



Governance Committee Meeting

Preliminary

Agenda

October 31, 2022

At 9:00 a.m.

Agenda subject to change

- 1) Roll Call**
- 2) Approval of Minutes for March 25, 2019 Meeting**
- 3) Review and Discussion of Certain YIDA Policies and Procedures:**
 - I. Review of Personnel Policies & Procedures**
 - II. Review of Guideline and Procedures**
- 4) Resolution**
- 5) Legal Updates**
- 6) Other Business**
- 7) Adjournment**

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STATE OF NEW YORK
CITY OF YONKERS

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Minutes of
The City of Yonkers IDA Governance Meeting
March 25, 2019 - 9:00 a.m.
At
470 Nepperhan Avenue
Yonkers, New York 10701
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B E F O R E:

- PETER KISCHAK, Vice Chairman
- WILSON KIMBALL, Secretary
- MELISSA NACERINO, Treasurer
- CECILE SINGER, Board Member

I D A S T A F F

- JAIME MCGILL - IDA Executive Director
- MARY LYRAS - IDA/YEDC Chief Fiscal Officer

P R E S E N T:

- SHAWN GIFFIN, ESQ. - HARRIS BEACH
- MICHAEL CURTI, ESQ. - HARRIS BEACH
- KARLY GROSZ, ESQ., YONKERS CORP COUNSEL.

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2 MR. KISCHAK: I want to start
3 this meeting, the Governance
4 Committee Meeting. Roll call.

5 MS. LYRAS: Peter Kischak.

6 MR. KISCHAK: Here.

7 MS. LYRAS: Cecile Singer.

8 MS. SINGER: Here.

9 MS. LYRAS: Wilson Kimball.

10 MS. KIMBALL: Here.

11 MS. LYRAS: Melissa Nacerino.

12 MS. NACERINO: Here.

13 MS. LYRAS: We have a quorum.

14 MR. KISCHAK: Approval of the
15 minutes for November 30th, 2016.

16 MS. SINGER: Can I --

17 MR. KISCHAK: Cecile makes a
18 motion, I can second it. Review and
19 discussion of certain YIDA policies
20 and procedures.

21 MS. MCGILL: The IDA adopted
22 new rules to increase accountability
23 and approve sufficiency and
24 transparency of IDA operations, so in
25 order to become fully compliant there

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2 a couple of policies that we need to
3 adopt. So in order to become fully
4 compliant there are a policies that
5 we need to adopt. We have Mike Curti
6 to go through the policies.

7 MR. CURTI: Michael Curti,
8 transaction counsel, Harris Beach
9 PLLC. Good morning, members of the
10 Governance Committee. As the
11 Executive Director indicated, there
12 was the adoption of regulations back
13 in December of 2018 following a
14 public comment period whereby the
15 Authority and Budget Office amplified
16 the statutory changes that were made
17 about a year ago to 859A of the
18 General Municipal Law and also 875 of
19 the General Municipal Law by which
20 IDAs, when they provide financial
21 assistance to companies, provide
22 certain mechanisms to recapture
23 benefits and making policies uniform
24 by way of granting that, so what
25 these regulations do, they amplify

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2 the statutory language.

3 Quite frankly, a lot of the
4 language contained herein is a
5 recitation of the statutory language
6 with a little bit of embellishment.

7 The four principal things to
8 take away from this regulation is,
9 number one, a standard application
10 has to be adopted. We are already
11 doing that.

12 We have reviewed the
13 application that we have been using
14 here at the IDA and compared it to
15 the regulation, and for the most part
16 with very few exceptions, we are
17 following the regulation to a T.

18 The second thing that we have
19 been doing for quite some time that
20 the board will need to adopt is the
21 Uniform Project Agreement. The
22 Uniform Project Agreement is probably
23 the second most important document
24 so far as the transaction documents
25 where the agency does provide

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2 financial assistance.

3 What the project agreement
4 basically says is, it lays out the
5 way the financial assistance is being
6 provided to the applicant, and it
7 also importantly has a provision that
8 talks about recapture in the event
9 that the applicant does not meet the
10 representations that they have made
11 so far as job requirements, so far as
12 indemnification, insofar as
13 insurance requirements and things of
14 that nature.

15 The third thing that the
16 regulations require is a policy by
17 the agency to provide the cost
18 benefit analysis. The staff of the
19 agency has already started that
20 process and contracting with the
21 company to provide those services. I
22 believe they have spoken to National
23 Development Council which provides
24 those services to the City of New
25 Rochelle IDA. They are also speaking

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2 to Camoin which provides those
3 services to the Suffolk County and
4 Nassau County IDAs, just for
5 comparison.

6 The cost benefit analysis is
7 basically a requirement to analyze
8 what are the jobs, the private sector
9 jobs that would be created, the
10 estimated value of any tax exemption
11 that are provided and the amount of
12 private sector investment generated
13 or likely to be generated as a result
14 of that proposed project and that's a
15 helpful tool to the agency in making
16 a determination as to whether to
17 grant financial assistance or not.

18 The other policy that is before
19 the Governance Committee is a policy
20 as to suspension and recapture.

21 Now, suspension and recapture
22 provisions have already been in our
23 project agreement that we have
24 instituted since the time that the
25 statute was adopted.

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2 Our project agreement complies
3 with the regulations, and so what the
4 board would be doing here is just
5 codifying a practice that the IDA has
6 already been doing for quite some
7 time now.

8 What the suspension policy and
9 recapture policy does, it gives the
10 agency the ability to recapture
11 financial assistance.

12 In the event there is a
13 material misrepresentation that was
14 made so far as the project
15 application is concerned, insofar as
16 if someone is not meeting a job's
17 requirement, so far as if there is
18 an instance where the agency needs
19 to be indemnified because something
20 happened on the project site and
21 there was a failure to do so, and
22 that is an important tool because it
23 makes the applicants accountable and
24 insures that they continue to comply
25 with the agency's requirements and

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2 providing that financial assistance.

3 The suspension policy and
4 recapture policy pretty much tracks
5 the language of the regulation and
6 the statute. It provides maximum
7 discretion to this board as to how to
8 proceed forward, and one of the
9 reasons being, you may have a
10 situation where an applicant has not
11 met their jobs's requirement but
12 there may be a financial downturn,
13 something like the great recession.

14 If they were to come to the
15 board, make an application, put forth
16 evidence as to why the board should
17 exercise its discretion and perhaps
18 assess a different penalty or perhaps
19 suspend financial assistance until
20 such time as they were to go into
21 compliance, it gives you the tools to
22 do that going forward.

23 So those are basically a high
24 level review of the regulations. The
25 last piece, there is a requirement

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2 going forward for IDA staff to put
3 forth certain information to the ABO
4 insofar as jobs that have been
5 generated by virtue of the project.
6 We'll work with staff to insure that
7 that's done. That's a requirement
8 that will have to be performed
9 annually going forward.

10 MR. KISCHAK: Has that ever
11 been the case before with the
12 suspension or trying to get money
13 back as far as the Yonkers IDA?

14 MR. CURTI: There is an
15 instance that we'll review in
16 executive session where we can
17 exercise that going forward.

18 MS. KIMBALL: I make a motion.

19 MS. NACERINO: Second.

20 THE COURT: Motion accepted.

21 Karly, legal updates?

22 MS. GROSZ: No legal updates.

23 MR. KISCHAK: Other business?

24 MS. KIMBALL: I will make a
25 motion to adjourn.

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MR. KISCHAK: Okay. Second?
Cecile.

(Whereupon, at 9:25 a.m., the
above matter concluded.)

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C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF ROCKLAND)

I, HOWARD BRESHIN, a Notary Public
for and within the State of New York, do
hereby certify:

That the above is a correct
transcription of my stenographic notes.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 25th day of March 2019.



HOWARD BRESHIN

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Yonkers Industrial Development Agency

Personnel Policies and Procedures Manual

Adopted:
[October 31, 2022](#)
June 22, 2016
October 31, 2006
April 23, 2008
May 16, 2012
January 20, 2015

All employees of the Yonkers Industrial Development Agency are subject to the Personnel Policies and Procedures approved by the Yonkers Industrial Development Agency (“YIDA”) and set forth in the Personnel Policies and Procedures Manual, unless otherwise provided herein. The Personnel Policies and Procedures are subject to annual review by the YIDA Board and or Governance Committee.

The rights and benefits of all Yonkers Industrial Development Agency (“YIDA”) employees who are assigned or otherwise work at or with the Office of Work Force Development of the City of Yonkers shall not be governed by any of the Personnel Policies and Procedures Manual for the YIDA. Instead, all rights and any benefits for said employees shall be governed exclusively by the Office of Work Force Development’s Personnel Policies and Procedures Manual approved by the Yonkers Workforce Investment Board. Nothing herein shall constitute a waiver of rights of the YIDA from terminating any and all said employees pursuant to the Personnel Policies and Procedures Manual or other rules or regulations of the YIDA, no matter where they work or are assigned.

Section 1: EMPLOYMENT STATUS

All employees are employed at the will of the YIDA. Employees of the YIDA can be discharged for cause or without cause in the sole discretion of the YIDA Chair.

Section 2: EVALUATION

Each employee shall be given a performance evaluation on the anniversary date of employment except in the instance of first employment when an evaluation shall be given after six months.

The evaluation shall be undertaken by the employee’s immediate supervisor. The employee must sign, but shall have the right to review the final, written evaluation, and to include written comments in response to the completed evaluation.

The final signed and written evaluation shall be filed with the President. An employee has the right to appeal an evaluation.

The appeal must be in written form, delivered to the Chairperson of the YIDA no later than fourteen days from the date a copy of the evaluation is signed by the employee, and contain specific reasons for the appeal.

The YIDA Members shall be the Appeals Body and shall have the right, in their sole discretion to determine whether or not to review the final evaluation of the employee,

which review shall be conducted solely on the final evaluation and any employee written comments. If an evaluation appeal is granted, the YIDA Board members have the final decision on the evaluation in their sole discretion and without any other or further appeal.

The President may waive performance evaluations when in his/her sole determination such evaluations require additional on-the-job work experience by staff members or for other reasons determined by the President.

Section 3: SALARY ADJUSTMENT

For Employees:

Salary and any adjustments shall be determined solely in the discretion by the YIDA Chair, in consultation with the Board. No salary adjustment shall be granted to an employee without a satisfactory evaluation for the year immediately prior to the adjustment, unless waived in writing by the President.

For the President:

The salary and benefits provided to the President shall be reviewed between 90 and 180 days of the date the President is first employed by the Agency. Thereafter the salary and benefits provided to the President shall be reviewed no less than annually. This annual review by the YIDA Board shall be based upon the goals established by the YIDA Chair, in consultation with the Board from time to time for the President to attain. Upon the successful accomplishment of the President in reaching these goals, the salary and benefits, as well as any incentive payments, shall be in the amounts determined by the YIDA Chair, in consultation with the Board in its sole discretion.

Section 4: BENEFITS

All employees shall receive, medical and dental insurance, NYS disability, workers' compensation, and unemployment insurance. It is mandatory for full time employees to participate in the New York State Retirement System at their own expense. The medical and hospitalization policy shall be the NYS Empire Plan and the Dental Plan shall be NYCON. During the open enrollment period of each year, employees may waive in writing their health insurance benefits for the following year. Employees who waive health insurance benefits shall receive compensation in the amount of \$3,000.⁰⁰, payable in equal installments of \$1,500.⁰⁰ on or about April 1 and October 1 of each year the coverage is waived. Employees shall also be entitled to participate in a NYS Deferred Compensation Plan (Optional Retirement Plan). All employees (except the President, Executive Director

and Chief Financial Officer) shall be entitled to receive a fully paid Life Insurance Plan in the amount of \$50,000 (or lesser amount if no medical information is required to be provided to obtain said Plan). The President, Executive Director and Chief Financial Officer of the YIDA shall receive a \$100,000 Life Insurance Plan. Employees shall also receive the benefits of a Vision Plan in an amount not to exceed \$250 per family member of each employee. There are no other benefits except to the extent the YIDA in its sole discretion from time to time allows YIDA employees who are funded by grants or other extraordinary sources of funding to receive additional benefits. Those additional benefits can be withdrawn at any time by the YIDA and shall not constitute any precedent or right to receive such benefits in the future or by other YIDA employees.

BENEFITS EFFECTIVE DATE OF COVERAGE:

Benefits for employees will become effective on the 1st day of the second month following date of hire, as per example below. Employee contributions for payment of insurance coverage will begin two pay periods prior to effective date of coverage.

Effective date of coverage *example:*

- Date of hire: Aug. 1st - Aug. 31st
- Date of Coverage: October 1st

COST OF EMPLOYEE BENEFIT CONTRIBUTION:

All employees are required to contribute for their medical insurance as follows:

Management employees:

Individual Coverage: 20% of premium

Family Coverage: 10% of premium

All non-management employees:

\$1,000 annually

(equally divided into annual payroll periods)

YIDA employees do not contribute to dental benefits.

The Agency reserves the right to change to an alternate but comparable plan if the need arises. All employees will be notified in writing if such a change occurs 90 days in advance.

Section 5: OTHER BENEFITS

Non-management employees:

Non-management employees of YIDA shall be entitled to annual personal leave time as follows:

Personal days: ~~Employees receive 2 days per calendar year.~~ Full time, Incumbent and Newly Hired employees receive 4 personal days at the beginning of each calendar year. However, Newly Hired employees' personal time will be pro-rated for the first year of employment as follows:

Initial Months of Employment/Prorated Personal Leave to be Accrued:

Jan, Feb, March = 4 days

Apr, May, June = 3 days

July, Aug, Sept = 2 days

Oct, Nov, Dec = 1 day

Sick days: Employees receive 12 sick days per calendar year. Sick days are allocated on Jan 1 of each year.

Vacation: Employees receive 2 weeks vacation, the equivalent of 10 days. Vacation time is accrued per bi-weekly pay period.

<u>Years of Service</u>	<u>Allotted vacation</u>
0-5 years	2 weeks (10 days)
6-10 years	3 weeks (15 days)
11-15+ years	4 weeks (20 days)

Management employees:

Management employees shall mean, the YIDA President/CEO, Executive Director and Chief Fiscal Officer of the YIDA. All management employees shall be entitled to receive the same benefits as other employees. In addition, in the discretion of the Chair of the Agency, management employees shall be provided with additional personal leave, vacation, sick leave and bereavement leave as determined by the Chair based upon the employment history of the individual management employee involved prior to employment with the Agency, the effectiveness and efficiency of the management employee while working with the Agency and the required supplement to the aforementioned benefits needed to incentivize that management employee and to otherwise provide that employee with benefits which are competitive in the marketplace.

Personal days: Management employees receive 4 days per calendar year. Personal days are allocated on Jan 1 of each year.

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Sick days: Management employees receive 12 sick days per calendar year. Sick days are allocated on Jan 1 of each year.

Vacation: The YIDA President/CEO and Executive Director receive an allocation of 5 weeks or 25 days in December. The YIDA Chief Fiscal Officer receives 4 weeks, the equivalent of 20 days, which are accrued per bi-weekly pay period. Every November, management can buy un-used vacation time for up to 3 weeks as long as there is 10 days left in the vacation bank.

Tuition Reimbursement:

**CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY
STAFF TUITION REIMBURSEMENT BENEFIT PROGRAM**

The City of Yonkers Industrial Development Agency (the “Agency”) is committed to the development of its employees and the belief that education is a lifelong process that enhances work performance and increases career mobility within the organization, thereby helping employees provide better serve the purpose and mission of the Agency.

The Tuition Reimbursement Program provides up to \$2,500 per fiscal year in financial assistance to Agency employees seeking to further their education. It is the goal of the Agency to assist employees with their educational objectives and to strengthen their commitment to their position within the organization. This program provides the opportunity for improvement of skills and abilities, enabling one to advance within their career with the Agency. Professional development and personal growth result from the pursuit of further education.

Education and training programs advance job opportunities and support economic development by providing access to the skills and knowledge needed to develop new and sustain existing projects and initiatives that the Agency undertakes in furtherance of the Agency’s mission.

Review of application and consequent approval/denial of tuition reimbursement will be determined by the IDA President.

The following applies to this program:

Eligibility

- Applicants must be full-time employees.
- Applicants must have a minimum of one year of continuous full-time service with the Agency.

Program Parameters

- The employee must initiate the request for tuition reimbursement by completing the YIDA Tuition Reimbursement Benefit Program Application.
- Applicants must meet eligibility criteria for approval.

- Applicants must submit all documentation outlined in the application.
- Applicants must provide proof of successful course completion for reimbursement.
- Applicants are entitled to reimbursement for courses in which they receive a minimum grade of “C” for undergraduate courses, a minimum of “B” for graduate courses, or written proof of successful completion of certificate program courses.
- Employees must attend courses on non-work time.
- The courses requested must be work-related and provide skills and/or knowledge relevant to an employee’s current position within the organization.
- Courses that are eligible include, but are not limited to, post-secondary education through community colleges and universities (undergraduate and graduate level programs), accreditations related to trades and vocations, and professional designations and certifications. Classroom, e-learning programs, distance learning, and correspondence courses are all acceptable.
- Tuition assistance reimbursement is limited to \$2,500 per year of total tuition cost. Student fees, books, and examination fees are not reimbursable.

Employee Responsibilities

- Employees are responsible for ensuring the selected education provider is a bona fide vendor of training and education services.
- Employees are responsible for obtaining and submitting proof upon request that the selected training vendor is a bona fide institution.
- Employee is responsible for obtaining and submitting receipts supporting their application.

Restrictions and Use of Benefits:

Vacation Time: When an employee leaves, that employee will be paid for all earned and not used vacation time. Employees in good standing who terminate from employment shall be entitled to be paid for their unused available vacation balance up to 55 days.

Sick Time is meant to provide income in the event of illness. Unlimited number of sick days can roll from year to year. Unused sick time will accumulate in a bank. When an employee leaves, there is no pay-out of unused sick time.

If an employee takes one or no sick days in a calendar year, that employee will receive a bonus of \$300.00 in January of the following year.

Personal days cannot be carried over, but unused personal days will accrue as part of the employee's sick bank.

Notwithstanding the foregoing, in the case of any employees, for exceptional circumstances the YIDA Chair can waive any of the limitations on the accumulation or utilization of unused time. The criteria for the exceptional circumstances are as follows: (1) appropriate documentation of any reason for the requested waiver; (2) the history of employment of the employee involved; (3) the importance of the employee to the operations of the Agency; and (4) the prior exercise of any discretion in providing any waiver for other employees.

All employees shall be entitled to the same retiree health benefits continuation provided to the City of Yonkers employees.

President/CEO:

The President **if fulltime**, shall be entitled to receive all the benefits that are provided to all employees as set forth herein. In addition, the President shall be entitled to priority access to utilize a leased company pool car at the expense of the Agency in an amount approved by the Chairperson. The President shall also be entitled to reimbursement of other travel and entertainment expenses that are reasonable and necessary to the conduct of the Agency's business.

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FMLA

Family and Medical Leave

The Agency, in accordance with the Family and Medical Leave Act of 1993 (“FMLA”), grants “eligible” employees the right to take unpaid leave for a period of up to 12 or 26 workweeks in a “rolling” 12-month period that is measured backward from the date you use any FMLA leave. Employees are not permitted to “bank” or carry forward leave under the FMLA.

Eligibility

To qualify to take FMLA leave, the employee must meet all of the following conditions:

- The employee must have been employed by the Agency for at least 12 months or 52 weeks.
- The employee must have actually worked at least 1,250 hours during the previous 12-month period.

Types of Leave Covered

Eligible employees may take up to 12 weeks of FMLA leave during a single 12-month period for one or more of the following reasons:

- The birth of a child and to bond with the newborn child (until the child reaches the age of 1 year);
- The adoption of a child and to bond with the newly adopted child (within 12 months of adoption);
- The placement with the employee of a child in foster care and to bond with the newly placed child (within 12 months of placement);
- To care for a spouse, child, or parent who has a “serious health condition” (as defined by the FMLA);
- The “serious health condition” of the employee (as defined by the FMLA) which makes the employee unable to perform the employee’s job;
- Because of a “qualifying exigency” (as defined by the Secretary of Labor) arising out of the fact that the spouse, son, daughter, or parent of the employee, is a member of the regular Armed Forces or Reserve components of the Armed Forces, and is on or called to covered active duty. “Qualifying exigencies” may include, but are not limited to, attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Eligible employees may take up to 26 workweeks of FMLA leave during a single 12-month period to care for:

- a covered service member who: (a) is the employee’s spouse, son, daughter, parent, or next of kin; and (b) is a member of the Armed forces (including a member of the National Guard or reserves) who is undergoing medical treatment, recuperation, or therapy, or is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
- a covered veteran who: (a) is the employee’s spouse, son, daughter, parent, or next of kin, (b) was released under conditions other than dishonorable; (c) is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness; and (d) was a member of the Armed Forces (including a member of the National Guard or

reserves) at any time during the period of 5 years preceding the first date on which the eligible employee takes FMLA leave to care for the covered veteran.

This leave entitlement shall be applied on a per-covered service member, per-injury basis. (Note: The FMLA definitions of “serious injury or illness” for current service members and veterans are distinct from the FMLA definition of “serious health condition.”)

The single 12-month period for service member caretaker leave shall begin on the first day the eligible employee takes leave to care for a covered service member and end 12 months after that date. If an eligible employee does not take all of his/her 26 workweeks of leave entitlement to care for the covered service member, during the single 12-month period, the remaining part of his/her 26 workweeks of leave entitlement to care for the covered service member is forfeited.

An employee’s combined leave total for all FMLA leave taken during any single 12-month period shall not exceed 26 weeks.

Combined Leave Total for Spouses

Spouses who are both employed by the Agency and eligible for FMLA leave may be limited to a:

- Combined total of 12 weeks of leave during the 12-month period if leave is requested:
 - (1) for the birth of a son or daughter and in order to care for that son or daughter;
 - (2) for the placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly placed son or daughter; or
 - (3) to care for an employee's parent with a serious health condition.

- Combined total of 26 weeks in a single 12-month period if the leave is either for:
 - (1) military caregiver leave; or
 - (2) a combination of military caregiver leave and leave for other FMLA-qualifying reasons.

Substitution of Paid Leave

When an employee takes FMLA leave because of the employee’s own serious health condition (including for prenatal care and incapacity relating to the pregnancy, and for her own serious health condition following the birth of a child), the Agency may require accrued paid time off to be used concurrently with the FMLA leave entitlement.

Advance Notice

Generally, employees requesting FMLA leave must provide written notice of the need for leave to the Agency’s Executive Director (or the Chair if the Executive Director is

requesting leave). The Agency generally has a right to 30 days' advance notice from the employee where the need for FMLA leave is foreseeable. If 30 days' notice is not practicable, notice must be given as soon as possible and practical under the facts and circumstances of the particular case and the employee generally must comply with normal call-in procedures. Notice must be given as soon as possible and practical for foreseeable leave due to a qualifying exigency, regardless of how far in advance such leave is foreseeable.

Employees must provide sufficient information for the Agency to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the employee's family member is unable to perform daily activities; the employee's need for hospitalization or continuing treatment by a health care provider; or circumstances supporting the need for military family leave. Calling in "sick," without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must also inform the Agency if the requested leave is for a reason for which FMLA leave was previously taken or certified.

For purposes of confirmation of family relationships, the Agency may require the employee giving notice of the need for leave to provide reasonable documentation or statement of family relationship to the extent permitted by law. The first time qualifying exigency leave is requested by an employee, the Agency may also require the employee to provide a copy of the covered service member's active duty orders or other relevant documentation issued by the military to the extent permitted by law. Documents submitted for confirmation purposes will be returned to the employee.

Notice of Eligibility and Rights & Responsibilities

Within five (5) business days after the employee has provided notice of the need for FMLA leave, the Executive Director or the President will complete and provide a completed copy of the Department of Labor's Notice of Eligibility and Rights & Responsibilities form to him/her.

Designation of FMLA Leave

Within five (5) business days after the employee has submitted the appropriate certification form or enough information to determine whether the leave is FMLA-qualifying, the Executive Director or the President will complete and provide the employee with a written response to the employee's request for FMLA leave, using the Department of Labor's Designation Notice form. A list of the essential functions of the employee's position shall be attached to and provided with the Designation Notice (because the Agency will require an employee returning from FMLA leave to provide a fitness-for-duty certificate which addresses his/her ability to perform the essential functions of his/her position).

The Agency may retroactively designate leave as FMLA leave with reasonable notice to the employee, provided that the retroactive designation does not otherwise cause harm/injury to the employee.

Certification

When an employee seeks leave for treatment of his/her serious health condition or the serious health condition of a covered family member, or seeks leave because of a qualifying exigency covered service member caretaker leave, the Agency may require that such leave be supported by proper certification. Certification must be provided using the appropriate Department of Labor Certification form. Recertification may be required in accordance with the Department of Labor's regulations. An employee must provide a completed certification to the Executive Director or the Chair within fifteen (15) calendar days after it is requested or provide a reasonable explanation for the delay. Failure to comply with certification requirements may result in the denial of FMLA leave.

The Executive Director or the Chair may contact the employee's health care provider for purposes of clarification and authentication of a medical certification after the employee has been given the opportunity to cure any deficiencies. A Health Insurance Portability and Accountability Act ("HIPAA") release is required to permit a covered health care provider to discuss health information about the employee.

Fitness-for-Duty Certification

The Agency may require that an employee present a certification of fitness to return to work when the absence was caused by his/her own serious health condition. The Agency may require that the certification specifically address the employee's ability to perform the essential functions of his/her job. The Agency has the right to deny restoration to employment if the employee does not furnish the fitness-for-duty certification.

The Executive Director or the President may contact an employee's health care provider for clarification and authentication of a fitness-for-duty certification if a HIPAA release has been obtained.

Leave Taken Intermittently or on a Reduced Leave Schedule

An employee may take FMLA leave intermittently or may work a reduced leave schedule when medically necessary and when such leave is used in connection with the employee's own serious health condition; the serious health condition of the employee's spouse, parent or child; because of a qualifying exigency; or for purposes of covered service member caretaker leave. An employee must make reasonable effort to schedule foreseeable treatments (i.e., planned surgery, chemotherapy treatments, etc.) in a manner which does not unduly disrupt the Agency's operations.

Where an employee requests intermittent leave or leave on a reduced leave schedule which is foreseeable based on planned medical treatment, the Agency may require the employee

to transfer temporarily to another position which has equivalent pay and benefits and better accommodates recurring periods of leave.

Benefits Protection

An employee on FMLA leave is entitled to have health coverage under any “group health plan” maintained under the same terms and conditions as if he/she had continued to work. Unless the Agency notifies an employee of other arrangements, whenever an employee is receiving pay from the Agency during FMLA leave, the Agency will deduct the employee’s portion of the group health plan premium from his/her paycheck in the same manner as if the employee was actively working. If FMLA leave is unpaid, employees must contact the Executive Director or the Chair for payment arrangements.

The Agency reserves the right to drop the coverage of an employee whose premium payment is more than 30 days late. Notice will be mailed to the employee at least 15 days before coverage is to cease advising the employee that coverage will be dropped on a specified date at least 15 days after the date of the letter unless payment is received by that date.

In some cases, the Agency may recover premiums paid for maintaining an employee’s health coverage if the employee fails to return to work from FMLA leave.

Exhaustion of FMLA Leave Entitlement

When an employee exhausts his or her annual 12 weeks of FMLA leave entitlement, but is unable to return to work at the time of such exhaustion, the Agency will require updated information from the employee and/or his or her medical provider to determine, in accordance with applicable law, what accommodations, if any, may be appropriate at that time.

Job Protection

Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. ACCA may deny restoration to certain highly compensated employees, but only if necessary to avoid substantial and grievous economic injury to the Agency’s operation.

Unlawful Acts

The FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; and/or
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or related to FMLA.

Enforcement

All FMLA leave will be administered by the Executive Director or the President. For more information or clarification regarding FMLA leave generally, please see the Department of Labor's notice provisions posted or contact the Executive Director, or see the nearest office of the U.S. Department of Labor, Wage and Hour Division.

- An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

The FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Section 6: HOLIDAYS

The Yonkers Industrial Development Agency observes the following paid holidays:

New Year's Day	Labor Day
Martin Luther King's Birthday	Columbus Day
Lincoln's Birthday	Election Day
Washington's Birthday	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day
<u>Juneteenth</u>	

Commented [FR3]: New holiday as of 2022

Section 7: BEREAVEMENT AND JURY DUTY

Four days of paid leave may be granted an employee upon death of an employees' spouse, child, parent, sibling or grandparents, or an in-law with the same relationship to spouse as defined herein. In addition, in the discretion of the President of the Agency, employees may be granted additional bereavement leave.

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Commented [FR4]: COY page 52

Employees upon returning to work must provide documentation showing death of a family member. The following documents are acceptable: death certificate, letter from funeral home (must be on business letterhead, addressed to employee, and include name of deceased, date of death, and date(s) of service), Coroner's Report, and in rare instances an obituary from a newspaper.

Commented [FR5]: COY psge 52

An employee shall receive current wages minus compensation for jury duty performed upon presentation of documentation to the employee's supervisor demonstrating such mandated jury duty.

Section 8: SEXUAL HARASSMENT POLICY

The Agency's Sexual Harassment Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business with the Agency.

Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination.

No person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Agency has a zero-tolerance policy for such retaliation against anyone who, in good faith complains or provides information about suspected sexual harassment. Any employee of the Agency who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination.

The Agency will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager or the President. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or the President.

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

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the President.

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

Section 9: GRIEVANCE PROCEDURES

When an employee believes that he/she has been aggrieved by any conduct of a fellow employee in violation of YIDA policy or procedures or other provisions of law, the employee shall have the opportunity to file a written grievance with the employee's supervisor.

The supervisor, upon receipt of a written grievance, shall convene a meeting of the aggrieved employee and the employee or employees against whom the grievance is filed. The supervisor shall first attempt to resolve the grievance voluntarily among the affected parties. If such resolution is determined to not be possible by the supervisor, the supervisor shall render a determination on the grievance.

Any party participating in the written grievance process shall have the right to file within fourteen (14) days upon written receipt of a supervisor's decision on an appeal of that decision to the President. The President may in his or her sole discretion, deny the appeal or agree to review or otherwise act. The President's decision is final and binding without any further review or appeal.

In the case of an employee filing a grievance against a supervisor, the same process as herein before described shall be followed except that the initial written grievance shall be filed with the President.

In the case of an employee filing a grievance against the President, a written grievance shall be filed by the aggrieved employee with the Chairperson of the YIDA who may in his or her discretion deny the grievance or conduct a meeting of the affected parties to seek resolution to render a decision on the grievance. The determination of the Chairperson shall be final and binding and non-appealable.

Section 10: TRAVEL POLICY

YIDA employees shall be reimbursed at the IRS Standard Mileage Rate per mile for officially authorized travel directly related to YIDA business whenever using privately registered vehicle as established from time to time by the United States Internal Revenue Service. Such reimbursement shall only be paid after YIDA employee has submitted a duly

executed voucher satisfactorily showing mileage, destination, and purpose countersigned by employee's supervisor.

Travel expense reimbursement involving non-privately owned transportation and for overnight stays shall only be paid upon written authorization of the President and shall only be paid upon a duly completed voucher showing cost, destination, and purpose countersigned by the President.

Section 11: SOCIAL MEDIA POLICY:

Use of Social Media, including but not limited to blogging and use of Facebook, Twitter, or Instagram, whether using the Agency's property and systems or personal computer systems, is also subject to the terms and restrictions set forth in this policy. Official Agency use of social media shall be limited only to those authorized.

Personal use of Social Media shall not be permitted on Agency equipment. Social media can sometimes blur the line between professional and personal lives and interactions. Statements intended as personal opinion can be mistaken for official expressions of the Agency. Care must be taken to ensure that personal use of social media does not create the appearance of official use of social media, such as by the use of a government title or position in a manner that would create an appearance that the Agency sanctions or endorses one's activities. Personal use of Social Media, is subject to the limitations set forth in Garcetti v. Ceballos, 547 U.S. 410, and could result in discipline if it interferes with your employment responsibilities and is detrimental to the Agency's best interests. The Agency may consider: the manner, time, and place of the speech; whether the speech impairs discipline by superiors or harmony among co-workers; whether the speech detracts from work relationships that require loyalty and confidence; and whether the speech impedes performance of the employee's duties or the office's operations generally

Section 12: EMPLOYMENT STATUS

No individual shall become an employee of the Yonkers Industrial Development Agency until he/she has read the Personnel Policies and Procedures, accepts same, and agrees to carry out his/her duties pursuant to assigned job responsibilities, policies of the Agency, and direction of management personnel.

Employee: ____ Date of Hire: _____

Signature: _____

Date: _____

DRAFT

REDLINE 10 24 2022

**CITY OF YONKERS
INDUSTRIAL DEVELOPMENT AGENCY**

**Guidelines
And
Procedures**

Adopted:
June 22, 2016
January 30, 2014
March 4, 2010
November 6, 2009
April 23, 2008
October 31, 2006

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CITY OF YONKERS

Industrial Development Agency

GUIDELINES AND PROCEDURES

I. INTRODUCTION

A. YIDA Creation

The City of Yonkers Industrial Development Agency ("YIDA" or the "Agency") was established by an act of the New York State Legislature in 1982, as a body corporate and politic of the State of New York (the "State"), under Section 903 of the General Municipal Law, pursuant to and in accordance with the provisions of Title 1 of Article 18-A of the General Municipal Law ("GML") of the State as amended ("the IDA Act"). The Agency has the ability to undertake manufacturing, warehousing, commercial, industrial, research, industrial pollution control, recreation, railroad and educational or cultural facilities projects and to provide financial assistance in connection with the acquisition, construction and/or equipping of such projects. Under New York State law, industrial development agencies ("IDAs") may provide financial assistance to a project in the form of proceeds from the sale of bonds issues by an IDA, a straight-lease transaction (as discussed below) or exemptions from taxation as a result of an IDA taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project. IDAs and Project Developers are subject to various reporting requirements under New York law which are not discussed in this packet. This informational packet does not review all laws applicable to the IDA. Please consult counsel for more information.

B. IDAs Generally

IDAs were created in the State and throughout the nation to attract and enhance industrial and economic development, help create and retain jobs and maintain economic stability within municipal or regional boundaries. Many state constitutions, including New York's, prohibit municipalities from making gifts or loans to private companies or individuals, and therefore, the creation of IDAs provide a viable mechanism to accomplish industrial development goals. Support of a healthy economy, the creation and retention of jobs on local, regional, and state levels is an important public policy objective.

C. Purposes and Powers

In New York State the legislative intent was to promote economic welfare and recreational opportunities, prevent unemployment and economic deterioration, ensure the prosperity of the State's inhabitants, and promote tourism and trade. IDAs are not given taxing authority but are granted other broad powers, notably, to acquire and dispose of property and to issue debt. When an IDA issues debt, either in the form of bonds or notes, interest on that debt is exempt from personal

income taxes on interest income imposed by the State and all political subdivisions.

D. Major Activities

1. Issuance of Bonds

Issuance - The major activity of IDAs has been the issuance of bonds (federally tax-exempt or taxable) to provide low cost financing for businesses to acquire, construct and equip their business facilities and thus create and retain jobs, and provide for economic growth and stability in the community. The borrower (e.g., a corporation, partnership or sole proprietorship) agrees to make payments to retire the bond obligations pursuant to a contractual agreement such as a Lease or Installment Sale Agreement. Depending on the size of the bond issue and other factors, placement of the bonds may be made privately or publicly.

The real property and the machinery are technically owned by the IDA. However, the borrower indemnifies the IDA against all claims and is wholly responsible for debt payment.

Tax-exempt Status — The Internal Revenue Code of 1986, as amended, identifies two categories of bonds for federal purposes: private activity bonds and all other or "governmental bonds". A bond is potentially a private activity bond if any entity other than a state or local governmental entity benefits directly or indirectly from the issuance of bonds.

Bonds issued to provide facilities for 501 (c) (3) organizations such as not-for-profit corporations (Code Section 145), bonds issued to provide for manufacturing facilities (Code Section 144), and bonds issued to provide for facilities listed under Code Section 142, such as airports, docks, wharves, mass commuting facilities, and solid waste disposal facilities qualify for tax-exempt status. Companies interested in bond financing should inquire regarding eligibility and additional requirements for tax-exempt financing.

In addition, all bonds issued in New York State will continue to be exempt from State personal income tax on interest income and sales tax whether or not such bonds are federally tax-exempt.

2. Straight-Lease Transactions

In addition to the issuance of its bonds, an IDA can avail itself of another primary financing tool to encourage project development, namely, a straight-lease transaction. Straight-leases enable companies to receive the benefits of IDA project status without the need for the IDA to issue debt. In a straight-lease transaction, an IDA takes title, possession or control (e.g., by deed, lease or license) to the property and/or the machinery and equipment and provides property and sales tax relief to the project company.

Other economic development entities of the City of Yonkers (the "City") may provide alternative financing in this situation.

II. ADVANTAGES AND DISADVANTAGES OF IDA FINANCING

A. Advantages

1. Ability to borrow at significantly lower interest rates (for tax-exempt bond transactions).
2. Borrowing money through the issuance of tax-exempt or taxable industrial development bonds enables the borrower to access the public market.
3. Exemption from mortgage recording tax.
4. Real property tax abatement.
5. Exemption from sales tax for acquisition of construction materials and machinery and equipment.

B. Disadvantages

1. Number of parties involved in the transaction and the amount of additional documentation required.
2. Restrictions on the types of projects permitted.
3. Additional closing costs.
4. Other programs such as 485-b and the Economic Development Zone ("EDZ") provide benefits similar to IDA benefits with different restrictions. In some cases, IDA refinancing is preferable, in other cases it is not.

III. PROCEDURES

A. Application Process

YIDA entertains applications from developers or project companies on a first-come first-served basis. Tax-exempt financing, either public or private placement, will be offered, if in keeping with the City's economic development strategy, unless Federal Law or other prohibits it.

1. Agency Fees

A non-refundable Application Fee of \$600.00 is charged on all applications. In addition, the Agency charges a general service fee of 1% of the principal amount of the bonds for a tax-exempt issue, ½ of 1% of the principal amount of the bonds for a taxable issue and ½ of 1% for a straight-lease transaction. All bond refinancing is subject to a ½ of 1% fee; provided, that such fee may be reduced on a case-by-case basis if required to protect the viability of the transaction. These fees are payable at time of closing. For other types of financial assistance transactions permitted by the IDA Act the fee will be determined by the Agency on a case-by-case basis. The IDA may reduce the fee in large transactions that the Board considers significant and

strategically important to the economy of the City. Any reduction in the general service fee shall be made in accordance with subsection "3" herein this Section.

The developer or project company is also responsible for payment of all expenses of the Agency, including, but not limited to, the Agency's Counsel fee and Bond Counsel's fee all other legal counsel or advisors, appraisers, accountants, experts or other professionals or consultants retained or otherwise employed by the Agency. Payment of all fees and associated closing costs may be paid for with a portion of the proceeds of the bond issue, subject to Federal limitations. All such costs and expenses of the Agency shall be paid when invoiced to the Applicant, but in no event later than at closing.

2. Eligible Projects

Only facilities which qualify as a "project", as defined in the IDA Act, may qualify for financial assistance from the Agency. These include manufacturing, warehousing, research, commercial, industrial, industrial pollution control, recreation, educational, cultural, horse racing, railroad and civic facilities. In addition, the project must be either within the municipality or partially within and partially without the municipality, provided that the portion outside the municipality is contiguous with the portion inside the municipality. Furthermore, the project must be shown to advance the job opportunities, health, general prosperity and economic welfare of the inhabitants of the municipality in which the project is located.

The Agency may not provide financial assistance to a project which results in the removal of a plant or facility from one area of the State to another, or abandonment of a plant or facility within the State, unless such removal or abandonment is reasonably necessary to discourage the project occupant from removing such plant or facility to a location outside the State and therefore, preserve the competitive position of the project occupant in its industry.

In addition, an IDA may not provide financial assistance for projects involving retail facilities, where such facilities constitute more than one-third of the total project cost. However, subject to the approval by an IDA after a public hearing, this restriction on an IDAs use of its funds does not apply to tourism destination projects and projects operated by not-for-profit corporations and in cases where the project occupant would otherwise locate out of the State, the project would make available to the benefited municipality certain goods and services which otherwise would be unavailable, or the project is located in a "highly distressed area".

Included within the application the Agency distributes to companies seeking the financial assistance of the Agency is a general policy statement regarding fees and disclosure requirements, a hold harmless agreement and an environmental assessment form which describes the impact of the project

on the environment. Also included is a form required by the State outlining specific job opportunities to be created as a result of project completion.

Once a completed application is delivered to the Agency, the Agency members will convene to review the application, and if approved, the Agency members may, upon the advice of Agency Counsel and/or Bond Counsel, adopt one or more resolutions to enable the YIDA to provide financial assistance to the proposed project. In virtually all cases, the proposed project will be subject to an environmental review under the State Environmental Quality Review Act ("SEQRA"). Under SEQRA, the Agency is generally required to make an environmental determination prior to providing any form of financial assistance to the project.

3. Variations in Agency General Service Fee

The Agency upon recommendation of the President may reduce any General Service Fee upon review of the following factors:

- (a) The importance of the Project to economic revitalization efforts in the City of Yonkers;
- (b) The inability of the Applicant to pay the Fee;
- (c) The benefit that City of Yonkers Residents will realize if the Project is successfully completed;
- (d) The need for the City of Yonkers to attract such a Project;
- (e) The charitable or cultural impact of the Project in the City of Yonkers.

B. Outline of Procedures

Set forth below is a general outline of the various steps involved in tax-exempt and taxable bond issues, and straight-lease transactions. The number of steps involved may increase or decrease and their order may change depending on the type of project for which the project company requests the Agency to provide financial assistance.

Tax-Exempt Bond Issues

1. Preliminary review of project with the project company.
2. Completion of Application and SEQRA Environmental Assessment Form by the project company.
3. Delivery of Application to the President of Agency, Agency Counsel and Bond Counsel for review.
4. Determination of tax-exempt eligibility by Bond Counsel.
5. Schedule a meeting of the Agency and prepare public notice of meeting.

6. Convene meeting and adopt Acceptance Resolution and other pertinent resolutions. Discuss requirements of SEQRA with the project company.
7. Preparation of Federal TEFRA Public Hearing Notice and Federal TEFRA Public Approval Resolution for the Mayor.
8. Publication of Federal TEFRA Public Hearing Notice at least 14 days prior to the scheduled date of the Federal TEFRA Public Hearing.
9. Federal TEFRA Public Hearing held. Minutes of the hearing forwarded to the Mayor for his final consideration.
10. When the Agency contemplates providing financial assistance of more than \$100,000 to a project, the Agency must (1) adopt a resolution describing the project and the financial assistance, (2) hold a public hearing regarding such project and financial assistance, and (3) provide ten days notice of such hearing to the public and to the chief executive officer of the affected tax jurisdiction (the "Affected Tax Jurisdiction" or "ATJ") where the project will be located.

Note: This hearing which is required by the IDA Act may be combined with the Federal TEFRA Public Hearing,

11. Payment in lieu of tax (PILOT), sales and use tax exemptions and mortgage recording tax exemption negotiations.
12. Project company obtains commitment letter from institution providing financing.
13. Preparation of draft bond documents and Volume Cap Allocation Request Form.
14. Ongoing negotiations and preparation of final Bond documents and Bond Resolution.
15. Agency convenes to adopt Bond Resolution provided that the requirements of SEQRA and all other applicable laws have been complied with by the Agency and the project company. Note: IDA projects must comply with all applicable laws.
16. Closing scheduled. Bonds delivered and proceeds made available to the project company for the project.
17. IRS FORM 8038 forwarded to NYS Department of Economic Development and the IRS,
18. Closing transcript prepared and distributed to all parties to the transaction.

19. Administration of file and Retention of records including case file, application, status reports, etc. and Official Transcript. (Records must be retained for a period of seven (7) years after closing. All IDA records and reporting is done pursuant to New York State reporting guidelines and requirements.

Taxable Bond Issues and Straight-Lease Transactions

1. Preliminary review of project with the project company.
2. Completion of Application and SEQRA Environmental Assessment Form by the project company.
3. Delivery of Application to the President of Agency, Agency Counsel and Bond Counsel for review.
4. Schedule a meeting of the Agency and prepare public notice of meeting.
5. Convene meeting and adopt Acceptance Resolutions and other pertinent resolutions. Discuss requirements of SEQRA with the project company.
6. When the Agency contemplates providing financial assistance of more than \$100,000 to a project, the Agency must (1) adopt a resolution describing the project and the financial assistance, (2) hold a public hearing regarding such project and financial assistance, and (3) provide ten days notice of such hearing to the public and to the chief executive officer of the ATJ where the project will be located.
7. Payment in lieu of tax (PILOT), sales and use tax exemptions and mortgage recording tax exemption negotiations.
8. Project company obtains commitment letter from institution providing financing. (Underwriter and/or Bond buyer) (Taxable Bond Issues only).
9. Preparation of draft bond documents or straight-lease transaction documents, as the case may be.
10. Agency convenes to adopt Bond Resolution or Straight-lease Transaction Resolution, provided that the requirements of SEQRA and all other applicable laws have been complied with by the Agency and the project company.
11. Closing scheduled. Bonds delivered and proceeds made available to the project company for the project. (Taxable Bond Issues only)
12. Closing transcript prepared and distributed to all parties to the transaction.

13. Administration of file and Retention of records including case file, application, status reports, etc. and Official Transcript. (Records must be retained for a period of seven (7) years after closing. All IDA records and reporting is done pursuant to New York State reporting guidelines and requirements.)

C. Other Procedures

In otherwise proceeding in any Agency manner, with regard to the exercise of any discretion regarding the full or partial waiver of any requirement for payment of fees or other obligations, the Agency shall be guided by the following criteria in the exercise of its discretion:

1. The significance of the project to the City of Yonkers in efforts for economic development;
2. The charitable status of the applicant;
3. The specific need for the City of Yonkers to have the applicant undertake certain activities so as to directly benefit the City;
4. The history of cooperation by the applicant in any municipal projects, particularly the cooperation of the Agency regarding completing all commitments and obligations to the Agency;
5. The benefit to the Agency by having the applicant continue with the project.

Whenever any full or partial waiver of the obligations of an applicant is granted by the Agency, the Agency must memorialize in an appropriate memorandum the foregoing factors.

Additionally, whenever the Agency is required to undertake litigation or interpretation or other action regarding any agreements, the safeguarding of Agency assets, the prevention of any exposure to liability by the Agency or any matter that is of an emergency nature, the President shall be authorized to direct counsel for the Agency to undertake said activity. At that next Board Meeting of the Agency, the President and counsel shall report as to the action taken.

IV. PAYMENT IN LIEU OF TAX ("PILOT") AND OTHER AGREEMENTS

A. PILOT Agreements

If real property owned by the project company is transferred to the Agency, the Agency becomes the "owner of record" of the property. As a tax-exempt agency, any real property owned by the Agency is exempt from non-special district real property taxes, including school taxes. Therefore, the project company will not be required to pay non-special district property taxes for as long as the title of the property is in the name of the Agency. In such cases the Agency shall negotiate a

payment in lieu of tax agreement ("PILOT") with the project company. The contents of PILOTs are subject to the requirements of the General Municipal Law.

The PILOT will usually require the project company to pay a portion of what it would normally pay in real property taxes, especially in the earlier years of the project. This benefit affords the project company initial tax relief for its capital investment in the City of Yonkers. The Agency will attempt to balance the cash flow needs of the project company with the local municipality's need for a stable and secure tax base.

Special assessments and special ad valorem levies, e.g. assessments for water, sewer, lighting and fire districts, however, are fully taxable and payments of such assessments shall become the responsibility of the project company as if the real property were in the name of the project company and not the Agency.

The Agency is required by the IDA Act to negotiate with the project company the extent of the real property tax exemption the project company will be granted in accordance with the policies and procedures established below.

Under the IDA Act, a penalty of 5% will in the discretion of the Agency be imposed on the amount of payments in lieu of taxes due for delinquent payment, nonpayment or failure to remit such taxes to the ATJ. The penalty will be paid by the project company if the taxes are delinquent because of the project company's failure to make the required payment or by the Agency if the Agency failed to remit such taxes. In addition to the 5% penalty, accrued interest plus a late payment of 1% per month on the total amount due will be imposed for each month or part thereof, that the payment in lieu of taxes is paid.

In addition the Agency shall terminate a PILOT upon 30 days advance written notice for failure to make any payment. Further, an ATJ is entitled to commence legal action if it has not received a payment in lieu of taxes due to it under a PILOT agreement. The ATJ may sue and recover from any person, firm, corporation, organization or the Agency (except where the Agency did not receive the payments from the project occupant) the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action.

The Agency shall be entitled to assess each year to each project applicant an amount reflecting the budgeted cost to the Agency for its personnel or consultants to prepare, report or analyze compliance by the project applicant with all contractual or other legal or regulatory requirements.

At the end of the PILOT agreement, the project company shall pay the costs and expenses of the Agency to have title transferred back to the project company.

B. Other Agreements

Whenever any other agreements are entered into between the Agency and any applicant, and even in the event of any PILOT agreement, the applicant shall bear

the responsibility to pay all costs, expenses and disbursements incurred by the Agency to prepare, negotiate, finalize, interpret or enforce any and all agreements, including the costs related to attorneys' fees, appraisers, accountants, tax consultants, investigators and any other professionals retained by the Agency. The applicant shall be expressly responsible for the costs of requirement by the Agency to monitor or document any compliance with any agreement or representation by the applicant. The Agency has imposed upon it certain obligations to report the progress of applicants in completing goals and other representations made and applications filed with the Agency to the State of New York and other agencies, boards, commissions and entities. Therefore, payment of those costs that relate to any specific application shall be the responsibility of the applicant at all times, even after the project has been approved by the Agency and all final Resolutions by the Agency for the applicant have been adopted.

V. SALES AND USE TAX EXEMPTION

A. General Rules

1. The Agency may, in accordance with the policies and procedures established herein, grant a sales and use tax exemption by the delivery of a sales tax letter (the "Tax Letter") to the project company and/or the developer, contractor or subcontractor who is appointed by the Agency to act on its behalf as its agent.
2. Except as provided below, the Tax Letter, if granted by the Agency, will be delivered on or after the date the Agency issues its industrial development revenue bonds for the project company's project.
3. In any documents executed by the project company in connection with the Agency providing sales and use tax exemptions to the project company, the project company will agree to the following:
 - a. To indemnify the Agency for any liability incurred by the Agency in connection with the project.
 - b. To deliver certificates to the Agency evidencing that the indemnification described above is covered by insurance.

B. Special Provisions

In the event that the project company has not complied with the laws of the State of New York as they apply to the payment of sales taxes, the Agency hereby declares that the Agency is not responsible for insuring such compliance and enforcement, and that the responsibility to ensure such compliance and enforcement is under the jurisdiction of the New York State Department of Taxation and Finance, Tax Compliance Bureau.

VI. UNIFORM TAX EXEMPTION POLICY

According to the IDA Act, the Agency is required to adopt a uniform tax exemption policy which will apply to grants of financial assistance to project companies and provide guidelines to enable such companies to claim exemptions from real property, mortgage recording and sales tax exemptions.

A. Guidelines

1. Period of the Exemptions

a. Real Property Taxes: the length of the exemption will be (1) up to twenty (20) years or (2) the duration of the term of the financing related to the project, for certain housing projects or when required by Federal, State or bond financing programs.

b. Mortgage Recording Tax: the exemption will be granted for the life of the project commencing upon the initial closing.

c. Sales Tax: the exemption will expire on the earlier of (1) the date of completion of the project or (2) one year from the closing of the IDA financing for the project. Extensions of the Tax Letter may be granted at the sole discretion of the Agency upon the request of the project company in the event the project is not completed prior to the expiration or the date established by the Agency. A Tax Letter may be given prior to a financial closing upon the advice of Agency Counsel and Bond Counsel. An extension of the Tax Letter may be granted by the IDA by resolution for certain projects considered significant and strategically important to the economy of the city.

2. Percentage of the Exemption

a. Real Property Taxes: the project company shall be granted an exemption as follows:

The basic real property tax abatement is based on the new assessed value and phased-in to full taxes throughout the period of the PILOT. PILOT payments in the initial year shall not be less than the amount of taxes that were due on the parcel in the previous tax year prior to the transferring of title to the IDA. The term of the PILOT shall be up to twenty (20) years or the period of the project financing, or the duration of the term of financing related to the project, for certain housing projects or when required by Federal, State or bond financing programs. Upon request of the project applicant, the abatement granted in certain years may be adjusted; provided, however, that the net present value of the total abatement is not substantially reduced. In addition, applicants may apply in writing to the Chairperson or President for deviations from the

guidelines in order to increase abatements. The request should cite specific data and information including the criteria set forth in Exhibit C hereto. The IDA must notify each ATI of each deviation granted following such application. The IDA may reduce the abatement for any projects that are subsequent phases of a previously IDA-financed multi-phase project and/or the IDA determines that the benefits provided by such projects merits a reduced level based upon the factors set forth in Exhibit C or otherwise. The IDA may require a mortgage to secure PILOT payments as deemed appropriate by the IDA and counsel.

b. Mortgage Recording Tax: an exemption of up to 100% shall be granted for the mortgage recording tax that would otherwise be imposed for the recordation of any mortgage that is directly related to a project or, on a case-by-case basis, that is deemed necessary as part of the financing or refinancing of a project. Project occupants must file all statements relating to this exemption as required by law.

c. Sales Tax: an exemption of up to 100% shall be granted to the project company, developer, contractor or subcontractor, appointed by the Agency to act on its behalf as its agent, for purchases incurred by the project company or other agent in connection with the acquisition, construction (or reconstruction) and installation of the project. The exemption granted may be less than 100% for subsequent phases of previously IDA-financed multiphase projects. Project occupants must file or cause to be filed all statements relating to this exemption as required by law.

3. Types of Projects for which Exemptions can be Claimed

The Agency will provide an exemption to all projects enumerated in the IDA Act for which the IDA is authorized to provide financial assistance.

4. Procedures for Payments in Lieu of Real Property Taxes

a. The President or Chairperson shall promptly provide copies of all PILOT Agreements hereinafter executed to (1) the municipal officer or agency designated by the mayor to bill and collect all PILOT payments on behalf of the City and (2) the appropriate official of the County government as designated by the County.

b. All PILOT Agreements hereinafter executed shall state that all PILOT payments (1) shall be made by the project companies by check made payable directly to the ATJ(s) and (2) shall be remitted directly by the project companies to the municipal officer or agency of the City designated by the Mayor to receive such PILOT payments

5. Performance of Real Property Appraisals as part of Application requesting Real Property Tax Exemption.

In cases where the Agency believes that the assessment of the real property to be involved in the project is or may be undervalued, the Agency may require that real property appraisals be performed as part of the application for tax exemption.

B. Considerations

In establishing such policies IDA's are required to consider the following issues:

1. Extent to which a project will create or retain permanent private sector jobs.
2. Estimated value of any tax exemptions to be provided.
3. Whether ATJs shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided.
4. The impact of a proposed project on existing and proposed business and economic development projects in the vicinity.
5. The amount of private sector investment generated or likely to be generated by the proposed project.
6. The demonstrated public support for a proposed project.
7. The likelihood of accomplishing the proposed project in a timely fashion.
8. The effect of the proposed project upon the environment.
9. The extent to which the proposed project will require the provision of additional services.
10. The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

C. Deviation from Uniform Tax Exemption Policy

IDAs are required under the IDA Act to establish a procedure for deviation from its uniform tax exemption policy. After taking into consideration the issues set forth above in Section VI (B), the Agency may determine to deviate from the guidelines and policies established herein. In addition to any deviations previously set forth herein, the Agency may deviate from such policies after complying with the following:

1. Setting forth in writing the reasons for deviation from such policy; and
2. Notifying the ATJ or ATJs of the proposed deviation and the reasons therefore.

D. Indemnification of the IDA Under Agreements Granting Tax Exemptions

In any documents executed by the project company in connection with the Agency providing financial assistance to such company, the project company will agree to the following:

1. To indemnify the Agency for any liability incurred by the Agency in connection with the project; and
2. To deliver certificates to the Agency evidencing that the indemnification described above is covered by insurance in an amount and by a company whose rating is acceptable to the IDA.

E. Recapture of Benefits

Projects that receive enhanced real property tax abatements are subject to the recapture of all real property tax abatements previously granted pursuant to the following schedule.

Within 1 year	100%
Within 2 years	100%
Within 3 years	50%
Within 4 years	50%
Within 5 years	25%
Within 6 years	25%
After 6 years	10%

The above period begins on the effective date of the PILOT Agreement. Such recapture is in the sole discretion of the IDA and is reviewed on a case-by-case basis. Reasons for the recapture of benefits include the following:

1. Sale or closure of the facility.
2. Significant change in the use of the facility and/or the business activity or the applicant or occupant.
3. Significant employment reductions not reflective of the occupant's business cycle and/or local and national economic conditions.

VII. INVESTMENT AND DEPOSIT POLICY

A. Introduction

1. Scope - This investment and deposit policy applies to all moneys and other financial resources available for investment and deposit on its own behalf or on behalf of any other entity or individual.
2. Objectives - The primary objectives of the local government's investment activities are, in priority order:
 - a. to conform with all applicable federal, state and other legal requirements (legal);
 - b. to adequately safeguard principal (safety);
 - c. to provide sufficient liquidity to meet all operating requirements (liquidity); and
 - d. to obtain a reasonable rate of return (yield).
3. Prudence - All participants in the investment process and all participants responsible for depositing the Agency's bonds shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair confidence in the Agency to govern effectively.

Investments and deposits 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 and all participants responsible for depositing the Agency's funds shall refrain from personal business activity that could conflict with proper execution of the investment program or the deposit of the Agency's funds or which could impair their ability to make impartial investment decisions.

4. Diversification - It is the policy of the Agency to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.
5. Internal Controls
 - a. All money's collected by an officer or employee of the Agency shall be immediately deposited in such depositories and designated by the Agency for the receipt of such funds,

- b. The Agency shall maintain or cause to be maintained a proper record of all book, notes, securities or other evidences of indebtedness held by the Agency for investment and deposit purposes.
- c. The Agency 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.

6. Designation of Depositories

In accordance with the IDA Act, the Agency shall designate as depositories of its money those banks and trust companies authorized to serve as such pursuant to said law.

B. Investment Policy

1. Permitted Investments

Pursuant to OME, 11, the Agency is authorized to invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:

- a. Special time deposit accounts;*
- b. Certificates of deposit;*
- c. Obligations of the United States of America**
- d. Obligations guaranteed by agencies of the United States of America where payment of principal and interest are guaranteed by the United States of America;**
- e. Obligations of the State of New York;*

* Special time deposit accounts and certificates of deposit are permitted investments provided that (1) they shall be payable within such time as the proceeds shall be needed to meet expenditures for which the moneys were obtained and (2) they are collateralized in the same manner as set forth in Section VII (C) below for deposits of public funds.

** 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 two years of the date of purchase.

2. Authorized Financial Institutions and Dealers

The Agency shall maintain a list of financial institutions and dealers, approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Agency. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The President or Chairperson is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

3. Purchase of Investments

The Agency may contract for the purchase of investments:

- a. Directly, including through a repurchase agreement, from an authorized trading partner.
- b. By participation in a cooperative investment program with another authorized governmental entity pursuant to Article 5G of the GML where such program meets all the requirements set forth in the Office of the State Comptroller Opinion No. 88-46, and the specific program has been authorized by the governing board.
- c. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Agency by the bank or trust company shall be held pursuant to a written custodial agreement as described in GMI, 10.

The custodial agreement shall provide that securities held by the bank or trust company, as 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 shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the local government a perfected interest in the securities.

4. Repurchase Agreements

Repurchase agreements are authorized subject to the following restrictions:

- a. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
- b. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
- c. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
- d. No substitution of securities will be allowed.
- e. The custodian shall be a party other than the trading partner.

5. Extension of Credit

The Agency shall not directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, board member or employee (or equivalent thereof) of the Agency.

6. Review and Reporting of Investments

No less than annually, the Agency shall perform an independent audit of all investments, which results shall be available to the Board at the time of the annual review and approval of the Agency investment guidelines. Prior to that annual review by the Board, any Audit Committee or Investment Committee established by the Board shall review the annual independent audit of all investments and make appropriate recommendations to the Board. Submission of the annual Investment Report as approved by the Agency shall be

reported within ninety (90) days of close of the Agency's fiscal year end to all required Departments, Committees and other entities, agents, agencies or persons to whom annual Investment Reports must be provided pursuant to applicable law.

C. Deposit Policy

1. Collateralization of Deposits

In accordance with the provisions of GML, 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:

- a. By pledge of "eligible securities" with an aggregate "market value" as provided by GML 10, equal to the aggregate amount of deposits from the categories designated in Exhibit A attached hereto.
- b. By an eligible "irrevocable letter of credit" issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least on nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk- based capital requirements.
- c. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations. The terms and conditions of any eligible surety shall be approved by the governing board.

2. Safekeeping and Collateralization

Eligible securities used for collateralizing deposits shall be held by the depository 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 maybe sold, presented for payment, substituted or released and the events, which will enable the local government 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 that 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 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.

VIII. PROCUREMENT POLICY

A. Introduction

1. *Scope - In accordance with the IDA Act and pursuant to Section 104-b of the GML referred to therein, IDAs must 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 President 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 President 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 President 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 President 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 President 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 President 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 President 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 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 President 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 President 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 President 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 from 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 \$10,001 – 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.*

14. *Other Requirements*

- a. *All bidders must submit with any bid a Statement of Non-Collusion in the form approved by the Agency.*
- b. *All procurement solicitations shall include a summary of the Agency's procurement policies and prohibitions in a clear and concise manner so any bidder or provider of goods or services is aware of the requirements for being considered as well as being awarded any bid.*
- c. *The person authorized to be the contact for the Agency in all procurement matters shall be as set forth in PAL Section 139-j(2)(a) and activities of such contact person shall be reviewed on at least an annual basis by the Agency to make certain said contact person is in fully compliance with all provisions of law concerning procurement of goods or services.*
- d. *No proposed provider of goods or services to the Agency shall be permitted to have any unauthorized contact with the Agency in contravention of PAL Section 139-j(10). Each employee or representative of the Agency shall report any such unauthorized contact immediately to the Agency General Counsel. Said General Counsel shall investigate any such allegation of unauthorized contact and report in writing the findings to the Agency CEO Chairperson of the Governance Committee.*

and

IX. FINANCIAL RECORDS

A. Maintaining Financial Books and Records

All books and records of accounts, including, but not limited to, checks, drafts, or orders for the payment of money, notes, or other financial records as well as any and all minutes of meetings and other records of projects shall be maintained by the Agency for a period of seven (7) years from the date of such documents. Thereafter, such records shall be destroyed by the Agency except for Closing Binders or closing summaries of approved projects that have been successfully completed by the Agency. Those Closing Binders or records shall be maintained as long as the Bond for the project remains unpaid. The Agency shall otherwise keep correct and complete minutes of the proceedings of its Members and Committees for as long as the Agency is in existence.

X. COMPENSATION, REIMBURSEMENT AND ATTENDANCE POLICY

Pursuant to and in accordance with Sections 856 and 903 of the General Municipal Law of the State of New York, the members of the board of the City of Yonkers Industrial Development Agency (the "Board") shall serve without salary at the pleasure of the Mayor of the City of Yonkers, New York (the "City") but may be reimbursed for reasonable expenses incurred in the performance of Agency duties at the approval of the Board.

The officers, employees and agents of the Agency shall serve at the pleasure of the Agency at such compensation levels as may be approved by the Board from time to time and may be reimbursed for reasonable expenses incurred in the performance of Agency duties at the approval of the Board. Nothing herein shall be construed to permit the extension of credit to Board members, Officers or employees of the Agency and the extension of such credit to the foregoing is prohibited.

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.

XI. CODE OF ETHICS

The members of the board (the "Board") of the City of Yonkers Industrial Development Agency (the "Agency"), a duly established public benefit corporation of the State of New York (the "State"), along with the officers and staff of the Agency, shall comply with and adhere to the provisions of Article 18 of the General Municipal Law of the State.

Further, no director, officer, or employee of the Agency shall (1) accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties; (2) 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 of authority; (3) 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; (4) use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others; (5) engage in any transaction as a representative or agent of Agency with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with proper discharge of his or her official duties; (6) not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or 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; (7) 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; and (8) 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.

Directors and employees shall not accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the Agency.

Commented [FR1]: Code of Ethics – added language

Implementation of Code of Ethics

This Code of Ethics shall be provided to all directors and employees upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.

The board may designate an Ethics Officer, who shall report to the board and shall have the following duties:

- Counsel in confidence Agency directors and employees who seek advice about ethical behavior.
- Receive and investigate complaints about possible ethics violations.
- Dismiss complaints found to be without substance.
- Prepare an investigative report of their findings for action by the Executive Director or the board.
- Record the receipt of gifts or gratuities of any kind received by a director or employee, who shall notify the Ethics Officer within 48 hours of receipt of such gifts and gratuities.

Penalties

In addition to any penalty contained in any other provision of law, an Agency director or employee who knowingly and intentionally violates any of the provisions of this code may be removed in the manner provided for in law, rules or regulations.

Reporting Unethical Behavior

Employees and directors are required to report possible unethical behavior by a director or employee of the Agency to the Ethics Officer. Employees and directors may file ethics complaints anonymously and are protected from retaliation by the policies adopted by the Agency.

XII. WHISTLEBLOWER POLICY

Purpose

It is the policy of the City of Yonkers Industrial Development Agency (the "YIDA") to afford certain protections to individuals who in good faith report violations of the YIDA's Code of Ethics or other instances of potential wrongdoing within the YIDA. The Whistleblower Policy and Procedures set forth below are intended to encourage and enable employees to raise concerns in good faith within the YIDA and without fear of retaliation or adverse employment action.

Definitions

"Good Faith" means information concerning potential wrongdoing is disclosed in "good faith" when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes wrongdoing.

"Employee" means all board members, and officers and staff employed at the IDA whether full-time, part-time, employed pursuant to contract, employees on probation and temporary employees.

"Whistleblower" means any Employee who in good faith discloses information concerning actual wrongdoing by another Employee, or concerning the business of the YIDA.

"Wrongdoing" means corruption, fraud, criminal activity contrary to the YIDA Code of Ethics, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by an Employee that relates to the YIDA.

"Personnel action" means any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

Section I: Reporting Wrongdoing

All Employees who discover or have knowledge of potential wrongdoing concerning YIDA board members, officers, or Employees shall report such activity in accordance with the following procedures:

- a) The Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her supervisor, or to the YIDA's General Counsel.
- b) All Employees who discover or have knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.
- c) The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible without violating any YIDA rules or regulations.

- d) The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to the YIDA Board or appropriate law enforcement or other agency where applicable.

- e) Should an Employee believe in good faith that disclosing information within YIDA, pursuant to Section I, would likely subject them to adverse personnel action or be wholly ineffective, the Employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

Commented [FR2]: c) Whistleblower Policy – added language

Section II: No Retaliation or Interference

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

- a) No Employee who in good faith discloses potential violations of the YIDA's Code of Ethics or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
- b) All allegations of retaliation against a person making such disclosure pursuant to this Policy or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by the YIDA.
- c) Any Employee who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of the YIDA's Code of Ethics or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
- d) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

Section III: Other Legal Rights Not Impaired

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

- a) Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law

§ 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).

- b) With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any Employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).

XIII. TRAVEL POLICY

A. Applicability

This policy shall apply to every member of the board (the "Board") of the City of Yonkers Industrial Development Agency (the "Agency") and all officer and employees thereof.

B. Approval of Travel

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

C. 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.

D. 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 Treasurer. All determinations made pursuant to this Section shall be made by the Treasurer. In the instance where such determinations regard the travel of the Treasurer, the President shall make such determinations.

XIV. DISPOSITION OF REAL PROPERTY

A. Definitions

1. "Contracting officer" shall mean the officer or employee of the City of Yonkers Industrial Development Agency (hereinafter, the "Agency") who shall be appointed by resolution to be responsible for the disposition of property.
2. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the Public Authorities Law.
3. "Property" shall mean personal property in excess of five thousand dollars (\$5,000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

B. Duties

1. The Agency shall:
 - (i) maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;
 - (ii) periodically inventory such property to determine which property shall be disposed of;
 - (iii) produce a written report of such property in accordance with subsection B herewith; and
 - (iv) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 2 below.
2. The Agency shall:
 - (i) publish, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall consist of a list and

full description of all real and personal property disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period; and

(ii) shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature (via distribution to the majority leader of the senate and the speaker of the assembly).

C. Transfer or Disposition of Property

1. Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the "Contracting Officer") shall have supervision and direction over the disposition and sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.

2. Custody and Control. The custody and control of Agency property, pending its disposition, and the disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this Section.

3. Method of Disposition. Unless otherwise permitted, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this Section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

4. Sales by the Commissioner of General Services (the "Commissioner"). When the Agency shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner of pursuant to which Commissioner may dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the contracting officer shall be deemed to refer to such Commissioner.

5. **Validity of Deed, Bill of Sale, Lease, or Other Instrument.** A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

6. **Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.**

(i) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Agency shall be made after publicly advertising for bids except as provided in subsection (iii) of this Section 6.

(ii) Whenever public advertising for bids is required under subsection (iii) of this Section 6:

(A) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property proposed for disposition;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(C) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected at the Agency's discretion.

(iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section 6 but subject to obtaining such competition as is feasible under the circumstances, if:

(A) the personal property involved is of a nature and quantity which, if disposed of under subsections (i) and (ii) of this Section 6, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(B) the fair market value of the property does not exceed fifteen thousand dollars;

(C) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(D) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

(E) the disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the Agency, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Agency; or

(F) such action is otherwise authorized by law.

(iv)

(A) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(1) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(2) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (3) through (5) of this subparagraph;

(3) any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars for any of such years;

(4) any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars; or

(5) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(B) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Agency making such disposal.

The Guidelines are subject to modification and amendment at the discretion of the Agency board and shall be filed annually with all local and state agencies as required under all applicable law.

XV. FIXED ASSET DEPRECIATION POLICY

Commented [FR3]: XV. Fixed Asset Depreciation Policy added

All assets meeting the definition of a depreciable fixed asset valued over \$2,000 shall be considered an asset of The Agency. Such assets shall be systematically and accurately recorded and depreciated annually over the life of the asset according to standard accounting principles of depreciation. No salvage value will be applied these assets.

Depreciable fixed assets must meet the following qualifications:

It must have a useful life of more than one year

It must wear out or lose value over time.

XVI. RECAPTURE, SUSPENSION and DISCONTINUANCE POLICY – ref. resolution

Commented [FR4]: XVI. Recapture, Suspension and Discontinuance Policy – added

XVII. DEFENSE AND INDEMNITY POLICY

Pursuant to the Bylaws of the City of Yonkers Industrial Development Agency (the "Agency"), the Agency shall indemnify all members of the Board of the Agency and each officer and employees thereof, in the performance of their duties, and to the extent authorized by the Board, each other person authorized to act for the Agency or on its behalf, to the full extent to which indemnification is permitted under the General Municipal Law of the State of New York.

XVIII DISCRETIONARY FUNDS POLICY

Commented [FR5]: XVII Discretionary Funds Policy added

A. Use of Discretionary Funds

The expenditure of Agency funds must relate to an enumerated power, duty or purpose of the Agency. Therefore, the use of discretionary funds shall be limited to expenditures that benefit the Agency in advancing its mission and public purposes.

Discretionary funds shall not be used in a manner that primarily benefits the individual board member, officer or employee.

B. Prior Approval

All expenditures of discretionary funds shall be approved by the Executive Director prior to such expenditure and fall within Annual Budget Allocations. Provided, however, in the instance where the Executive Director will seek an expenditure of discretionary funds, such expenditure shall be pre-authorized by the Chairman or Treasurer of the Agency. The Executive Director or the Treasurer, as the case may be, shall review the proposed use of funds and reasonably determine whether such use (i) primarily benefits the Agency as opposed to an individual board member, officer or employee and (ii) advances the mission and public purpose of the Agency. Scrutiny of all expenses will be guided by judgment relating of the relevance of such costs and the benefits which may accrue from such activities.

C. Appropriate Expenditure Guidance

- (i) Membership Dues – Membership dues paid for the Agency to belong to a professional peer organization is a permissible use of Agency funds. However, individual membership costs for board members, officers and employees to belong to a professional, social or fraternal organization whereby the membership is of and the primary benefit is to, the individual rather than the Agency, should not be an Agency expenditure.
- (ii) Food and Beverages – With the exception of food and beverages purchased pursuant to the Agency’s Travel Policy, expenditures of food and beverages for the personal consumption of board members, officers and employees should not be considered an appropriate use of Agency discretionary funds. Provided, however, expenditures for food and beverages purchased for or during the conduct of Agency business may be an appropriate expenditure of Agency discretionary funds, provided that the expense is reasonable in light of the circumstances surrounding the Agency activity and is pre-approved as set forth herein. Purchases of alcohol or tobacco products are prohibited.
- (iii) Professional Training, Certification and Licensing – Paying the costs to attend training to maintain certifications or licenses or to attend professional conferences may be an appropriate expenditure of Agency discretionary funds.
- (iv) Marketing – expenses incurred in the course of marketing our area to prospects and relations with existing industries and businesses and supporting partners in the furtherance of our mission.
- (v) Miscellaneous – Flowers or gifts for staff, directors or family members are considered ineligible expenses. Additional ineligible expenses include holiday cards, charitable contributions and office, holiday, or retirement parties unrelated to the conduct of Agency business.

EXHIBIT A

SCHEDULE OF ELIGIBLE SECURITIES

- (1) 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.
- (2) Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank,
- (3) 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.
- (4) Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation or 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.
- (5) 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.
- (6) Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
- (7) Obligations of countries, 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 categories by at least one nationally recognized statistical rating organization.
- (8) Obligations of domestic corporations rated one of the two highest rating categories by at least one nationally recognized statistical rating organization.
- (9) 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.
- (10) 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.
- (11) Zero Coupon obligations of the United States government marketed as "Treasury strips".

EXHIBIT B

REQUEST FOR PROPOSAL PROCEDURE FOR PROFESSIONAL SERVICE CONTRACTS

1. The Agency prepares a request for proposals ("RFP") and specifications or a similar document.
2. All proposals received in response to the RFP shall be distributed to a selection committee consisting of members of the Agency and such other persons as the Chairman shall determine to be necessary.

The selection committee shall meet to review the proposals and, if determined necessary, conduct interviews of the proposers.
3. Proposers approved by the selection committee shall be forwarded by the selection committee with an award recommendation to the President or Chairperson
4. After receiving the Chairperson's approval, a congratulatory letter shall be sent by the President or Chairperson to the successful proposer.
5. The President or Chairperson may waive the RFP procedure in those instances where the President or Chairperson as the case may be, determines that a waiver is necessary in the public interest based on the circumstances including, but not limited to, financial, legal or public necessity grounds or a historical relationship that should be maintained in the interest of continuity. A written waiver shall be prepared by the President or Chairperson, as the case may be, or an authorized designee and shall state in writing the reasons for such waiver.
6. This policy does not apply to professional service firms retained by the Agency prior to the adoption of these Guidelines and Policies.

EXHIBIT C

ENHANCED REAL PROPERTY TAX ABATEMENT CRITERIA

The IDA will consider the following significant indicators when determining whether to provide enhanced real property tax abatements. These determinants are not all inclusive and are not in priority order:

1. **ECONOMY:** Local and Regional economic conditions at the time of application.
2. **JOBS:** The extent to which the project will directly create or retain permanent private sector jobs as well as "temporary" jobs during the construction period. In addition, the level of secondary "multiplier" jobs that will be created or retained as a result of the project.
3. **PROJECT COST/PAYROLL:** Level of direct annual payroll that results from the project as well as secondary "multiplier" payroll and payroll during the initial construction period.
4. **PROJECT PURPOSE:** Type of industrial or commercial activity proposed for the facility.
5. **SITE ALTERNATIVES:** Likelihood that the project will locate elsewhere resulting in subsequent real economic losses for retention projects and possible failure to realize future economic benefits for attraction projects.
6. **PROJECT LOCATION:** Nature of the property before the project (vacant land, vacant buildings, distressed community, Economic Development Zone).
7. **PROJECT BENEFITS:** Amount of private sector investment as a result of the project and the level of additional revenues for local taxing jurisdictions.
8. **PROJECT COSTS:** Impact of the project and the proposed abatements/exemptions on local taxing jurisdictions and extent to which project will require additional services from local government entities.

EXHIBIT D

**CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY
CERTIFICATE OF INDEPENDENCE FOR MEMBERS
APPOINTED ON OR AFTER JANUARY 13, 2006**

The undersigned, having been appointed to serve as a member of the City of Yonkers Industrial Development Agency (the "Agency") on or after January 13, 2006, hereby certifies, pursuant to subdivision 2 of Section 2825 of the Public Authorities Law, as follows:

He or she is not, and in the past two (2) years, has not been, employed by the Agency, or an affiliate in an executive capacity or been employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the Agency or received any other form of financial assistance valued at more than \$15,000 from the Agency.

He or she is not a relative of an executive officer or employee in an executive position of the Agency or an affiliate.

He or she is not, and in the past two (2) years, has not been a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Agency or an affiliate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the ____ day of _____, 20____.

Name:

EXHIBIT E

**CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY
ANNUAL FINANCIAL DISCLOSURE FORM**

I, _____, being a (member/officer/employee) of the City of Yonkers Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY, as follows:

- 5. This Certificate is being delivered for purposes of complying with the provisions of Article 18 of the General Municipal Law.
- 6. That I own, directly or indirectly, five percent (5%) or more of the stock or other equity interest of the following companies:

- 7. That I am an officer or employee of the following companies:

- 8. That I am a member of the board of directors of the following companies:

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____, 201_.
