

# TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY

## CONFLICT OF INTEREST POLICY

### **I. STATEMENT OF PURPOSE**

The Town of Colonie Industrial Development Agency (“Agency”) has adopted this Conflict of Interest Policy (the “Policy”) in order to implement Section 883 of Title One of Article 18-A of the General Municipal Law (the “Act”), which provides that Article 18 of the General Municipal Law (the “Conflict of Interest Law”) applies to all members, officers and employees of the Agency. This Policy is intended to complement the Agency’s Code of Ethics by providing specific procedures to deal with conflicts of interest. This Policy is intended to supplement, but not to replace, any applicable state and federal laws governing conflicts of interest applicable to public authorities.

### **II. DEFINITIONS**

The definitions contained in Section 800 of the Conflict of Interest Law apply to this Policy.

### **III. CONFLICTS OF INTEREST**

(A) General Rule. Except as authorized by Section 802 of the Conflict of Interest Law, each of the following are a “Prohibited Interest”:

(1) No member, officer or employee of the Agency shall have an interest in any contract with the Agency when such member, officer or employee, either individually or as a member of a board, has the power or duty to:

(a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder;

(b) audit bills or claims under the contract; or

(c) appoint an officer or employee who has any of the powers or duties set forth above.

(2) No chief financial officer, treasurer, or his or her deputy or employee, of the Agency shall have an interest in a bank or trust company that is designated as a depository, paying agent, registration agent or for investment of funds of the Agency.

(3) Notwithstanding the remainder of this Policy, disclosure and recusal will not cure a Prohibited Interest. In order to avoid a violation of a “Prohibited Interest” the contract may not be acted upon or the member, officer or employee would have to resign.

(B) Conflicts of Interest Generally. A conflict of interest is a situation in which the financial, familial, or personal interests of a board member or employee come into actual or perceived conflict with their duties and responsibilities with the Agency. Perceived conflicts of interest are situations where there is the appearance that a board member and/or employee can personally benefit from actions or decisions made in their official capacity, or where a board member or employee may be influenced to act in a manner that does not represent the best interests of the Agency. The perception of a conflict may occur if circumstances would suggest to a reasonable person that a board member may have a conflict. The appearance of a conflict and an actual conflict should be treated in the same manner for the purposes of this Policy.

Board members and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust. While it is not possible to describe or anticipate all the circumstances that might involve a conflict of interest, a conflict of interest typically arises whenever a board member or employee has or will have:

1. A financial or personal interest in any person, firm, corporation or association which has or will have a transaction, agreement or any other arrangement in which the Agency participates.
2. The ability to use his or her position, confidential information or the assets of the Agency, to his or her personal advantage.
3. Solicited or accepted a gift of any amount under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her, or could reasonably be expected to influence him/her, in the performance of his/her official duties or was intended as a reward for any action on his/her part.
4. Any other circumstance that may or appear to make it difficult for the board member or employee to exercise independent judgment and properly exercise his or her official duties.

(C) Disclosure. Except as provided in subsection (D) below, any member, officer or employee of the Agency who has, will have, or later acquires an interest in any actual or proposed contract with the Agency shall publicly disclose the nature and extent of such interest in writing to the members of the Agency as soon as he or she has knowledge of such actual or prospective interest. Such written disclosure shall be set forth in and made part of the official record of the proceedings of the Agency. Once disclosure has been made with respect to an interest in a contract with a particular person, firm, corporation or association, no further disclosures are required by such member, officer or employee with respect to additional contracts with the same party during the remainder of the fiscal year.

The minutes of the Agency's meetings during which a perceived or actual conflict of interest is disclosed or discussed shall reflect the name of the interested person, the nature of the conflict, and a description of how the conflict was resolved.

The Governance Committee shall advise the individual who appears to have a conflict of interest how to proceed. The Governance Committee should seek guidance from counsel or New York State agencies, such as the Authorities Budget Office, State Inspector General or the Joint Commission on Public Ethics (JCOPE) when dealing with cases where they are unsure of what to do.

(D) Disclosure Not Required. Pursuant to Section 803(2) of the Conflict of Interest Law, the disclosure required in subsection (B) above is not required in the case of an interest in a contract described in Section 802(2) of the Conflict of Interest Law.

(E) Penalties for Violations. Pursuant to Section 805 of the Conflict of Interest Law, any officer or employee of the Agency who willfully and knowingly violates the foregoing provisions of the Conflict of Interest Law, may be guilty of a misdemeanor. Furthermore, pursuant to Section 804 of the Conflict of Interest Law, any contract that is willfully entered into by or with the Agency in which there is an interest prohibited by the Conflict of Interest Law shall be null, void and wholly unenforceable.

(F) Recusal and Abstention. No board member or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any organization in which he or she is deemed to have an interest. Board members and employees must recuse themselves from deliberations, votes, or internal discussion on matters relating to any organization, entity or individual where their impartiality in the deliberation or vote might be reasonably questioned, and are prohibited from attempting to influence other board members or employees in the deliberation and voting on the matter.

#### **IV. PROHIBITED ACTIONS**

(A) General. Pursuant to Section 805-a of the Conflict of Interest Law, no member, officer or employee of the Agency shall:

(1) either directly or indirectly, solicit, accept or receive any gift having a value of seventy-five dollars (\$75.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended as a reward for any official action on his or her part, or that it was intended to or could reasonably be expected to influence him or her in the performance of his or her official duties;

(2) disclose confidential information acquired in the course of his or her official duties or use such information to further his or her personal interests;

(3) receive or enter into any express or implied agreement for compensation for services to be rendered in relation to any matter before the Agency; or

(4) receive or enter into any express or implied agreement for compensation for service to be rendered in relation to any matter before the Agency whereby his or her compensation is to be dependent or contingent upon any action by such Agency with respect to that matter; provided, however, that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

(B) Penalty for Violation. Pursuant to Section 805-a of the Conflict of Interest Law, any person who shall knowingly and intentionally violate the Conflict of Interest Law may be fined, suspended or removed from office or employment in the manner provided by law.

## **V. POSTING**

The Chief Executive Officer of the Agency shall have a copy of the Conflict of Interest Law and of this Policy posted in the office of the Agency in a place which is conspicuous to the officers, members and employees of the Agency.

## **VI. MISCELLANEOUS PROVISIONS**

(A) Financial Disclosure. Pursuant to Section 810(3) of the Conflict of Interest Law, members, officers and employees of the Agency are deemed to be officers or employees of the Town of Colonie for purposes of Sections 811 and 812 of the Conflict of Interest Law (said sections deal generally with financial disclosure).

(B) Compensation. Pursuant to Section 858-a(1) of the Act, the compensation of an officer or full-time employee of the Agency (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the Agency) shall not be contingent on the granting of financial assistance by the Agency.

Adopted: March 21, 2016