

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

INVESTMENT AND DEPOSIT POLICY

This Investment and Deposit Policy is re-adopted pursuant to Section 2925 of the Public Authorities Law

A. Introduction

1. Scope – This investment and deposit policy (this “Policy”) applies to all monies and other financial resources available to the Nassau County Industrial Development Agency (the “Agency”) for investment and deposit on its own behalf or, where applicable, on behalf of any other entity or individual, but excluding the proceeds of any borrowings by the Agency as financial assistance in connection with a “project” as defined in Article 18-A of the General Municipal Law (the “Funds”).
2. Purpose – The purpose of this Policy is to establish the investment objectives, delegation of authority, standards of prudence, eligible investments and transactions, internal controls, reporting requirements, and safekeeping and custodial procedures necessary for the prudent management and investment of the Agency’s Funds while ensuring compliance with applicable New York State (the “State”) and federal laws.
3. Objectives – The primary objectives of the Agency’s investment activities are, in priority order:
 - a. to conform with all applicable federal, state and other legal requirements (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).
4. Prudence – All participants in the investment process and all participants responsible for depositing the Agency’s Funds shall seek to act responsibly as custodians of a public trust and shall avoid any transaction or situation that might impair public confidence in the Agency to operate 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.

5. Diversification – Subject to legal constraints applicable to the Agency, it is the policy of the Agency to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.

B. Delegation of Authority

Responsibility for investment of the Agency's Funds is delegated to the Chief Financial Officer (under the direction and oversight of the Treasurer). Only the Chief Financial Officer and those other officers authorized by resolution of the members of the Agency or by the Agency's By-Laws may invest the Agency's Funds.

All contracts or agreements with outside persons investing the Agency's Funds, advising on the investment of the Agency's Funds, directing the deposit of the Agency's Funds or acting in a fiduciary capacity for the Agency, shall require the outside person to notify the Agency in writing, within thirty (30) days after receipt of any communication from the auditor of such outside person or from any regulatory agency or authority, of the existence of any material weakness in the internal control structure of such outside person or of the existence of any regulatory order or sanction regarding the type of service being provided to the Agency by such outside person.

C. Deposits of the Agency's Funds; Security; Safekeeping and Collateralization

All Funds collected by an officer or employee of the Agency shall be promptly deposited in such depository banks or trust companies as designated by the Agency for the receipt of such Funds in accordance with Section 10 of the General Municipal Law (as amended from time to time, the "GML") or invested as provided under "C. Temporary Investments" below. The terms "bank" and "trust company" shall have the meaning ascribed thereto in the Banking Law of the State.

Except as otherwise provided by law, all deposits shall be made to the credit of the Agency (unless being held by the Agency for the benefit of a third party). The deposit of the Agency's Funds in accordance with this Policy and such resolution(s) of the Agency shall release the officer making the deposit and his or her surety from any liability for loss of such Funds by reason of the default or insolvency of any such bank or trust company.

All deposits by the Agency in excess of the amount insured under the provisions of the Federal Deposit Insurance Act (as amended, "FDIA"), shall be secured as provided below:

a. The officers making a deposit of the Agency's Funds may accept a pledge of "Eligible Securities" (as defined below) having in the aggregate a market value at least equal to the aggregate amount of such deposits from such officers, or a pledge of a pro rata portion of a pool of Eligible Securities having in the aggregate a market value at least equal to the aggregate amount of deposits of public funds from all such officers within the state at such bank or trust company, together with a security agreement from the bank or trust company. The security agreement and custodial agreement referred to below may be the same agreement including when the bank or trust company holding the public deposits holds the collateral for the Agency. Such agreement(s) shall include all provisions deemed necessary and sufficient to secure in a satisfactory manner the Agency's interest in the collateral and shall otherwise comply with Section 10 of the GML. Such agreement may also contain such other provisions as the Agency or its counsel may deem necessary.

"Eligible Securities" shall mean any one or more of the following:

(1) Obligations issued by the United States of America, an agency thereof or a United States government sponsored corporation or obligations fully insured or guaranteed to as 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, or 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, obligations issued by a municipal corporation, school district or district corporation of the 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 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 counties, cities and other governmental entities of another state having the power to levy taxes that are backed by the full faith and credit of such

governmental entity and rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.

(8) Obligations of domestic corporations rated in 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 federal bank regulatory agencies.

(10) Commercial paper and bankers' acceptances issued by a bank (other than the bank with which the money is being deposited or invested) rated in the highest short-term category by at least one nationally recognized statistical rating organization and having maturities of not longer than sixty days from the date they are pledged.

(11) Zero-coupon obligations of the United States government marketed as "Treasury STRIPS".

b. Whenever Eligible Securities delivered to a custodial bank or trust company pursuant to this paragraph are transferred by entries on the books of a federal reserve bank or other book-entry system operated by a federally regulated entity without physical delivery of the evidence of such obligations, the records of the custodial bank or trust company shall show, at all times, the interest of the Agency in such securities or pro rata portion of a pool of Eligible Securities as set forth in the security agreement.

c. (i) In lieu of or in addition to the deposit of Eligible Securities, the officers making a deposit may accept an Eligible surety bond (as defined below) payable to the Agency as security for the payment of one hundred percent, or an Eligible letter of credit (as defined below) payable to the Agency as security for the payment of one hundred forty percent, of the aggregate amount of public deposits from such officers and the agreed upon interest, if any. The terms and conditions of any eligible surety bond shall be approved by the Agency.

"Eligible surety bond" shall mean a bond executed by an insurance company authorized to do business in the State, the claims-paying ability of which is rated in the highest rating category by at least two nationally recognized statistical rating organizations.

"Eligible letter of credit" shall mean an irrevocable letter of credit issued in favor of the Agency for a term not to exceed ninety days by a bank (other than the bank with which the money is being deposited or invested) whose commercial paper and other unsecured short-term debt obligations (or, in the case of a bank which is the principal subsidiary of a holding company, whose holding company's commercial paper and other unsecured short-term debt obligations) are rated in one of the three highest rating categories (based on the credit of such bank or holding company) by at least one nationally recognized statistical rating organization or by a bank (other than the bank

with which the money is being deposited or invested) that is in compliance with applicable federal minimum risk-based capital requirements.

(ii) In lieu of or in addition to the deposit of Eligible Securities, the officers making a deposit may, in the case of an irrevocable letter of credit issued in favor of the Agency by a federal home loan bank whose commercial paper and other unsecured short-term debt obligations are rated in the highest rating category by at least one nationally recognized statistical rating organization, accept such letter of credit payable to the Agency as security for the payment of one hundred percent of the aggregate amount of public deposits from such officers and the agreed upon interest, if any.

d. For purposes of determining the market value of securities as required above:

(1) The Eligible Securities described in subparagraphs (8), (10) and (11) of the definition of “Eligible Securities” shall be valued at eighty percent of their market value.

(2) The Eligible Securities described in subparagraph (9) of the definition of “Eligible Securities” shall be valued at seventy percent of their market value.

(3) Of the Eligible Securities described in subparagraph (5), (6) and (7) of the definition of “Eligible Securities”, those securities rated in the highest category shall be valued at one hundred percent of their market value; those securities rated in the second highest rating category shall be valued at ninety percent of their market value; and those securities rated in the third highest rating category shall be valued at eighty percent of their market value. When two nationally recognized statistical rating organizations rate a security in two different categories, the security shall be considered to be rated in the higher of the two categories.

Notwithstanding any other provision of law to the contrary, the Chief Financial Officer (under the supervision of the Treasurer), or other officer authorized by the members of the Agency to make deposits, may, subject to the approval of the Agency, by resolution, enter into a contract with a courier service for the purpose of causing the deposit of public funds with a bank or trust company in accordance with Section 10 of the General Municipal Law.

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(s) 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. The security agreement(s) shall also provide the conditions under which the Eligible Securities may be sold, presented for payment, substituted or released, and the events that will enable the Agency to exercise its rights against the pledged securities. In the event that the

securities are not registered or inscribed in the name of the Agency, 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(s) shall provide that securities held by the bank or trust company, as agent of and custodian for, the Agency, 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 custodial agreement(s) shall also state that the custodian shall confirm the receipt, substitution or release of the securities. The custodial agreement(s) 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 custodial agreement(s) shall include all provisions necessary to provide the Agency a perfected securities interest in the securities and may include such other terms as the CFO or the members of the Agency may deem necessary or desirable.

D. Temporary Investments

The Chief Financial Officer of the Agency (under the supervision of the Treasurer of the Agency) may temporarily invest moneys not required for immediate expenditure, except moneys the investment of which is otherwise provided for by law, in special time deposit accounts in, or certificates of deposit issued by, a bank or trust company located and authorized to do business in the State, provided however, that such time deposit account or certificate of deposit shall be payable within such time as the proceeds are anticipated to be needed to meet expenditures and provided further that such time deposit account or certificate of deposit be secured in the same manner as is provided for securing deposits of the Agency's Funds as set forth above for deposits in excess of the amount insured under the FDIA.

Investments may also be made in obligations of the United States of America or in obligations guaranteed by agencies of the United States of America where the payment of principal and interest are guaranteed by the United States of America or in obligations of the State, or with the approval of the State Comptroller, in tax anticipation notes or revenue anticipation notices issued by any municipality, school district or district corporation within the State other than the Agency.

All investments made pursuant to the immediately preceding paragraph shall be subject to the following conditions:

(1) Such obligations shall be payable or redeemable at the option of the Agency within such times as the proceeds are anticipated to be needed and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable in any event, at the option of the Agency, within two years of the date of purchase. Obligations that are purchased pursuant to a repurchase agreement shall be deemed to be payable or redeemable for purposes of this paragraph on the date on which the purchased obligations are scheduled to be repurchased by the seller thereof. Any obligation that provides for the adjustment of its interest rate on set dates shall be deemed

to be payable or redeemable for purposes of this paragraph on the date on which the principal amount can be recovered through demand by the holder thereof.

(2) Such obligations, unless registered or inscribed in the name of the Agency, shall be purchased through, delivered to and held in the custody of a bank or trust company in the State. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company or dealer in obligations 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. All obligations held in the custody of a bank or trust company pursuant to this paragraph shall be held by such bank or trust company pursuant to a written custodial agreement as set forth in paragraph (a) above relating to deposits of amounts in excess of amounts insured under the FDIA.

Notwithstanding any other provision of law, the Agency may authorize the Chief Financial Officer to turn over the physical custody and safekeeping of the evidences of the investments made under the heading "C. Temporary Investments" to (a) any bank or trust company incorporated in the State, or (b) any national bank located in the State, or (c) any private banker duly authorized by the superintendent of banks of the State to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in the State. The said officers may direct such bank, trust company or private banker to register and hold any such evidences of investments in its custody, in the name of its nominee. Such officers may deposit or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of any such evidences of investments with a federal reserve bank or other book-entry transfer system operated by a federally regulated entity to be credited to an account as to which the ownership of, and other interests in, such evidences of investments may be transferred by entries on the books of such federal reserve bank or other book-entry transfer system operated by a federally regulated entity without physical delivery of any such evidences of investments. The records of any such bank, trust company or private banker shall show, at all times, the ownership of such evidences of investments, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. All evidences of investments delivered to a bank, trust company, or private banker pursuant to this paragraph shall be held by such bank, trust company or private banker pursuant to a written custodial agreement as set forth in paragraph (a) above relating to deposits of amounts in excess of amounts insured under the FDIA. When any such evidences of investments are so registered in the name in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such evidences of investments.

Except as may otherwise be provided in a contract with bond or note holders, any moneys of the Agency authorized to be invested under the heading "C. Temporary Investments" may be commingled moneys for investment purposes; provided, however, that any investment of commingled moneys shall be payable or redeemable at the option of the Agency within such time as the proceeds shall be needed to meet expenditures for which such moneys were obtained or as otherwise specifically provided under the

heading “C. Temporary Investments”. The separate identity of the sources of such Funds shall at all times be maintained and income received on moneys commingled for the purpose of investment shall be credited on a pro rata basis to the fund or account from which the moneys were invested.

The Chief Financial Officer of the Agency shall maintain or cause to be maintained a proper records of all books, notes, securities or other evidences of indebtedness held by or for the Agency for the purpose of investment. Such record shall at least identify the security, the fund for which held, the place where kept and entries shall be made therein showing date of sale other disposition and the amount realized therefrom.

E. Monitoring and Reporting

Each deposit and investment account statement shall be reviewed and reconciled by the Chief Financial Officer (the “CFO”) on a monthly basis.

The Treasurer, Asst. Treasurer or CFO shall present a report at each meeting of the members of the Agency, which shall include the following information: (i) the cash and investment balance of the Agency, (ii) identification of any new investments since the last report, (iii) information concerning the selection of investment bankers, brokers, agents, dealers or auditors since the last report; and (iv) the names of the financial institutions holding Agency deposits.

On an annual basis, the Agency will obtain an independent audit of its financial statements, which shall include an audit of its cash and investments and the Agency’s compliance with this Investment Policy.

Agency staff shall, on an annual basis, prepare and submit for approval by the members of the Agency an investment report which shall include this Investment Policy, amendments to the Investment Policy since the last investment report, an explanation of the Investment Policy and any amendments, the results of the annual independent audit, the investment income record of the Agency and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and advisor rendering investment-associated services to the Agency since the last investment report.

Subject to approval by the Audit Committee and the members of the Agency, the Executive Director shall be responsible for establishing and maintaining an internal control structure to provide reasonable assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with the members’ authorization and recorded properly, and are managed in compliance with applicable law. The 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 Agency: (i) investing the Agency’s Funds, (ii) advising on the investment of the Agency’s Funds, (iii) directing the deposit or investment of the Agency’s Funds, or (iv) acting in a fiduciary capacity for the

Agency; provided, however, that such audited statements and related reports shall not be required with respect to a bank or trust company that is providing only depository services to the Agency.

Re-adopted by the members of the Agency as of the 27th day of February, 2020.