

# THE AGENCY

B R O O M E C O U N T Y I D A / L D C

## BROOME COUNTY LOCAL DEVELOPMENT CORPORATION

### AUDIT & FINANCE COMMITTEE MEETING

February 20, 2019 • 11:30 a.m. • The Agency Conference Room, 2<sup>nd</sup> floor  
FIVE South College Drive, Suite 201  
Binghamton, NY 13905

### REVISED AGENDA

1. Call to Order J. Stevens
2. Accept the Minutes – October 2, 2018 Audit & Finance Committee Meeting J. Stevens
3. Public Comment J. Stevens

#### New Business

4. Review/Discussion/Recommendation of the Readoption of the Property Acquisition Guidelines, Property Disposition Guidelines, Internal Controls and Financial Accountability, Investment and Deposit Policy and Purchasing Policy with No Changes T. Gray

#### Old Business

5. Adjournment J. Stevens

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
BOARD MEETING  
FIVE South College Drive, Suite 201  
The Agency Conference Room, 2<sup>nd</sup> floor  
Binghamton, New York 13905  
Tuesday, January 15, 2019, 12:30 p.m.**

**SYNOPSIS OF MEETING**

**PRESENT:** J. Bernardo, W. Howard, J. Stevens, R. Bucci, J. Peduto, B. Rose, J. Mirabito and C. Sacco

**ABSENT:** D. Crocker

**GUESTS:** Jeff Platsky, Press & Sun Bulletin

**STAFF:** K. McLaughlin, T. Gray, S. Duncan, C. Norton, N. Abbadessa, C. Hornbeck and K. Wu

**COUNSEL:** J. Meagher

**PRESIDING:** J. Bernardo

The meeting was called to order at 12:31 p.m.

**ITEM #1. OATH OF OFFICE:** Attorney Meagher administered the Oath of Office to Mr. Bernardo, Mr. Howard, Mr. Stevens, Mr. Bucci, Mr. Peduto, Mr. Rose, Mr. Mirabito and Ms. Sacco.

**MOTION:** No motion necessary.

**ITEM #2. NOMINATION OF OFFICERS:** Attorney Meagher asked for nominations from the floor for officers. Mr. Howard nominated Mr. Bernardo for Chairman, Mr. Howard for Vice Chairman, Mr. Bucci for Secretary and Mr. Stevens for Treasurer. Attorney Meagher asked if there were any other nominations. Attorney Meagher continued, there being none, I will close the nomination process. Attorney Meagher then asked for a vote if all were in favor of the proposed slate of officers for the upcoming year. All were in favor (none opposed).

**MOTION:** The Board approved all nominations unanimously.

**ITEM #3: APPROVE MINUTES FOR THE NOVEMBER 22, 2018 BOARD MEETING:** Chairman Bernardo asked if Board Members had a chance to review the minutes from the November 22, 2018 Board Meeting and requested a motion to accept those minutes.

**MOTION:** To approve the November 22, 2018 Board Meeting minutes. On a MOTION by Mr. Stevens,

seconded by Mr. Bucci, the MOTION CARRIED.

**ITEM #4. PUBLIC COMMENT:** No public comment.

**ITEM #5. 2019 MEETING SCHEDULE:** The LDC is scheduled to meet on an as-needed basis.

**MOTION:** No motion necessary.

**ITEM #6. RESOLUTION OF THE BROOME COUNTY LOCAL DEVELOPMENT CORPORATION (i) TAKING OFFICIAL ACTION TOWARD THE ISSUANCE OF UP TO \$50,000,000 PRINCIPAL AMOUNT OF REVENUE BONDS FOR THE PURPOSE OF FINANCING A CERTAIN PROJECT FOR THE BENEFIT OF UNITED HEALTH SERVICES HOSPITALS, INC.; (ii) DETERMINING COMPLIANCE WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT WITH RESPECT TO SUCH PROJECT; (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE ISSUER WITH RESPECT TO SUCH PROJECT; AND (iv) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO SUCH FINANCING AND THE UNDERTAKING OF SUCH PROJECT:** Mr. McLaughlin stated the Local Development Corporation and staff has worked for several years to put together a bond issue, on behalf of United Health Services (UHS), for a number of projects. UHS is in the process of updating their EPIC Electronic Medical Records to replace their existing system, combining the technology of three of their hospitals, 87 physician practices, across 42 locations and their home entities. Currently, these businesses are all on separate systems. It is very important to UHS to consolidate these operations. This would be the first of what is referred to in the Tax Exempt Law as an Inducement Resolution. The Agency expects to hold a TEFRA Hearing at our office, which is a public hearing, the first part of February. Attorney Meagher is overseeing this process. The Bond Council will be Harris Beach, PLLC out of Rochester. Chris Andreucci is the attorney who handles this on behalf of The Agency. If this resolution meets with the Board's approval, The Agency will bring this back before the Board at the February meeting. The schedule is to close this transaction by the end of February. Mr. McLaughlin concluded this project is important to both UHS and the LDC and asked for the Board's support. Attorney Meagher added that these bonds are all non-recourse to The Agency. The recourse is the collateral and guarantees of UHS. The Agency, as Issuer, will not be liable. Chairman Bernardo asked if there were questions of Mr. McLaughlin; hearing none, Chairman Bernardo asked for a motion.

**MOTION:** To Approve a Resolution (i) Taking Official Action Toward the Issuance of up to \$50,000,000 Principal Amount of Revenue Bonds for the Purpose of Financing a Certain Project for the Benefit of United Health Services, Inc.; (ii) Determining Compliance with the State Environmental Quality Review Act with Respect to Such Project; (iii) Describing the Forms of Financial Assistance Being Contemplated by the Issuer with Respect to Such Project; and (iv) Authorizing a Public Hearing with Respect to Such Financing

and the Undertaking of Such Project. On a MOTION by Mr. Stevens, seconded by Mr. Howard, the MOTION CARRIED UNANIMOUSLY.

**ITEM #6. ADJOURNMENT:** Chairman Bernardo requested a motion for adjournment.

**MOTION:** To adjourn the meeting. On a MOTION by Mr. Bucci, seconded by Mr. Rose, the MOTION CARRIED UNANIMOUSLY, and the meeting was adjourned at 12:38 p.m.

The next scheduled meeting of the BCLDC is to be determined.

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
PROPERTY ACQUISITION GUIDELINES**

The Public Authorities Law requires local authorities to adopt written policy governing the acquisition of real property. The following policy ["Policy"] is hereby adopted upon approval by the Board of Directors pursuant to such requirement and shall be applicable with respect to the acquisition of real property and any interest therein ["Real Property"] by the Broome County Local Development Corporation.

**A. Acquisition of Real Property**

Real Property may be acquired by the Corporation for use, development, resale, leasing or other uses designated by the Corporation. The Corporation may lease Real Property for use, subleasing or other uses designated by the Corporation.

The purpose of each acquisition of Real Property by the Corporation shall be to further one or more purposes of the Corporation as authorized under the Corporation's enabling legislation, certificate of incorporation, by-laws or a resolution adopted by the Board of Directors or for a purpose otherwise permitted under applicable state law.

Prior to each acquisition of Real Property, the Corporation will conduct such due diligence as it deems appropriate in accordance with the particular circumstances of the proposed acquisition. Such due diligence may include, but is not limited to, Real Property appraisals and review and investigation of environmental, structural, title, pricing and other applicable matters.

**B. Approval of Real Property Acquisitions**

All acquisitions of Real Property shall be conducted in accordance with this Policy and applicable law. Proposed acquisitions of Real Property shall be presented to the Board of Directors of the Corporation for approval or other appropriate action.

**C. Amendment of Policy**

This Policy may be amended or modified at any time by the Board of Directors of the Corporation.

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
PROPERTY DISPOSITION GUIDELINES**

The Broome County Local Development Corporation ("Corporation") is required by the Public Authorities Law to adopt by resolution comprehensive guidelines regarding the use, awarding, monitoring and reporting of contracts for the disposal of Property (as defined herein). The following guidelines ("Guidelines") are adopted upon approval by the Corporation's Board and are applicable with respect to the use, awarding, monitoring and reporting of all Property Disposition Contracts which are entered into by the Corporation.

**ARTICLE I  
DEFINITIONS**

1. "Contracting Officer" shall mean the Executive Director of the Corporation to be responsible for the disposition of Property of the Corporation.
2. "Dispose" or "disposal" or "disposition" shall mean the transfer of title or any other beneficial interest in Property from the Corporation to any other party.
3. "Property" shall mean personal property in excess of Five Thousand Dollars (\$5,000.00) in value, real property, or any other legally transferable 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.
4. "Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of Property from the Agency to any other party.
5. "Real Property" shall mean real property and interests therein.

**ARTICLE II  
APPOINTMENT AND DUTIES OF CONTRACTING OFFICER**

**A. Appointment**

The Contracting Officer shall be the Executive Director of the Corporation, appointed by the Directors, who is responsible for the supervision and direction over the custody, control and disposition of Property and responsible for Corporation compliance with and enforcement of these Guidelines.

## **B. Duties**

The duties of the Contracting Officer shall include the following:

1. Maintaining adequate inventory controls and accountability systems for all Property under the control of the Corporation.
2. Periodically conducting an inventory of Property to determine which Property may be disposed of.
3. Preparing a periodic written report of all Property of the Corporation. Each report shall include a list of all Real Property, a full description of all real and personal property disposed of during the reporting period, the price received and the name of the purchaser for all Property sold during each reporting period. Each report shall be completed and delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature no later than ninety (90) days following the completion of the fiscal year of the Agency. This report is included within and distributed with the Annual Report of the Corporation.
4. Disposing of Property as promptly as possible in accordance with these Guidelines, as directed by the Corporation.

## **ARTICLE III PROPERTY DISPOSITION REQUIREMENTS**

### **A. Method of Disposition**

Subject to such exceptions and/or requirements set forth in these Guidelines, in the event that the Corporation determines to dispose of any of its Property, the Corporation shall endeavor to dispose of such Property for at least the fair market value of the Property. The disposition of Property may be made by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, and upon such terms and conditions as are determined by the Corporation to be appropriate and reasonable and consistent with these Guidelines. Provided, however, no disposition of real property 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.

### **B. Award and Approval of Property Disposition Contracts**

1. Compliance with Guidelines; Approval Requirements. All dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer, subject to approval of the Directors of the Corporation.

2. Disposition by Public Bid.

(a) All Property Disposition Contracts may be made only after publicly advertising for bids, unless the criteria set forth in Article III(B)(3) below has been satisfied for such contracts to be made by negotiation or public auction.

(b) Whenever public advertising for bids is required, (i) 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; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) 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 Corporation and New York State, price and other factors considered.

(c) Any public bid for the disposition of Property may be rejected, refused, or declined by the Corporation on any basis or ground allowable bylaw.

3. Disposition by Negotiated Sale/Public Auction. The following dispositions are exempt and excepted from the public bidding requirements set forth above in Article III(B)(2) and may be consummated through a negotiated sale or by public auction:

(a) The basis exist for a *Below Fair Market Value* disposition. The Corporation may dispose of Property for less than the fair market value of the Property where:

(i) Transferee is a government or public entity and terms of transfer require ownership and use to remain with the government or public entity; or

(ii) Purpose of transfer is within the purpose, mission or statue of the Corporation; or

(iii) Written notification to the Governor, Speaker, and Temporary President. Such notification is subject to denial. Denial by Governor is in the form of a certification. Denial by the legislature is in the form of a resolution. Denial must be made within 60 days of receiving notification during January through June. If legislature receives the notification in July through December, then legislature may take 60 days from January 1 of the following year. Provided there is no denial, the Agency may effectuate the transfer.

However, a local authority may obtain local approval from the chief executive and legislature of the political subdivision in lieu of the notification to the Governor, Speaker and Temporary President provided the local authority's enabling legislation provides for such approval and the property was obtained by the authority from the political subdivision.



If a below FMV transfer is proposed, the following information is required to be provided to the Corporation Board and to the public:

- (1) Description of Asset;
- (2) Appraisal of the FMV of the asset;
- (3) Description of the purpose of the transfer, the kind and amount of the benefit to the public resulting from the transfer such as jobs and wages created or preserved;
- (4) Value received compared to FMV;
- (5) Names of private parties to the transaction and value received;
- (6) Names of private parties that have made an offer, the value of offer, and purpose for which the asset would have been used.

The Board of the Corporation must make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

(b) **Disposition of Certain Personal Property.** The Corporation may dispose of personal property where such personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were to be disposed of through public advertisement and bidding, would adversely affect the state or local market for such personal property.

(c) **Disposition of Low FMV Property.** The Corporation may dispose of Property where the fair market value of which does not exceed Fifteen Thousand Dollars (\$15,000.00).

(d) **Disposition Following Receipt of Unacceptable Bid Prices.** The Corporation may dispose of Property where the bid prices received by the Corporation after public advertising are not commercially reasonable (either as to all or some part of the Property) as determined by the Corporation in its sole discretion.

(e) **Disposition to a Political Subdivision.** The Corporation may dispose of Property to New York State or any political subdivision of New York State.

(f) **Disposition Authorized by Law.** The Corporation may dispose of Property where such disposition is otherwise authorized by law.

#### 4. Reporting Requirements Regarding Negotiated Dispositions.

(a) **Preparation of Written Statements.** The Contracting Officer shall prepare a written statement explaining the circumstances of each negotiated disposition of Property involving any of the following:

- (i) the negotiated disposition of personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars (\$15,000.00);
- (ii) the negotiated disposition of Real Property that has an estimated fair market value in excess of One Hundred Thousand Dollars (\$100,000.00);
- (iii) the negotiated disposition of Real Property that will be disposed of by lease if the estimated annual rent over the term of the lease is in excess of \$15,000; or
- (iv) the negotiated disposition of Real Property or real and related personal property where the same will be disposed of by exchange, regardless of value, or any Property any part of the consideration for which is Real Property.

(b) **Submission of Written Statements.** Written statements shall be submitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the State Legislature no later than ninety (90) days prior to the date on which the disposition of Property is expected to take place. The Contracting Officer shall maintain a copy of all written statements at the Corporation's principal office.

#### **ARTICLE IV GENERAL PROVISIONS**

##### **A. Annual Review and Submission of Guidelines**

These Guidelines shall be annually reviewed and approved by the Directors of the Corporation. On or before the 31st day of March of each year, the Contracting Officer shall file a copy of the most recently reviewed and adopted Guidelines with the New York State Comptroller, and shall post the Guidelines on the Corporation's website. Guidelines posted on the Corporation's website shall be maintained at least until the Guidelines for the following year are posted on the website.

##### **B. Effect of Awarded Contracts**

These Guidelines are intended for the guidance of the officers, Directors and employees of the Corporation. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. Without limiting the generality of the preceding sentence, any deed, bill of sale, lease, or other instrument executed by or on behalf of the Corporation, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these Guidelines 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 compliance with these Guidelines prior to the closing.

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
INTERNAL CONTROLS AND FINANCIAL ACCOUNTABILITY**

1. Board Members and Officers shall ensure that the Corporation is accountable for its programs and finances to its customers and the public. Accordingly, the Corporation shall comply with all applicable laws and ethical standards; adhere to its public mission; create and adhere to policies regarding conflicts of interest, ethics, personnel and accounting; prepare and file annual financial data with required federal and state regulatory authorities; and make its annual financial report available to all Members and any member of the public who requests it.
2. Internal controls are systems of policies and procedures that protect and manage the assets of the Corporation, create reliable financial reporting, promote compliance with laws and regulations and achieve effective and efficient operations.
3. The following internal controls, policies and procedures shall apply to the Corporation:
  - A. **Budget.** An annual income and expense budget will be prepared and periodic reports will be presented to the Board. The report will compare actual receipts and expenditures to the budget with timely variance explanations.
  - B. **Expenditures.** All disbursements for \$2,500 or more shall require two signatures from Chairman, Vice Chairman, Secretary, Treasurer or Executive Director. Disbursements under \$2,500 shall require the signature of one of the following: Senior Deputy Director of Operations or the Executive Director. A periodic report of all expenditures under \$2,500 will be electronically submitted to the Board for review.
  - C. **Expenditures-Approval.** No expenditures shall be made or incurred except in accordance with the purchasing policy and the duly adopted budget. All expenditures shall be prepared by the Office Business Manager and reviewed and approved by the Senior Deputy Director of Operations.
  - D. **Receipts-Checks.** All receipts by check shall be duly entered in the books of the Corporation with a copy made of each check received and attached to the invoice or bank deposit. All bank deposits shall be prepared by the Office Business Manager and reviewed by the Senior Deputy Director of Operations.
  - E. **Accounts Receivable.** All accounts receivables shall be maintained on a current basis to the extent practicable. Account receivables which are more than 90 days old shall be reported to the Board on a periodic basis. The Board may direct such action as may be appropriate as to said receivables.
  - F. **Data.** Electronic data regarding financial records and reports shall be preserved. All bank reconciliations shall be prepared by the Office Business Manager and reviewed by the Senior Deputy Director of Operations.

**G. Audit/Finance Committee.** The audit/finance committee shall have oversight over the annual audit process.

**H. Reports.** Periodic reports on the finances shall be submitted to the Board. Annual financial reports shall be filed as required by law and made available to the public.

**I. Management.** The day to day activities of the Corporation shall be managed by a person or entity designated by the Board of Directors and subject to its oversight.

**J. Assessment.** An annual assessment of the effectiveness of their internal control structures and procedures will be conducted annually by management, or an independent auditor.

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
INVESTMENT AND DEPOSIT POLICY**

**A. Introduction**

1. **Scope.** This Investment and Deposit Policy of the Broome County Local Development Corporation (the "Corporation") shall apply to all operating funds, bond proceeds and other funds and all investment transactions involving operating funds, bond proceeds and other funds accounted for in the financial statements of the Corporation. Each investment made pursuant to this Investment Policy must be authorized by applicable law and this written Investment Policy.
- 2.
2. **Objectives.** The primary objectives of the 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 to match expected liability and expenses. (yield).
3. **Prudence.** All participants in the investment process and all participants responsible for depositing the Corporation's funds shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair confidence in the Corporation 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 Corporation's funds shall refrain from personal business activity that could conflict with proper execution of the investment program or the deposit of the Corporation's funds or which could impair their ability to make impartial investment decisions.

All board Directors, officers and employees of the Corporation involved in the investment process shall refrain from personal business activity that could conflict with the proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Nothing contained within this Policy however, shall prohibit the Directors or employees of the Corporation from obtaining interests in mutual funds which may include within its investment portfolio, bonds, debentures, notes or other evidence of indebtedness of the Corporation; provided however, that the Corporation's bonds, debentures, notes or other evidence of indebtedness may not

make up more than ten percent (10%) of the mutual fund's total portfolio and the Directors and employees may not exercise any discretion with respect to the investments made by the mutual fund company.

4. **Diversification.** It is the policy of the Corporation to diversify its deposits and investments by financial institution, by investment instrument and by maturity scheduling.

#### 5. **Internal Controls**

The Internal Controls shall provide for receipt and review of the audited financial statements and related reports on internal control structure of all outside persons performing any of the following for the Corporation:

- investing public funds of the Corporation;
  - advising on the investment of public funds of the Corporation;
  - directing the deposit or investment of public funds of the Corporation; or
  - acting in a fiduciary capacity for the Corporation.
- a. All money's collected by an officer or employee of the Corporation shall be immediately deposited in such depositories and designated by the Corporation for the receipt of such funds.
  - b. The Corporation shall maintain or cause to be maintained a proper record of all book, notes, securities or other evidences of indebtedness held by the Corporation for investment and deposit purposes.
  - c. The Corporation is responsible for establishing and maintaining an internal control structure and investment practices to document those officers and employees responsible for elements of the investment process and 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 Not for Profit Corporation Law, the Corporation 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**

The Corporation 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,(2) they are collateralized in the same manner as set forth in Section VII (C) below for deposits of public funds, (3) Certificates of deposit and term deposits of United States domestic financial institutions which are members of the Federal Deposit Insurance Corporation, and (4) such entities have the highest credit rating assigned by a nationally recognized rating service and which may be readily sold in a secondary market at prices reflecting fair value.

\*\* All investment obligations shall be payable or redeemable at the option of the Corporation 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 Corporation within two years of date of purchase. Investments must carry a rating of BBB- or above at the time of purchase (investment grade), or, if unrated, be deemed to be of investment grade quality. The total of unrated investments may not exceed five (5%) of the investment portfolio value and the unrated investments of a single issuer may not exceed 2% of the portfolio value.

## 2. Authorized Financial Institutions and Dealers

The Corporation 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 at the request of the Corporation. 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 Executive Director or Chairman is responsible for evaluating the financial position and maintaining a listing of proposed depositaries, trading partners and custodians. Such listing shall be evaluated at least annually.

## 3. Purchase of Investments

The Corporation 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 Not for Profit Corporation Law 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 Corporation by the bank or trust company shall be held pursuant to a written custodial agreement.

The custodial agreement shall provide the 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 released of the securities. Such agreement shall include all provisions necessary to provide the Corporation 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 Unites States of America.
- d. No substitution of securities will be allowed.
- e. The custodian shall be a party other than the trading partner.

5. Performance Standards – Performance will be evaluated quarterly and compared to the performance of the appropriate benchmark index and peer groups



## **C. Deposit Policy**

### **1. Collateralization of Deposits**

All deposits of the Corporation, 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 Not for Profit Corporation Law, 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 one 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 may be 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 Corporation 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 Agency a perfected interest in the securities.

#### **D. Reporting**

Periodically the Treasurer shall provide to the Directors a report which sets forth amounts invested, the diversification and performance of each portfolio in relation to appropriate market indices, comparative performance information that enables the reader to evaluate whether the portfolios are achieving returns that are consistent with objectives and market conditions.

Periodically the Treasurer shall provide to the Directors a report that identifies the components of the total investment portfolio.

**BROOME COUNTY LOCAL DEVELOPMENT CORPORATION  
PURCHASING POLICY**

1. The purchase of equipment, supplies, material, and non professional services shall be authorized as follows:
  - a. Where the estimated total cost does not exceed \$5,000, purchases shall be made upon verbal quotations at the discretion of Executive Director. In the event the purchase is made from a vendor not providing the lowest quote, a written explanation will be placed in the file.
  - b. Where the estimated total cost is over \$5,000 and does not exceed \$10,000, the purchase shall be made upon at least three (3) written quotations if available and shall be authorized by Executive Director.
  - c. Where the estimated total cost is over \$10,000, the purchase shall be made based upon a competitive bidding process. The Board of Directors shall authorize award of contracts for such purchases if the purchase was not anticipated in the Corporation's adopted Annual Budget.
  - d. Purchases may be made from a Federal, State, County, or other Municipal, State Authority, or Local Development Corporation contracts. Such purchases are not subject to the requirements specified in items 1.a.-1.c., above.
  - e. All purchases of \$5,000 or more shall be reported to the Board of Directors on a semi-annual basis. In the event that the purchase is made from a vendor not providing the lowest cost, an explanation shall be included in this report.
2. The procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the Directors of the Corporation, the solicitation of alternative professionals or quotations will not be in the best interest of the Corporation. In the following circumstances, it may not be in the best interests of the Agency to solicit quotations or document the basis for not accepting the lowest bid:
  - a. **Professional Services.** Professional Services is defined as services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided by the Corporation; legal and accounting services, impact liability in circumstances where the Corporation is issuing bonds. These qualifications and the concerns of the Corporation regarding its liability and the liability of its Directors are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement.

b. In determining whether a service fits into this category, the Corporation shall take into consideration the following guidelines: (1) whether the services are subject to State licensing or test requirements; (2) whether substantial formal education and training is a necessary prerequisite to the performance of the services; and (3) whether the services require a personal relationship between the individual and Corporation directors. Professional or technical services shall include, but not limited to the following: services of an attorney (including bond counsel) ; services of a physician; technical services of an engineer/ planner engaged to prepare studies, plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of Corporation owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing or pre-packaged software.

3. Purchases may be made from a Federal, State, County, or other Municipal, State Authority, or Local Development Corporation contracts. Such purchases are not subject to the requirements specified in items 2.a.-2.c., above.

4. All purchases of \$5,000 or more shall be reported to the Board of Directors on a semi-annual basis.

5. Emergency Purchase Orders. Where an emergency condition exists posing imminent danger to public health, personal safety or public or private property the Executive Director is authorized to make such purchases of goods or services which may be necessary to meet the emergency condition without following the purchasing policy. In each case, where practicable, the Executive Director will endeavor to obtain, at a minimum, verbal quotations for the work or services necessary. Any and all emergency purchases in excess of \$5,000 shall be reported to the Board of Directors as soon as practicable and for any such purchases in excess of \$10,000 the Board shall be notified electronically and/or telephonically prior to purchase if possible.

6. Sole Source Purchases. Where the goods or the services may be purchased from just one source (defined as sole source items) the procurement of said items need not follow this purchasing policy. In order to purchase goods or services without competitive bidding or a competitive quotation the Executive Director must certify that the goods or services are only available through one source.