consist of the Chairman and two other members of the Agency and must be “independent members” of the Agency within the meaning of Section 2825 of the New York Public Authorities Law. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, suggest updates to the Agency’s corporate governance principles and shall advise those responsible for appointing members to the Board of the skills and experience required of potential Board members.

Section 4. Audit Committee. There shall be an Audit Committee consisting of the Treasurer and two other members appointed by the Chairman with the consent of the entire membership of the Agency. The Audit Committee shall consist of the Treasurer and two other members of the Agency and must be “independent members” of the Agency within the meaning of Section 2825 of the New York Public Authorities Law. Such members shall, to the extent practicable, be familiar with corporate financial and accounting practices. The Treasurer shall chair the Audit Committee. The Audit Committee shall provide assistance to the members of the Agency in fulfilling their fiduciary responsibilities relating to accounting, reporting and regulatory compliance practices. The Audit Committee shall approve the budget for submission to the Board for approval, review and approve transfers of moneys under the budget and make recommendations to the Board as to other financial matters. The Audit Committee shall recommend the hiring of a certified independent accounting firm and shall provide direct oversight over the performance of the independent audit performed by the accounting firm hired for such purposes and receive and review reports from such accounting firm. The Audit Committee shall also ensure that the proper submissions are made to the governmental authorities having audit authority and fiscal oversight of the Agency.

ARTICLE V MEETINGS

Section 1. Monthly Meeting. Monthly meetings of the Agency shall be held at such time and place directed by the Chairman. One such monthly meeting per year shall be designated by the Agency as its Annual Meeting.

Section 2. Special Meeting. The Chairman of the Agency may, when he deems it desirable, and shall, upon the written request of two members of the Agency, call a special meeting of the Agency for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Agency or may be mailed to be business or home address of each member of the Agency at least two (2) days prior to the date of special meeting. Waivers of notice may be signed by any members failing to receive a proper

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

Section 3. Executive Sessions. When determined by the Agency that any matter pending before it is confidential in nature, it may, upon its own motion, establish an executive session and exclude non-members from such session.

Section 4. Quorum. At all meetings of the Agency five (5) members shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time when a quorum is obtained. The non-voting members shall not be considered for the purpose of quorum requirements.

Section 5. Order of Business. At the regular meeting of the Agency, the following shall be the order of business:

- a. Roll Call
- b. Reading and approval of the minutes of the previous meeting.
- c. Bills and communications
- d. Reports of the Treasurer
- e. Reports of Committees
- f. Unfinished business
- g. New business
- h. Executive Session
- i. Adjournment

All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Section 6. Manner of Voting. The voting on all questions coming before the Agency shall be by roll call, and yeas and nays shall be entered in the minutes of such meeting, except as in the case of appointments when the vote may be by ballot. Any action of the Agency shall require the affirmative vote of five (5) members of the Agency.

Section 7. Public Hearings. The Chairman, Vice Chairman or Executive Director shall be authorized to call public hearings of the Agency as required by the General Municipal Law of the State of New York and the Internal Revenue Code and to specify the time and place of such public hearings. Public hearings shall customarily be held prior to regularly scheduled meetings or special meetings of the Agency, but may be held at other times in the discretion of the Chairman, Vice Chairman or Executive Director as may be required in the best interest of the Agency. Minutes shall be taken of the public hearing and presented to the Board of Directors of the Town of Hamburg Industrial Development Agency.

ARTICLE VI PURPOSES

Section 1. Purposes. Purposes of the Agency are as follows:

- a. To achieve the purposes of Section 858 of the General Municipal Law of the State of New York and utilize the powers of Section 858 as necessary.
- b. To act as a central source available to stimulate re-investment in the commercial and industrial areas situated in the Town of Hamburg, Village of Hamburg and the Village of Blasdell.
- c. To promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, and furnishing of warehousing, commercial and research facilities, in addition to industrial or manufacturing plants.
- d. To act as a source for centralized planning and development research into the needs of business and industry and prepare the necessary strategies to meet these needs.

ARTICLE VII POLICIES AND PROCEDURES

Section 1. Projects to be considered by this Agency. It is the policy of this Agency that any project shall be considered by it which shall conform to the Laws of the State of New York, Chapter 1030, Article 18-A, and the policy statements of this Agency as enunciated from time to time by resolution of this Agency.

Section 2. Audit of Records and Accounts.

a. The Agency shall annually secure an audit of its financial records and accounts by an independent certified public accounting firm and shall file a copy of such audit with the Town Board of the Town of Hamburg within sixty days after the close of the Agency's fiscal year for its proceedings and its activities during the preceding fiscal year. Such independent certified public accounting firm shall also prepare such other reports as are required by law to be prepared, including, but not limited to the annual report to the Department of Audit and Control and the report required under the Public Authorities Accountability Act. Such independent certified public accounting firm must meet the requirements of the Public Authorities Accountability Act.

b. The Agency may require any other operating statements which it shall determine is required for daily operation.

Section 3. Conveyance of Property. The Agency may insert in a contract for a project that upon the payment in full of all notes bonds and indebtedness incurred in connection with a project that the Agency will convey the lands, buildings and equipment involved in said project and so paid for to the tenant or operator of the same upon terms set forth in such contract and that the additional consideration for such conveyance may be nominal.

Section 4. The Agency by resolution may adopt such rules, regulations, policies and procedures as it may deem necessary and appropriate to the operation so long as the same shall not be contrary to these by-laws as they may be amended from time to time.

ARTICLE VIII
AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws of the Agency may be amended with the approval of a majority of all the members of the Agency at a regular meeting or at a special meeting called for that purpose; but no such amendment shall be adopted unless at least twenty (20) days written notice thereof has been previously given to all members of the Agency.

Amended March 28, 2008

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
CODE OF ETHICS

Statement of Purpose:

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

Rule with respect to conflicts of interest:

No officer, member of the board or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her or her duties in the public interest.

Standards:

- a. No officer, member of the board or employee should accept other employment which will impair his or her or her independence of judgment in the exercise of his or her or her official duties.
- b. No officer, member of the board or employee should accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.
- c. No officer, member of the board or employee should disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.
- d. No officer, member of the board or employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others.
- e. No officer, member of the board or employee should engage in any transaction as representative or agent of the Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

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

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

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

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

j. If an officer or employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is the subject of an Agency Project (as such term is defined in Article 18-A of the General Municipal Law, he or she must file with Agency a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

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

Violations:

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

Adopted February 13, 2007

RESOLUTION OF THE TOWN OF HAMBURG INDUSTRIAL
DEVELOPMENT AGENCY (THE "AGENCY") ADOPTING
A COMBINED FEE SCHEDULE FOR THE AGENCY

WHEREAS, the Agency has previously adopted fee schedules for various Agency activities; and

WHEREAS, the Agency has determined that it would be in the best interest of the Agency to have all Agency Fees set forth on a single fee schedule.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Agency does hereby adopt the attached fee schedule as the combined fee schedule of the Agency.
2. This resolution shall take effect immediately.

Adopted: June 8, 2012

**TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
FEE SCHEDULE**

Application Fee: At the time of application for approval by the Agency of any transaction there shall be a non-refundable application fee of Five Hundred Dollars (\$500.00). If the request is for refinancing of an existing Project of the Agency where no public hearing is required, this Application Fee will be applied as an offset against all or a portion of the Agency Administrative Fee Due.

For an extension of an inducement, each extension of six months shall require payment of one quarter of the Agency Administrative Fee.

Agency Administrative Fees:

1. New Projects

The Agency Administrative Fee for new Projects shall be 1% of the dollar amount of the Project as determined by the Agency. One quarter of the Agency Administrative Fee or .25% must be received by the Agency prior to the issuance of a Sales Tax Letter by the Agency except for installment sale transactions when the entire Agency Administrative Fee of 1% is due at time of the issuance of the Sale Tax Letter. The balance of the Agency Administrative Fee or .75% shall be due on the closing of the transaction.

2. Refinacings

The Agency Administrative Fee for refinacings shall be \$500 plus one half of one percent (1/2%) of any new money being financed.

By way of illustration, if the Agency authorized a Project with a Project Cost of \$1,200,000, the initial Agency Administrative Fee payable would have been a total of \$12,000 with .25% or \$3,000 due at the time of the sales tax letter and \$9,000 payable at the closing. For purpose of illustration, we will assume that the Project was financed through bonds or a note and mortgage in the principal amount of \$1,000,000. At the end of five years, the Lessee comes to the Agency for assistance in refinancing the Project with a new borrowing of \$1,300,000. The Lessee will have to advise the Agency of the outstanding principal balance remaining on the bond or note. For purpose of illustration, we will assume that the principal balance has been reduced by \$100,000 leaving a remaining principal balance of \$900,000. The Lessee would have to pay an Agency Administrative Fee of one half of 1% on the amount over the original \$1,200,000 authorized and for which the Agency Administrative Fee was paid or 1% of \$100,000 (\$500) plus an administrative fee of 1/2% on the difference between the \$1,000,000 originally borrowed and the remaining principal balance or 1/2% of \$100,000 (\$500) because that amount would also constitute new money. This would be in addition to the \$500 refinancing fee for a total Agency Administrative Fee of \$1,500.

3. Sublease Approvals

The Agency fee for approval of a new sublease for the entire Project shall be \$500.

4. Approval of Lease Assignment and Assumptions

The Agency Administrative Fee for approval of Lease Assignments and Assumptions shall be one quarter percent (.25%) of Agency Administrative Fee which would have been due if the Project was a new Project but reduced by the percentage of the benefit already received with respect to real property tax abatement.

By way of illustration, if it is assumed that the Agency provided a ten year real property tax abatement as set forth below

	Year	Tax Paid	Abatement
	1997	20%	80%
	1998	25%	75%
	1999	30%	70%
	2000	35%	65%
	2001	40%	60%
	2002	45%	55%
	2003	50%	50%
	2004	55%	45%
	2005	60%	40%
	2006	60%	40%
Total Abatement			5.8 years of abatement

If after year 2002, an application was received requesting that the Agency approve the assignment and assumption of the lease agreement, four years of abatement are remaining. If you add up the percentage of abatement for each year the total remaining abatement is 1.75 years of abatement. The fee would be .25% of the percentage remaining of the real property tax abatement (1.75 divided by 5.8 = .301724138 x .25 times the original Project Cost) Assuming the original Project Cost was \$1,000,000, the fee at the time of the original Project would have been \$10,000. The fee for the assignment and assumption would be \$1,000,000 x .0025 x .301724138 = \$754.31.

Additional Fees

Additional costs associated with meeting the Agency’s current environmental policy are the responsibility of the Applicant.

If the Project Application is withdrawn or does not close, the Applicant is responsible for any costs, including Agency Counsel Fees, incurred by the Agency on behalf of the Project.

Agency Counsel Fees

<u>Bond/Mortgage/Lease Project Cost</u>	<u>Legal Fee</u>
to \$750,000	\$5,000*
\$750,001 to \$1,500,000	\$7,500
\$1,500,001 to \$3,000,000	\$10,000
\$3,000,001 to \$5,000,000	\$12,500
\$5,000,001 to \$10,000,000	\$15,000
above \$10,000,000	\$20,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect of Agency Counsel for the additional time only which hourly rates are currently \$250 per hour.

Legal Fees for refinancings shall be based upon the dollar amount refinanced in accordance with the above schedule. In the case of minor amendments of the prior loan documents, Agency Counsel Fees shall be charged on a time basis at the hourly rate then in effect for Agency Counsel. Agency Counsel shall determine whether the amendment to the prior loan documents is a minor amendment in his or her sole reasonable discretion.

<u>Ordinary Installment Sale Transactions</u>	<u>Legal Fee</u>
to \$750,000	\$3,000*
\$750,001 to \$1,500,000	\$5,000
\$1,500,001 to \$3,000,000	\$7,500
over \$3,000,000	\$10,000 minimum with additional legal fees payable based upon the circumstances and work involved

* With respect to legal fees for Projects up to \$750,000, this Legal Fee would include only two

drafts of documents. In addition, if due to delays caused by the Lessee or the Lender, the closing is delayed beyond a sixty day period from the date of the first draft, additional time may also be billed by Agency Counsel in his or her discretion. If further drafts are required or the closing is unreasonably delayed, additional time shall be billed at the hourly rate then in effect of Agency Counsel for the additional time only.

Installment Sale Transactions for Enhancement Zone Projects Only

Agency Administrative Fee

For Sales Tax Only Projects with costs from \$10,000 to \$69,999	\$500
For Sales Tax Only Projects with costs of \$70,000-\$99,999	.75% of project value
For Sales Tax Only Projects with costs above \$100,000	1% of project value

Agency Legal Fees

For Sales Tax Only Projects with costs from \$10,000 to \$100,000	No charge*
For Sales Tax Only Projects with costs from \$100,000 to \$200,000	\$500*
For Sales Tax Only Projects with costs from \$200,000 to \$300,000	\$1,000*
For Sales Tax Only Projects with costs above \$300,000	\$2,000*

*This is contingent on not more than two drafts (preliminary and final) and closing within 60 days sending of preliminary draft. If additional drafts are required or if closing period is extended for more than 60 days from the date of the preliminary draft, Agency Counsel reserves the right to charge for additional time.

Legal Fees for Assignment and Assumptions shall be on a time basis.

In addition to counsel fees, disbursement of up to \$1,000 will be added to each closing for normal bond/mortgage/lease transactions and normal installment sale transactions. Lesser disbursements will apply to the enhancement area installment sales transactions. If additional transcripts above the normal amount are required (5 for lease only and 7 for bond or mortgage transactions), they will be billed to reflect the additional copy cost and the additional binding costs and may exceed the \$1,000 total.

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
CONFLICT OF INTEREST POLICY

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

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

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

Adopted March 28, 2008

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY

DATA GATHERING PROCEDURES

**Adopted by a resolution of the Town of Hamburg Industrial
Development Agency on February 13, 2007.**

I. Scope

This policy applies to all individuals, companies, agencies or others that receive financial assistance from the Town of Hamburg 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
- Assist in measuring the effectiveness of assistance provided
- Provide information for comparison to other development agencies

III. Description of Information

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

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

Information required to be reported on an annual basis includes:

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

been granted, the amount the benefiting company did pay in PILOT's (to county, town and school district) and the difference between the two

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

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

IV. Procedures to Obtain Information

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

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

Procedure	Date	Responsibility
Confirmations requests will be mailed to all companies who have received Agency benefits	Dec. 30th	Confirms prepared by independent auditor, signed by Agency chairman
If no response is received, second confirmations will be mailed to companies that have not responded	Jan. 15th	Confirms received are tracked by the auditor, signed by Agency chairman
If no response is received, third confirmations will be mailed to companies that have not responded	Jan. 30th	Confirms received are tracked by the auditor, signed by Agency chairman
If no response is received, the Agency's consultant/attorney will call the company to solicit a written reply	Feb. 15th	Confirms received are tracked by the auditor, consultant/ attorney will document result of inquiries made

The results of these inquiries will be reported as follows:

- At the Agency's January Board meeting (held the fourth Tuesday of the month), a listing of all confirmations mailed and replies to date will be presented for Board review.
- At the Agency's February Board meeting, a listing of confirmation mailed and verbal inquiries made, and responses received and data obtained will be presented for Board review.

V. Further Actions

If no reply is received, the Board will determine appropriate further actions.

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

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

Adopted July 17, 2007

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
EMPLOYEE COMPENSATION
PROGRAM

Introduction

The Town of Hamburg Industrial Development Agency hereby adopts a written protocol for determining employee compensation. The compensation program includes employee base compensation, COLA, bonus, and related fringe benefit costs (collectively, the “Employee Compensation Program”).

Employee Compensation Program Procedures

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

The Executive Committee will then submit the proposed preliminary budget for employee and executive compensation to the Board for its review and approval. The Agency Board shall then approve the budget for employee compensation with any modifications that they deem necessary.

Adopted March 28, 2008

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
FINANCIAL DISCLOSURE POLICY

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

Adopted March 28, 2008

GOVERNANCE COMMITTEE CHARTER

This Governance Committee Charter was adopted by the Board of Directors of the Town of Hamburg Industrial Development Agency (the "Agency"), a public benefit corporation established under the laws of the State of New York, on this 28th day of March, 2008.

Purpose

The purpose of the governance committee is to assist the Board by:

- Keeping the Board informed of current best practices in corporate governance;
- Reviewing corporate governance trends for their applicability to the Agency;
- Updating the Agency's corporate governance principles and governance practices; and
- Advising those responsible for appointing directors to the Board on the skills, qualities and professional or educational experiences necessary to be effective Board members.

Powers of the Governance Committee

The Board of Directors has delegated to the governance committee the power and authority necessary to discharge its duties, including the right to:

- Meet with and obtain any information it may require from Agency staff.
- Obtain advice and assistance from in-house or outside counsel, accounting and other advisors as the committee deems necessary.
- Solicit, at the Agency's expense, persons having special competencies, including legal, accounting or other consultants as the committee deems necessary to fulfill its responsibilities. The governance committee shall have the authority to negotiate the terms and conditions of any contractual relationship subject to the Board's adopted procurement guidelines as per Public Authorities Law Section 2879, and to present such contracts to the Board for its approval.

Composition of Committee and Selection of Members

The Governance Committee shall consist of the Chairman of the Agency at two other members of the board of directors of the Agency who are independent members as defined in the Public Authorities Law. The Chairman will serve as Chair of the Governance Committee and shall appoint the two other members of the Governance Committee with the consent of the Board.

Governance Committee members shall be prohibited from being an employee of the Agency or an immediate family member of an employee of the Agency. In addition, Governance Committee members shall not engage in any private business transactions

with the Agency or receive compensation from any private entity that has material business relationships with the Agency, or be an immediate family member of an individual that engages in private business transactions with the Agency or receives compensation from an entity that has material business relationships with the Agency. The members shall serve until their resignation, retirement, removal by the Board or until their successors shall be appointed and qualified. When feasible, the immediate past Governance Committee chair will continue serving as a member of the committee for at least one year to ensure an orderly transition. The Governance Committee members should be knowledgeable or become knowledgeable in matters pertaining to governance.

Committee Structure and Meetings

The Governance Committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to adequately fulfill all the obligations and duties outlined in the charter. All committee members are expected to attend each meeting, in person or via telephone or videoconference.

Meeting agendas will be prepared for every meeting and provided to the governance committee members at least five days in advance of the scheduled meeting, along with the appropriate materials needed to make informed decisions. The Governance Committee shall act only on the affirmative vote of a majority of the members at a meeting or by unanimous consent. Minutes of these meetings are to be recorded.

Reports

The Governance Committee shall:

- Report its actions and recommendations to the Board at the next regular meeting of the Board.
- Report to the Board, at least annually, regarding any proposed changes to the governance charter or the governance guidelines.
- Provide a self-evaluation of the Governance Committee's functions on an annual basis.

Responsibilities

To accomplish the objectives of good governance and accountability, the governance committee has responsibilities related to: (a) the Agency's Board; (b) evaluation of the Agency's policies; and (c) other miscellaneous issues.

Relationship to the Agency's Board

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

- Develop the Agency's governance practices. These practices should address transparency, independence, accountability, fiduciary responsibilities, and management oversight.

- Develop the competencies and personal attributes required of Directors to assist those authorized to appoint members to the Board in identifying qualified individuals.

In addition, the Governance Committee shall:

- Develop and recommend to the Board the number and structure of committees to be created by the Board.
- Develop and provide recommendations to the Board regarding Board member education, including new member orientation and regularly scheduled board member training to be obtained from state-approved trainers.
- Develop and provide recommendations to the Board on performance evaluations, including coordination and oversight of such evaluations of the board, its committees and senior management in the Agency's governance process.

Evaluation of the Agency's Policies

The Governance Committee shall:

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

Other Responsibilities

The Governance Committee shall:

- Review on an annual basis the compensation and benefits for the Executive Director and other senior Agency officials.
- Annually review, assess and make necessary changes to the governance committee charter and provide a self-evaluation of the Governance Committee.

**TOWN OF HAMBURG
INDUSTRIAL DEVELOPMENT AGENCY**

INVESTMENT POLICY

**Adopted by a resolution of the Town of Hamburg Industrial
Development Agency February 13, 2007.**

I. Scope

This investment policy applies to all moneys and other financial resources available for investment By the Town of Hamburg Industrial Development Agency (the “Agency”).

II. Objectives

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

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

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.

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 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.

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.

VI. Internal Controls

It is the policy of the Agency that all moneys 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, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

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
 First Niagara Bank
 Bank of Akron
 Key Bank
 Bank of America

VIII. Collateralizing of Deposits

In accordance with the provisions of General Municipal Law, §10, all deposits of the Agency, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured by a pledge of "eligible securities" with an aggregate market value, as provided by General Municipal Law, §10, equal to the aggregate amount of such deposits (a list of eligible collateral securities are included as Appendix A to this policy).

IX. Safekeeping and Collateralization

Eligible securities used for collateralizing deposits shall be held by the depositaries trust department 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.

X. Authorized Investments

As authorized by General Municipal Law, §11, the Agency authorizes the CFO to invest moneys 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 moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Agency within one year of the date of purchase.

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

APPENDIX A

Schedule of securities eligible for collateralization of Agency deposits:

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

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
PROCUREMENT POLICY

A. Introduction

1. Scope - In accordance with Article 18-A of the General Municipal Law (the "IDA Act"), Section 104-b of the General Municipal Law, and the Public Authorities Accountability Act of 2005, the Town of Hamburg Industrial Development 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 an IDA 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 possible cost under the circumstances and to guard against favoritism, improvidence, extravagance, fraud and corruption.

B. Procurement Policy

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

Exempt by Statute - Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section except for items excepted herein (see 7 below) or procurements made pursuant to:

- a. GML, Section 103 (3) (through county contracts), or
- b. GML, Section 104 (through state contracts), or
- c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
- d. Correction Law, Section 186 (articles manufactured in correctional institutions).
4. Procedures for the Purchase of Commodities, Equipment or Goods under \$10,000.
 - a. Up to \$500 The discretion of the CFO or authorized designee.
 - b. \$501 - \$3,000 Documented verbal quotations from at least three vendors.
 - c. \$3,001 - \$10,000 Written/fax quotations from at least three vendors.
5. Procedures for the Purchase of Public Works or Services under \$20,000.
 - a. Up to \$1000 The discretion of the CFO or authorized designee.
 - b. \$1,001 - \$5,000 Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$20,000 Written/fax quotations from at least three vendors.
6. Basis for the Award of Contracts - Contracts will be awarded to the lowest responsible vendor who meets the specifications.
7. Circumstances justifying an Award to other than the Lowest Cost quoted.
 - a. Delivery requirements
 - b. Quality requirements
 - c. Quality
 - d. Past vendor performance
 - e. The unavailability of three or more vendors who are able to quote on a procurement.
 - f. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.
8. Documentation

- a. For each purchase made the CFO or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
 - b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the CFO or such authorized designee, and filed with the purchase order or contract therefore.
 - c. For those items not subject to competitive bidding such as professional services, emergencies, purchased under city contracts or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:
 - (1) a description of the facts giving rise to the emergency and that they meet the statutory criteria; or
 - (2) a description of the professional services; or
 - (3) written verification of city contracts; or
 - (4) opinions of Counsel, if any; or
 - (5) 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.
9. Exceptions to Bidding
- a. Emergency Situation - An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality or of the citizens. With approval by the CFO such emergency shall not be subject to competitive bidding or the procedures stated above.
 - b. Resolution Waiving Bidding Requirements - The Agency may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.
 - c. Sole Source - Defined as a situation when there is only one possible source item which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.
 - d. True Lease - Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability

to meet the specifications desired and price.

- e. Insurance - All insurance policies shall be procured in accordance with the following procedures:
 - (1) Premium less than \$10,000 - documented telephone quotations from at least three agents (if available).
 - (2) Premium over \$10,000 - written quotations/fax or proposals from at least three agents (if available)
- f. Professional Services - This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc. For the procurement of professional services, the procedures set forth in Exhibit B shall apply.
- 10. Minority and Women Business Enterprises - The Agency shall comply with all applicable legal requirements relating to the hiring of such businesses.
- 11. Input from members of the Agency - Comments concerning the procurement policy shall be solicited from the members of the Agency from time to time.
- 12. Annual Review - the Agency shall annually review its policies and procedures.
- 13. 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.

Adopted July 17, 2007

**TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
PROPERTY DISPOSAL GUIDELINES**

ADOPTED FEBRUARY 13, 2007

The Town of Hamburg Industrial Development Agency (the “Agency”), a New York public benefit corporation, in compliance with the New York State Public Authorities Law, has established these Guidelines for the Disposal of Property (the “Guidelines”).

These Guidelines shall apply to the disposal of real property and personal property throughout the year following their adoption and until such time as the Agency adopts new or revised Guidelines. The Members of the Agency shall review and approve of these Guidelines, with any necessary modifications and revisions, on a no less than annual basis.

1. Designation of Contracting Officer

The Agency hereby designates Michael J. Bartlett as the Agency’s Contracting Officer, in compliance with the provisions of New York State Public Authorities Law. The Contracting Officer shall hold this position until the Members of the Agency designate a new Contracting Officer or until such time as the Members adopt new Property Disposal Guidelines.

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

2. 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 are distinguished from each other as appropriate in some Sections of 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.

3. Purpose

The Agency has adopted these Guidelines to comply with the provisions of NYS Public Authorities Law and to realize a favorable return on the disposal of Agency property.

4. 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. 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 a qualified professional. Prior to its disposal, the fair market value of all real property shall be established by an appraisal conducted by a qualified professional.

5. Advertised Bid

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

All advertisements for soliciting bids on Agency property shall state the method, place and deadline for the submission of bids, and 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.

6. 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 best interest of the Agency to reject all bids.

7. Notification of 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.

8. 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.

9. Disposal of property by Negotiation

The Agency may dispose of property through negotiation or by public auction without regard to the above described procedures if the Contracting Officer determines that any of the following conditions exist:

- (a) introduction into the market of the personal property to be disposed of would adversely affect the local market for that kind of property, and a fair market price and other terms for the sale of the personal property can be obtained through negotiation;
- (b) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000);
- (c) prices for the property that were obtained by advertised bid were not reasonable or the bid process did not generate open competition;
- (d) disposal of the property to the state or any political subdivision at fair market value can be arranged through negotiation;
- (e) the property is being disposed of for less than fair market value, the terms of the disposal have been reached through public auction or negotiation, the disposal of the property is intended to further the health, safety, welfare or economic development interests of the state or any of its political subdivisions, and the Members of the Agency have approved the particular transaction by resolution; or
- (f) such action is otherwise authorized by law.

10. Documentation of Disposal by Negotiation

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 Section 9, and any of the following are true:

- (a) personal property disposed of has an estimated fair market value in excess of fifteen thousand dollars (\$15,000);
- (b) real property sold has an appraised value in excess of one hundred thousand dollars (\$100,000.00);
- (c) real property leased has been leased for a period of five years or less and the estimated annual fair market rent is in excess of one hundred thousand dollars (\$100,000.00);
- (d) real property leased has been leased for a period of more than five years and the total estimated fair market rent over the term of the lease is more than one hundred thousand dollars (\$100,000.00);
- (e) the personal or real property has been disposed of by exchange; or
- (f) 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 Section 10 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 Section 11 of these Guidelines.

11. 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 delivered to the Comptroller, the Director of the Budget, the Commissioner of General Services, and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader.

The Contracting Officer shall cause the report to be published on the Agency's website.

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
RECAPTURE OF BENEFITS POLICY

The Town of Hamburg Industrial Development Agency has been advised that a number of other industrial development agencies have adopted policies that provide for recapture of benefits if a project applicant does not fulfill the job creation estimates contained in their application. The difficulty of having these provisions is that the economic situation is always uncertain because of changes in overall economic activity as well as changes in markets. Some businesses are successful, others fail and some are successful for a time and then fail. Because of the reality of this uncertainty and volatility, the same agencies that have recapture provisions also have provisions that allow them to take into account exigent circumstances that in fact negate them recapturing benefits already provided to their applicant and in fact seldom if ever are the recapture provisions enforced.

The difficulty that these recapture provisions cause even if there are provisions that can be applied to negate them is that the very existence of the recapture provisions makes it very difficult for a lender to approve applicants for loans in connection with projects as the operating costs of a project applicant and the ability of the project applicant to pay for his financing costs could change dramatically if the applicant was required to repay benefits already received. When a project applicant is going through difficult economic times is the worst time to try to expect that applicant to repay benefits already received. If a business, due to economic hard times, changes in markets or adverse events with respect to that particular project applicant, were to be forced to repay past benefits received, this could easily force that business to close and declare bankruptcy and basically end all employment at the project.

The Town of Hamburg Industrial Development therefore has determined that it will have a policy that does not provide for recapture of benefits already provided to project applicants if the project applicant does not reach and maintain its employment projections. The Town of Hamburg Industrial Development Agency does however expect that project applicants will undertake to do what they say they will do in their application. It is the policy of the Town of Hamburg Industrial Development to require that the applicant undertake the activities set forth in the application and keep the project occupied as an active project. In the event that the project becomes vacant and remains vacant for a considerable period of time or the occupant changes the use of the project without Agency approval, the project occupant will be deemed to have defaulted in his obligations to the Agency and the future benefits to the applicant may be terminated. These provisions will be contained in the various documents executed and delivered between the Agency and the project applicant in connection with each closing.

Adopted March 28, 2008

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
REIMBURSEMENT AND ATTENDANCE POLICY

Pursuant to and in accordance with Sections 856 and [GML enabling act] of the General Municipal Law of the State of New York, the members of the board of the Town of Hamburg Industrial Development Agency (the "Board") shall serve without salary at the pleasure of the Town Board of the Town of Hamburg, New York (the "MUNICIPALITY") but may be reimbursed for reasonable expenses incurred in the performance of Agency duties at the approval of the Board.

The members of the Board and officers of the Agency shall be available as required to perform the operations of the Agency and as set forth within the By-Laws of the Agency, as may be amended, restated or revised by the Board from time to time. Said members and officers of the Agency shall put forth their best efforts to perform their respective duties as outlined in the By-Laws of the Agency and any other directives of the Board relating to same.

Adopted July 17, 2007

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
TRAVEL POLICY

Section 1.

APPLICABILITY

This policy shall apply to every member of the board (the "Board") of the Town of Hamburg Industrial Development Agency (the "Agency") and all officers and employees thereof.

Section 2.

APPROVAL of TRAVEL

All official travel for which a reimbursement will be sought must be approved by the Chairman prior to such travel. Provided, however, in the instance where the Chairman will seek reimbursement for official travel, such travel must be preauthorized by the Board of the Agency.

Section 3.

PAYMENT of TRAVEL

The Agency will reimburse all reasonable expenses related to meals, travel and lodging that were incurred by any director, officer or employee as a result of the performance of their official duties. All official travel shall be properly authorized, reported and reimbursed. Under no circumstances shall expenses for personal travel be charged to, or temporarily funded by the Agency. It is the traveler's responsibility to report his or her travel expenses in a responsible and ethical manner, in accordance with this policy.

Section 4.

TRAVEL EXPENSES

Travelers may use their private 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. The traveler will be reimbursed at a standard mileage reimbursement rate.

Meals will be reimbursed at actual expense or a per diem rate, whichever is less. Lodging will be reimbursed at actual expense up to certain daily rate caps established for various locations. The applicability of such caps shall be determined on a case by case basis taking into consideration availability of lodging and other extenuating circumstances.

Reimbursement for miscellaneous expenses shall be determined on a case by case basis. Mileage rates, per diem allowances and lodging caps will be established and from time to time amended by the CFO subject to the review and approval by the Board. All determinations made pursuant to this section shall be made by the CFO but may be reviewed by the Board. In the instance where such determinations regard the travel of the Treasurer, the CFO, the CEO or the Chairman, the Board shall make such determinations.

Adopted July 17, 2007

TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY AND DEVIATION POLICY

UNIFORM TAX EXEMPTION POLICY

The Town of Hamburg Industrial Development Agency was required pursuant to §874 (4) (a) of the General Municipal Law to establish a uniform tax exemption policy. It established its own policy and its own policy was re-adopted of or before April 1, 1999. The Town of Hamburg Industrial Development Agency thereafter approved the County Wide Eligibility Policy dated October 12, 2001 which was applicable to all the industrial development agencies in Erie County. It then signed a memorandum of understanding approving IDA Policy Task Force Statement of Clarifications and Proposed Procedures dated July 1, 2005. This October 12, 2001 Policy as amended and clarified by the July 1, 2005 clarification is the uniform tax exemption policy of the Town of Hamburg Industrial Development Agency

Approved Effective July 1, 2005

DEVIATION POLICY

Pursuant to §874 (4) (c) of the General Municipal Law, the Town of Hamburg Industrial Development Agency is required to have a policy for deviation from the uniform tax exemption policy. It sets forth a required procedure for deviation and the Town of Hamburg Industrial Development Agency adopts this as its required procedure.

If the Agency determines that for some reason a particular project should receive benefits different from those as set forth in the uniform tax exemption policy of the Agency, the Agency must complete the following steps.

1. It must identify the reasons why it is proposed that the Agency deviate from the uniform tax exemption policy. These reasons must be set forth in some detail and may include such things as the condition of the property where the project is located, the need for the project in the area, the economic impact of the project and other factors that the Agency may deem relevant to the particular application.
2. It must notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.
3. Prior to taking final action at said meeting, the agency shall review and respond to any correspondence received from any affected tax jurisdiction regarding such proposed deviation.
4. The agency shall allow any representative of an affected tax jurisdiction present at such meeting to address the agency regarding such proposed deviation.
5. In addition to notifying the affected taxing jurisdictions and providing them with the opportunity to comment, the Agency shall provide written notice to all the other IDAs of

Erie County of the proposed deviation and the reason for the proposed deviation. Each other IDA shall be invited to submit written comments to the Agency proposing to deviate which comments shall be considered by the Agency proposing to deviate. Based upon the comments received from the affected taxing jurisdictions and the other IDAs, the Agency shall make its decision and provide a written explanation as to its decision.

Adopted March 28, 2008

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING dated as of July 1, 2005, by and among TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, TOWN OF CLARENCE, ERIE COUNTY, INDUSTRIAL DEVELOPMENT AGENCY, TOWN OF CONCORD INDUSTRIAL DEVELOPMENT AGENCY, TOWN OF HAMBURG INDUSTRIAL DEVELOPMENT AGENCY, TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY, and ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (individually, an "IDA", and collectively, the "IDAs").

RECITALS:

A. In late 2001 and early 2002, each of the IDAs adopted a Countywide Eligibility Policy (the "Countywide Policy") to govern the provision of financial assistance (as such term is defined in the New York General Municipal Law) by each IDA for proposed projects to be located within Erie County, New York.

B. Over the course of the past 3+ years, some issues and questions have arisen with regard to the intent behind certain provisions of the Countywide Policy. Accordingly, representatives of each IDA (along with representatives of Buffalo Niagara Partnership and other interested parties) have met as an ad hoc "IDA Policy Task Force" in an effort to reach a common understanding with regard to how such issues and question should be addressed.

C. The IDA Policy Task Force has issued a certain Statement of Clarifications with regard to the Countywide Policy, along with certain suggested additional uniform procedures to be followed by each IDA, which has been approved by each of the IDAs with certain minor technical modifications. A copy of the Statement of Clarifications and Proposed Procedures, which includes all of the technical modifications, is attached hereto as Schedule A (the "Statement").

D. The IDAs desire to memorialize their approval of the Statement and their intention to implement the proposed procedures set forth therein, through the execution of this Memorandum of Understanding.

NOW, THEREFORE, the parties hereby set forth their intentions, as follows:

1. Each IDA hereby confirms its approval of the Statement and its intention to implement the procedures set forth therein, effective as of the date of this Memorandum of Understanding.

2. Each IDA hereby confirms its understanding that the procedures set forth in the Statement will be implemented in such a manner as to not result in any additional or duplicative processing time with regard to applications to IDAs for financial assistance.

3. Each IDA hereby confirms its intention to continue to work together to develop uniform documentation with regard to the provision of financial assistance. It is anticipated that

a uniform application for financial assistance will be developed first, with other uniform documentation to follow as appropriate.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the date first written above.

TOWN OF AMHERST
INDUSTRIAL DEVELOPMENT AGENCY

By:_____

TOWN OF CLARENCE, ERIE COUNTY,
INDUSTRIAL DEVELOPMENT AGENCY

By:_____

TOWN OF CONCORD
INDUSTRIAL DEVELOPMENT AGENCY

By:_____

TOWN OF HAMBURG
INDUSTRIAL DEVELOPMENT AGENCY

By:_____

TOWN OF LANCASTER
INDUSTRIAL DEVELOPMENT AGENCY

By:_____

ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By:_____

SCHEDULE A

Statement of Clarifications

All subgroups

Utilities

All subgroups

Manufacturing

All subgroups

Wholesale Trade

All subgroups

Transportation and Warehousing

481-484230; 486-486990; 488-488999; 493-493190

Information

511-512120; 51219-519190

Finance and Insurance

522293-522390; 524-524130; 525-525990

Real Estate and Rental and Leasing

53112-531120

Management of Companies and Enterprises

All subgroups

Administrative and support and Waste Management and Remediation Services

561-561499; 5619-561990

Educational Services

All subgroups eligible for not-for-profit corporations only

Other Services

813-814110 (eligible for not-for-profit corporations only); 811219-811310; 812331-812332; 812921

Public Administration

All subgroups eligible for not-for-profit corporations only

The following is a list of NAICS subgroups which are determined to be generally ineligible for IDA financial assistance:

Construction

All subgroups

Retail Trade

All subgroups

Transportation and Warehousing

485-485999; 487-487990; 491-492210

Information

51213-512132

Finance and Insurance

521-522212; 523-523999; 5242-524210

Real Estate Rental and Leasing

531-5311; 53113-533110

Administrative and Support and Waste Management and Remediation Services

5615-561790; 562-562998

Educational Services

All subgroups ineligible for “for-profit” companies

Arts, Entertainment and Recreation

All subgroups

Other Services

813-814110 (ineligible for “for Profit” companies only); 811-811213; 8114-81233; 8129-81292; 812922-812990

Public Administration

All subgroups ineligible for “for profit” companies only.

Companies with operations that fall within other NAICS subgroups, which are identified below, have not been designated by the Countywide Policy to be generally eligible or ineligible, but may be considered for financial assistance by an IDA in its discretion.

Finance and Insurance

52429-524298

Real Estate and Rental and Leasing

53111-531110

Professional, Scientific and Technical Services

All subgroups

2. **HOTEL PROJECTS**

The Countywide Policy limits the eligibility of hotel/motel projects for financial assistance to capital costs associated with the renovation or rehabilitation of existing facilities. The Countywide Policy is hereby clarified to confirm the following:

- i. A hotel constructed in connection with a new convention center, or in connection with a major regional destination attraction, would be eligible for financial assistance;
- ii. A conference center constructed in connection with or as a part of a new hotel would be eligible for financial assistance, provided that the center has stand alone food service facilities and provides state of the art conference center amenities (i.e., modern computer, teleconferencing, audio visual and speaking equipment) and

provided further that an appropriate market analysis demonstrates that a significant portion of the center's customers would come from outside of Erie County, with any financial assistance to apply only to the conference center component of the overall project; and

- iii. Renovation of existing hotels will remain eligible for financial assistance as stated in the Countywide Policy.

3. **MEDICAL PROJECTS:**

Pursuant to the Countywide Policy, medical facilities (such as doctor's offices, clinics and laboratories) are designated as generally not eligible for IDA financial assistance. The Countywide Policy is hereby clarified to recognize the following exceptions to this general restriction:

- i. Back office medical support facilities, if regional in nature and if a significant portion of its operations support activities outside of Erie County, would be eligible for financial assistance;
- ii. Projects that provide leading edge technology facilities, with a demonstrated commercialization potential or associated local research component, would be eligible for financial assistance; and
- iii. Facilities that provide medical services that are generally not available, provided that an appropriate market analysis confirming such unavailability is provided, would be eligible for financial assistance.

4. **PROJECTS INVOLVING PROFESSIONAL SERVICES:**

The Countywide Policy is hereby clarified to provide that projects which involve the delivery of professional services are generally not eligible for IDA financial assistance, and to recognize an exception to this general restriction for back office operations in support of professional services if they are regional in nature and a significant portion of such operations support activities outside of Erie County.

5. **RETAIL PROJECTS:**

The Countywide Policy recognizes that retail projects are generally not eligible for IDA financial assistance. The IDAs reaffirm this general restriction and confirm the following with regard to retail projects:

- i. **Street Level Retail Projects**, consisting of local retail businesses that serve and impact a local market, are generally

not eligible for financial assistance unless located in a “highly distressed area” as defined in General Municipal Law §854(18);

- ii. **Destination Retail Projects**, consisting of retail operations that are a regional destination for out of county customers or a tourism attraction, may be eligible for financial assistance provided an appropriate market analysis demonstrates that a significant portion of their business would come from outside of Erie County; and
- iii. **Regional Quality of Life Retail Projects**, consisting of cultural and recreational facilities which are retail but add to the quality of life in the county, may be eligible if an appropriate market analysis demonstrates that a significant portion of their customers are from outside of Erie County and the facility serves to add to the quality of life of the region (i.e.: Buffalo Zoo, Philharmonic, destination golf resort, etc.).

6. **NEIGHBORHOOD REDEVELOPMENT AREAS**

The Countywide Policy provides that in an effort to revitalize and renovate neighborhood business districts throughout Erie County which are exhibiting economic decline, the IDAs will consider retail projects (including medical facilities) for financial assistance if they are located in or contemplate relocating to areas of Erie County that are designated, by the respective municipal legislatures, as “Neighborhood Redevelopment Areas”.

The Countywide Policy is hereby clarified to confirm that in order for an area to qualify as a Neighborhood Redevelopment Area, such area must be documented to exhibit one or more of the following criteria:

- i. Declining property values, over and above the typical rates experienced in similar districts in the county/town;
- ii. High vacancies/abandonment, over and above the typical rates experienced in similar districts in the county/town;
- iii. A cycle of disinvestment over a prolonged period of time; and/or
- iv. Distress, slum and blight, as defined by census tract.

IDA financial assistance for projects to be located in a Neighborhood Redevelopment Area would be available for capital improvements which abate or positively impact criteria i-iv above. These improvements would be eligible for sales tax benefits and mortgage recording tax benefits through the Neighborhood Redevelopment Area program. Also, facilities qualifying for

assistance in a Neighborhood Redevelopment Area would be eligible to receive a partial abatement from real property taxes equivalent to the abatement permitted under Real Property Tax Law §485-b. Local municipalities are encouraged to adopt a “targeted” RPTL §485-b program and to have an Industrial and Commercial Incentive Board established to make determinations as to the location of any Neighborhood Redevelopment Areas and the types of projects that are to be eligible for IDA financial assistance.

The IDAs intend to re-examine the Countywide Policy with regard to Neighborhood Redevelopment Areas after the “Framework for Regional Growth” has been issued and approved by all appropriate parties. It is the intention of the IDAs that the Countywide Policy, particularly as it pertains to Neighborhood Redevelopment Areas, be consistent and in harmony with the Framework for Regional Growth.

7. **INTERMUNICIPAL MOVEMENT – UNIFORM PROCEDURES**

In order to ensure input from all interested parties and to fully document compliance by an IDA with the requirements of New York State law, the procedures outlined below will be followed by each IDA when a project applicant proposes to relocate from one municipality within Erie County (the “Current Municipality”) to a different municipality also within Erie County (the “Proposed Municipality”), or when an applicant proposes to close or significantly reduce its operations within the Current Municipality and increase operations within the Proposed Municipality (with any significant reduction to be measured by the proposed movement of work force, relocation of fixed assets, or other like criteria). In connection with such a proposed project, the applicable IDA will proceed only after complying with the following procedures:

A. The IDA will forward a written notice to the chief elected officers of the Current Municipality and the Proposed Municipality (along with their respective economic development designees), which notice shall include (i) the name, address and telephone number of the applicant along with the name of a contact person, (ii) the location within the Proposed Municipality that the applicant proposes to relocate to, and (iii) such other information or documentation with regard to the proposed relocation as the IDA may be in possession of (including a copy of the application for financial assistance, if completed). Such notice shall be sent by the IDA as soon as possible, but in no event later than 5 working days after receipt by the IDA of an application for financial assistance.

B. The application form to be used by each IDA will include questions soliciting information with regard to whom the applicant met with from the Current Municipality and a list of sites located in the Current Municipality that were considered by the applicant, along with the reasons for rejecting site(s) in the Current Municipality. If the applicant declines to respond to such questions or indicates that they have not met with representatives of the Current

Municipality, the applicant will be strongly urged by IDA representatives to do so prior to submission to the IDA of the application for financial assistance.

C. Unless it is demonstrated that the applicant has contacted Buffalo Niagara Enterprise, local economic development agencies, municipal officials, local realtors and/or other appropriate sources and has reviewed potential sites located in the Current Municipality, at the earliest possible moment IDA personnel will request that Buffalo Niagara Enterprise provide the IDA with a list of sites located within the Current Municipality that may be suitable for the applicant's purposes. IDA personnel will forward that list to the applicant and will send a copy of such transmittal to the chief elected officers of the Current Municipality and the Proposed Municipality (along with their respective economic development designees).

D. A written response or acknowledgement from the chief elected officer of the Current Municipality will be sought with regard to the application for financial assistance, and any such response or acknowledgement will be included in the record to be considered by the IDA Board when an approval of financial assistance is sought. This need not be a "sign off" or an approval of the relocation. The chief elected officers of the Current Municipality and the Proposed Municipality (and their respective economic development designees) will be invited to address the IDA Board when it considers any such application for financial assistance.

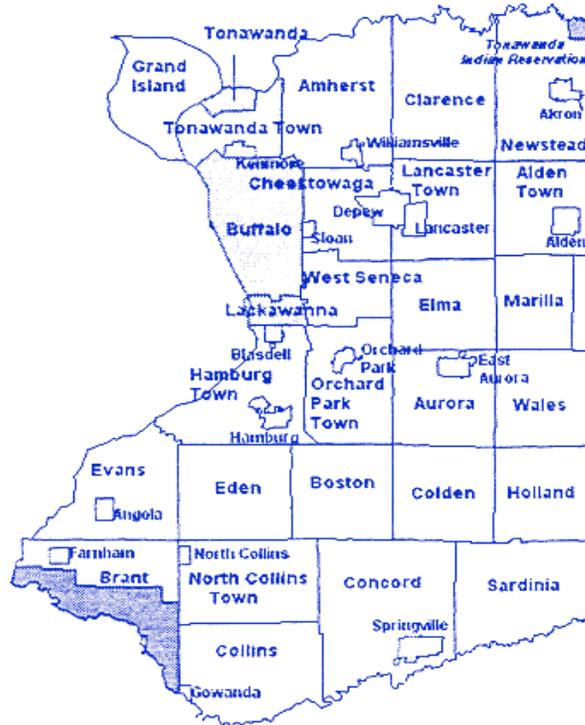
E. IDA staff shall provide a written certification (along with copies of appropriate back-up documentation) to the applicable IDA Board that items A-D have been complied with, at the time that the Board considers any application for financial assistance.

F. If the Current Municipality is the City of Buffalo and the applicant proposes to relocate to another municipality within Erie County, any application for financial assistance shall be processed and acted upon by the Erie County Industrial Development Agency ("ECIDA"). If the Proposed Municipality is the Town of Amherst, the Town of Clarence, the Town of Concord, the Town of Hamburg or the Town of Lancaster, (i) the Chairperson of the IDA for such Proposed Municipality (or his/her designee) will be invited to submit written comments to ECIDA with regard to the proposed project and to address the ECIDA Board when it considers such application for financial assistance, and (ii) administrative fees arising from such transactions will be payable at the rates charged by the IDA for the Proposed Municipality and split equally between ECIDA and the IDA for the Proposed Municipality. Any extraordinary requirements that ECIDA may require as a condition of its approval of such project would only be imposed after consultation by ECIDA with the IDA for the Proposed Municipality.

G. With regard to proposed projects involving removal of a facility or plant from one area of New York State to another area of New York State, or in the abandonment of one or more plants or facilities in New York State, an IDA will make one or both of the determinations specified in General Municipal Law §862(1) (which permit the provision of financial assistance) only after having developed sufficient documentary evidence to support such determination(s) and only after having received a written certification from such IDA's staff that the statutory requirements have been satisfied. IDA staff are urged to review applications with counsel as soon as possible when it appears that the proposed project may involve a removal of a facility or plant from one area of New York State to another area of New York State or an abandonment of one or more plants or facilities in New York State, in order that appropriate data can be sought from the applicant on a timely basis so an IDA may consider whether either statutory determination may be appropriate.

8. **IDA LEADERSHIP COUNCIL**

To encourage further collaborative efforts among the IDAs, to facilitate the uniform implementation of the Countywide Policy (as hereby clarified), and to provide a forum to address other common concerns with regard to economic development in Erie County, a Leadership Council of the IDAs will be established. Each IDA will designate one or more representatives to participate in the meetings of such Leadership Council, which are contemplated to occur on a quarterly basis. The Leadership Council will, through the consensus of its members, consider and resolve any concerns raised by an IDA with regard to the interpretation of the Uniform Policy, and will coordinate other joint activities of the IDAs to promote a countywide program of economic development.



Countywide IDA Eligibility Policy

Final Draft
October 12, 2001

Countywide IDA Eligibility Policy

Final Draft

October 12, 2001

The purpose of Industrial Development Agencies in Erie County is to promote economic development through the creation of jobs and the expansion and diversification of the County's tax base. To do this, the IDAs of Erie County encourage the construction, acquisition, retention and/or expansion of the following types of projects through the tax abatement of mortgage tax, sales tax, and real property taxes. Subject to compliance with all the requirements of Article 18-A of the New York General Municipal Law, proposed projects with occupants whose businesses fall within the following categories are hereby determined to be eligible for IDA tax abatement, in accordance with the County Wide Industrial Development Agency Payment in Lieu of Tax (PILOT) Policy.

Eligible firms and corresponding North American Industry Classification System (NAICS) groupings are as follows:

- 12. Traditional Manufacturing** – Examples include: agricultural production; natural resource exploration, processing and manufacturing; generation and distribution of utility services; transformation of materials into new products; etc.

North American Industry Classification System Sectors:	
11 Agriculture, Forestry, Fishing & Hunting	22 Utilities
21 Mining	31-33 Manufacturing

- 13. Distributive Services** - Examples include: wholesaling durable and non-durable merchandise; air, rail, water, truck transportation and support activities; warehousing and storage; publishing; motion picture and sound; broadcasting and telecommunications; information services and data processing; etc.

North American Industry Classification System Sectors:	
42 Wholesale Trade	51 Information

48-49 Transportation & Warehousing	
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- 14. Business Services** - Examples include: finance; international trade; accounting; engineering; research & development; management services; back office facilities in support of customer service, sales & marketing, and technical assistance; specialized training services; machinery & equipment repair; space research; national security; etc.

North American Industry Classification System Sectors:	
52 Finance & Insurance	56 Administrative & Support and Waste Management & Remediation Services
53 Real Estate and Rental & Leasing	61 Educational Services
54 Professional, Scientific & Technical Services	81 Other Services
55 Management of Companies & Enterprises	92 Public Administration

Arts, Entertainment and Recreation - Examples include: performing arts, theater companies, sports arenas, museums, historical sites, amusement and theme parks, casinos, golf courses, skiing facilities, all open to the general public.

North American Industry Classification System Sectors:
71 Arts, Entertainment and Recreation

Projects also deemed eligible for IDA assistance are as follows:

- **Venture and/or Multi-tenant Facilities** - Facilities having more than one project occupant, providing that two-thirds of the tenants are of the categories of eligibility listed above. Failure to maintain eligibility will result in the reconveyance of the facility and the loss of IDA benefits.
- **Long-Term Care Facilities** - Facilities including elderly housing, nursing homes, adult homes and assisted and/or assitive living centers. To be determined eligible for assistance, projects must prove a demonstrable need for such facilities within Erie County. Additionally, an application for assistance must be accompanied by a certificate of need, if required by State law, and must be in compliance with any and all other requirements mandated by state or local law.
- **Civic Facilities**- Facilities owned or occupied by a not-for-profit corporation authorized to conduct activities in New York State. Civic facilities may include: (a) dormitories for

- educational institutions; (b) facilities as defined in article twenty- eight of the public health law; and (c) housing facilities primarily designed to be occupied by individuals sixty years of age or older. Such facilities must be in compliance with all necessary requirements under state law and may not exceed \$20 million.
- **Hotels/ Motels-** IDA assistance to hotels and motel will be restricted to capital costs associated with the renovation or rehabilitation of existing hotel/ motel properties within Erie County. The hospitality industry is encouraged to develop a comprehensive, strategic tourism development plan. Upon completion of such a plan, the IDAs will reconsider this policy.

Neighborhood Revitalization/ Redevelopment Projects

As a general rule, IDAs are restricted in assisting retail projects (**NAICS Sectors 44-45 Retail Trade**) and medical facilities such as doctor's offices, clinics and laboratories (**NAICS Sector 62 Health Care and Social Assistance**). However, in an effort to revitalize and renovate the numerous neighborhood business districts throughout Erie County, the IDAs of Erie County will consider such projects for assistance if they are located in or contemplating relocating to areas of the County that are designated, by the respective municipal legislatures, as **Neighborhood Redevelopment Areas**. It should be noted that in order to qualify for eligibility, the various municipalities within the County must develop a neighborhood redevelopment strategy and designate those areas for which IDA assistance may be made available. It is further contemplated that such municipal redevelopment plans will be coordinated Countywide to create a comprehensive Erie County Neighborhood Redevelopment Strategy.

The statutory restrictions of **§862 of General Municipal Law, Article 18-A** are outlined below:

STATUTORY RESTRICTIONS

It should also be noted that pursuant to General Municipal Law §862, the above project classifications are restricted as follows:

1. No financial assistance of the agency shall be used in respect of any project if the completion thereof would result in the removal of a facility or plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application

before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a

location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

2. (a) Except as provided in paragraph (b) of this subdivision, no financial assistance of the agency shall be provided in respect of any project where facilities or property that are primarily used in making retail sales to customers who personally visit such facilities constitute more than one-third of the total project cost. For the purposes of this article, retail sales shall mean: (i) sales by a registered vendor under article twenty-eight of the tax law primarily engaged in the retail sale of tangible person property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section eleven hundred one of the tax law; or (ii) sales of a service to such customers. Except, however, that tourism destination projects and projects operated by not-for-profit corporations shall not be prohibited by this subdivision. For the purpose of this paragraph, "tourism destination" shall mean a location or facility which is likely to attract a significant number of visitors from outside the economic development region as established by section two hundred thirty of the economic development law, in which the project is located.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, financial assistance may, however, be provided to a project where facilities or property that are primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services constitute more than one-third of the total project cost, where (i) the project occupant would, but for the assistance provided by the agency, locate the related jobs outside the state, or (ii) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the city, town, or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services, or (iii) the project is located in a highly distressed area.

(c) With respect to projects authorized pursuant to paragraph (b) of this subdivision, no project shall be approved unless the agency shall find after the public hearing required by section eight hundred fifty-nine-a of this chapter that undertaking the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state. Where the agency makes such a finding, prior to providing financial assistance to the project by the agency, the chief

executive officer of the municipality for whose benefit the agency was created shall confirm the proposed action of the agency.

3. No funds of the agency shall be used for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the agency be given to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within this state nor shall such funds be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media.

Town of Hamburg Industrial Development Agency Whistleblower Policy

General

The Town of Hamburg Industrial Development Agency Code of Ethics (hereinafter referred to as the Code) requires board members, other volunteers, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees and representatives of the Town of Hamburg Industrial Development Agency must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations.

The objectives of the Town of Hamburg Industrial Development Agency Whistleblower Policy are to establish policies and procedures for:

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

Reporting Responsibility

Each board member, volunteer, and employee of Town of Hamburg Industrial Development Agency has an obligation to report in accordance with this Whistleblower Policy (a) fraud or suspected fraud, (b) questionable or improper accounting or auditing matters, and (c) violations and suspected violations of Town of Hamburg Industrial Development Agency's Code (hereinafter collectively referred to as Concerns).

Authority of Audit Committee

All reported Concerns will be forwarded to the Audit Committee in accordance with the procedures set forth herein. The Audit Committee shall be responsible for investigating, and making appropriate recommendations to the Board, with respect to all reported Concerns.

No Retaliation

This Whistleblower Policy is intended to encourage and enable board members, volunteers, and employees to raise Concerns within the Town of Hamburg Industrial Development Agency for investigation and appropriate action. With this goal in mind, no board member, volunteer, or Employee who, in good faith reports concern shall be subject to retaliation or, in the case of an employee, adverse employment consequences. Moreover, a volunteer or employee who retaliates against someone who has reported a Concern in good faith is subject to discipline up to and including dismissal from the volunteer position or termination of employment.

15. Reporting Concerns

Employees

Employees should first discuss their Concern with their immediate supervisor. If, after speaking with his or her supervisor, the individual continues to have reasonable grounds to believe the Concern is valid, the individual should report the Concern to a designated board member. In addition, if the individual is uncomfortable speaking with his or her supervisor, or the supervisor is a subject of the Concern, the individual should report his or her Concern directly to a designated board member.

If the Concern was reported verbally to a designated board member, the reporting individual, with assistance from a designated board member, shall reduce the Concern to writing. A designated board member is required to promptly report the Concern to the Chair of the Audit Committee, who has specific and exclusive responsibility to investigate all Concerns. If a designated board member, for any reason, does not promptly forward the Concern to the Audit Committee, the reporting individual should directly report the Concern to the Chair of the Audit Committee. Concerns may be also be submitted anonymously. Such anonymous Concerns should be in writing and sent directly to the Chair of the Audit Committee.

Board members and Other Volunteers

Board members and other volunteers should submit Concerns in writing directly to the Chair of the Audit Committee. Contact information for the Chair of the Audit Committee may be obtained from the Chief Financial Officer.

Handling of Reported Violations

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

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

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

Acting in Good Faith

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

Confidentiality

Reports of Concerns, and investigations pertaining thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Disclosure of reports of Concerns to individuals not involved in the investigation will be viewed as a serious disciplinary offense and may result in discipline, up to and including termination of employment. Such conduct may also give rise to other actions, including civil lawsuits.

Adopted March 28, 2008