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*Nassau County Interim
Finance Authority*

NIFA

2018 ANNUAL REPORT

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NASSAU COUNTY INTERIM FINANCE AUTHORITY
2018 ANNUAL REPORT

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May 23, 2019

The Honorable Andrew M. Cuomo
Governor of the State of New York
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

Attached is the Annual Report of the Nassau County Interim Finance Authority (“NIFA”) for the year ending December 31, 2018.

In June 2000, the NIFA Act was passed by the State Legislature and signed into law by the Governor. The Act was the key element of a road map for Nassau County to improve its fiscal difficulties. Since its inception, NIFA has worked with the County Executive, Legislature, Comptroller and their staffs to develop plans, identify actions, and monitor progress toward achieving long-term structural balance. In addition to \$105 million of direct assistance NIFA has also provided the County with other monetary assistance of approximately \$400 million, which includes: debt service savings achieved through NIFA’s issuance of highly rated debt and its use of financial instruments solely available to NIFA; as well as temporary budget relief through debt restructurings.

At the end of 2018, NIFA had approximately \$535 million in bonds outstanding and was rated in the highest rating category by Standard & Poor’s (AAA) and Fitch (AAA), and the second highest rating category by Moody’s (Aa1). The final maturity of NIFA’s outstanding bonds is November 15, 2025. NIFA’s statute requires it to remain in existence until all of its bonds have been paid or are no longer outstanding and all of its liabilities discharged.

On January 26, 2011, following an extensive review and analysis, the NIFA Directors made a determination that the County’s 2011 Budget exceeded an acceptable level of risk, as defined under the NIFA Act and declared a Control Period. The Control Period has continued through 2018 and is in existence at the time of this writing.

In FY 2018 NIFA took numerous steps to help the County identify its fiscal problems and continue on a path toward GAAP balance. I am optimistic that in FY 2019 we will be able to further assist the County.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Barsky', written in a cursive style.

Adam Barsky
Chairperson

Encl.

cc:

Temporary President and Majority Coalition Leader Andrea Stewart-Cousins
Deputy Minority Leader John Flanagan
Assembly Speaker Carl E. Heastie
State Comptroller Thomas P. DiNapoli
Assemblywoman Helene E. Weinstein, Chair of the Assembly Ways and Means
Committee
Assemblyman William A. Barclay, Ranking Minority Member of the Assembly Ways
and Means Committee
Senator Liz Krueger, Chair of the Senate Finance Committee
Senator James L. Seward, Ranking Minority Member of Senate Finance Committee
New York State Authorities Budget Office
Mr. Robert F. Mujica, Jr., Director of the Budget
Ms. Laura Curran, Nassau County Executive
Mr. Richard Nicoletto, Nassau County Legislative Presiding Officer
Mr. Kevan Abrahams, Nassau County Legislative Minority Leader
Mr. Jack Schnirman, Nassau County Comptroller
Mr. Beaumont Jefferson, Nassau County Treasurer

Nassau County Interim Finance Authority

AUTHORITY DIRECTORS AND STAFF AS OF DECEMBER 31, 2018

Directors

Adam Barsky, Chairperson

Paul D. Annunizato

John R. Buran

Paul J. Leventhal

Lester Petracca

Howard S. Weitzman

Christopher P. Wright

Staff

Evan Cohen, Executive Director

Carl Dreyer, Treasurer

Kathleen Stella, Corporate Secretary

Jeremy Wise, General Counsel

Martha B. Worsham, Deputy Director

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NIFA MISSION STATEMENT

The Nassau County Interim Finance Authority (“NIFA”) was created by the State of New York as a public benefit corporation to improve the general prosperity and economic welfare of the inhabitants of Nassau County and the people of the State of New York. NIFA’s primary goal is to see that on a recurring basis, the County’s annual revenues are equal to its annual expenditures. To assist in its mission, NIFA was granted certain powers including the release of transitional state aid, the ability to borrow money on behalf of the County, and if necessary, to call a control period, as defined in the Act. While striving toward its goals, NIFA is continually mindful of the County’s right to operate independently as a municipal corporation of the State of New York.

INTRODUCTION

In response to persistent fiscal distress in Nassau County, a five-point recovery plan was prepared for the County in early 2000. The plan included:

- Creation of the Nassau County Interim Finance Authority (“NIFA”) as an oversight agency and highly rated borrowing mechanism to reduce the County’s borrowing costs.
- Oversight of the required County four year financial plan to ensure that recurring actions were taken by the County each year to reach structural budget balance.
- Special State Transitional Aid of \$100 million over five years, plus debt restructuring through NIFA, if the County took satisfactory action to close its structural deficit.
- Assistance of \$5 million to support reforms to reduce the County’s estimated \$400 million backlog of property tax claims.
- Imposition of hard control mechanisms if the County failed to meet certain financial management criteria.

The plan formed the basis of State legislation creating NIFA (the “Act”). The NIFA legislation was supported by a home rule message recommended by the Nassau County Executive and approved by a unanimous vote of the County Legislature. It was enacted with broad bipartisan support in the New York State Senate and Assembly.

NIFA came into existence on June 23, 2000 and the first meeting of its Directors took place on June 28, 2000. The Act has been amended several times since its original enactment; however, the triggers for - and NIFA’s ability to call a Control Period, as defined in the Act - have remained the same. The main changes have had to do with the scope of a wage freeze and the amounts and timing of borrowings as well as the extension of the “Interim Finance Period,” as defined in the Act, through and including Fiscal Year 2008.

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This Annual Report is made pursuant to Section 2800 of the Public Authorities Law, the NIFA Act, the Public Authority Accountability Act of 2005, and the Public Authorities Reform Act of 2009. The Report covers the year ended December 31, 2018 and in limited cases is updated through its date of publication. It also incorporates other reports required by New York State law.

DIRECTORS, MANAGEMENT AND CONTINUING OPERATION

The NIFA Act allows for a board of seven directors, each appointed by the Governor, one each upon the recommendation of the Majority Leader of the State Senate, the Speaker of the Assembly and the State Comptroller. The Governor also designates the chairperson and vice-chairperson from among the directors, although there has never been a vice-chairperson.

Four directors constitute a quorum for meetings and at least four directors must vote affirmatively for any action to be taken by the Authority.

The Directors held public meetings on the following dates in 2018: April 3rd, May 8th, July 31st, October 16th and November 27th and December 18th.

NIFA had four standing committees. Their name, membership and the dates of their respective meetings in 2018 were as follows:

1. Audit and Internal Controls held meetings on May 8th and October 16th. Its membership consisted of Messrs. Christopher Wright, Adam Barsky, John Buran, and Lester Petracca.
2. Employment and Compensation held a meeting on May 8th. Its membership consisted of Messrs. Lester Petracca, Adam Barsky, John Buran and Christopher Wright.
3. Finance held a meeting on November 27th. Its membership consisted of Messrs. Paul Leventhal, Adam Barsky, Paul Annunziato, and John Buran.
4. Governance held a meeting on November 27th. Its membership consisted of Messrs. Paul Annunziatio, Adam Barsky, Paul Leventhal, and Howard Weitzman.

Except as noted under the section concerning the “Control Period Developments,” no significant new litigation was commenced against NIFA in 2018.

Directors

Adam Barsky –Director & Chairperson

Adam Barsky is an accomplished senior executive who brings more than 25 years of dedicated experience in management and public policy.

Mr. Barsky currently serves as Chief of Staff and Special Counselor at the Port Authority of NY and NJ. Prior to that Mr. Barsky served as Executive Vice President and Chief Risk Officer of IDB bank NY from 2006 to the 2017. In that senior role, Mr. Barsky oversaw all aspects of risk management for the bank including credit, market and operational risk, and strategic and reputation risk.

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Mr. Barsky has held numerous positions in state and local government including Deputy Secretary to the Governor for Public Authorities, Financing and Housing and New York City Issues under George Pataki.

Before that, Mr. Barsky served as Budget Director and Chief Financial Officer of the City of New York under Mayor Rudolph Giuliani and as Director of the Mayor's Office of Operations. Mr. Barsky also worked as Chairman of the New York City Employees Retirement System, Chairman of the New York City Transitional Finance Authority, Chairman of the NYC Municipal Water Finance Authority, Acting Commissioner of the New York City Department of Finance, and Chief Financial Officer of the New York City Economic Development Corporation.

Mr. Barsky graduated *cum laude* from the State University of New York, Albany with a bachelor's degree in Business Administration. Mr. Barsky is also a certified public accountant and has also completed Columbia Business School's Risk Management Executive Education Program.

Mr. Barsky was appointed as Chairman and a Director of the Nassau County Interim Finance Authority by Governor Andrew Cuomo on March 1, 2016. His term expired on December 31, 2016 and he currently serves as a holdover.

Paul D. Annunziato – Director

Paul Annunziato is a Senior Vice President Financial Advisor with Morgan Stanley in Jericho, New York. He has worked in The Financial Services Industry for more than 20 years. Working within the Private Client Division, Paul and his Team manage a Family Office offering Financial Planning solutions to high net worth families in the New York Area. Prior to joining Morgan Stanley in July of 2008, Paul and his Team worked at Merrill Lynch for 15 years. In addition to his Federal Securities Licenses (series 7, 31, 63, 65) and state insurance licenses, Paul has obtained his CFP and CRPC designations from the College for Financial Planning, his CFM from the Donald T Regan School of Advanced Financial Management as well as his International Wealth Management Designation. Paul is a graduate of Rochester Institute of Technology with a B.S. from the College of Business. Paul also completed an International Business Degree from Sheffield Polytechnic in the United Kingdom.

Paul previously served on the Nassau County Sewer and Storm Water Finance Authority from 2003 - 2005. He currently sits on the Federal Enforcement Homeland Security Foundation. He remains active with the Nassau County Firefighter's Museum and Education Center as a Founding Trustee. Paul Annunziato remains committed to various local Charities and Organizations such as Chaminade High School, Boys and Girls Club, Knights of Columbus, Chamber Players International, Order Sons of Italy in America, Coast Guard Auxiliary, and The American Cancer Society to name a few.

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Mr. Annunziato was appointed to the Nassau County Interim Finance Authority by Governor Andrew Cuomo on September 18, 2013. His term expired on December 31, 2014 and he currently serves as a holdover.

John R. Buran – Director

John Buran is President and Chief Executive Officer of Flushing Financial Corporation and Flushing Bank. He joined the Bank as Chief Operating Officer in 2001 and served on the Board of Directors since 2003. During his tenure as President and CEO, Flushing Bank has grown from \$2.1 billion in 2005 to over \$6.3 billion in total assets. John's banking career began in 1977 and he has held a variety of management positions at Citibank, NatWest Bank and Fleet Bank. John is past Chairman and current Board member of the New York Bankers Association. In 2017, he was elected Chairman of the Board of the Federal Home Loan Bank of New York, where he has served since 2010. He is a former member of the Community Depository Institutions Advisory Council of The Federal Reserve Bank of New York where he served six years.

John has devoted his time to a variety of charitable and not-for-profit organizations. He currently serves on the Advisory Board and is a former Board President of Neighborhood Housing Services of New York City. He is a Board member of The Korean American Youth Foundation. John also serves on the Board of the Long Island Conservatory. He was recently presented with an honorary Doctorate of Humane Letters from St. Francis College of Brooklyn. John holds a B.S. in Management and an M.B.A., both from New York University.

Mr. Buran was appointed to the Nassau County Interim Finance Authority by Governor Andrew Cuomo on August 8, 2012. His term expired on December 31, 2014 and he currently serves as a holdover.

Paul J. Leventhal – Director

Paul Leventhal is President of the accounting firm of Leventhal and Company, CPAs PC. The firm represents Corporate and Individual clients in the areas of accounting, taxation, and management advisory services. The firm has offices in Roslyn, New York. Mr. Leventhal is Vice President of Leventhal Financial Services, Inc. which provides financial and management advisory services to clients in the entertainment, sports, and real estate industries.

Mr. Leventhal served previously as a member of the Board of Directors of the Nassau Interim Finance Authority (2006 to 2010) and Chairman of the Governance Committee (2008 to 2010).

Mr. Leventhal also served as:
Chairman of the Nassau County Comptroller's Audit Advisory Committee (2010 to 2014);

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Director, Board of Directors, Nassau Health & Hospital Corporation (2012 to 2014); Chairman Legal & Audit Committee (2012 to 2014); Chairman Finance Committee (2012 to 2014); Member, Presidential Search Committee (2013 to 2014).

Member of the Nassau Community College Board of Trustees from 1999 to 2006, as an officer of the Board from 2000 to 2006, as the vice chair of its Finance committee in 2006 and as the Chairman of its Enrollment committee in 2006.

Chairman, Zoning Board of Appeals of the Incorporated Village of Muttontown (2007 to 2018), Alternate Member (2006).

Mr. Leventhal graduated from Ithaca College in 1971 with a Bachelor of Science in Political Science *Magna cum Laude*, and graduated from New York University Graduate School of Business Administration in 1973 with a Master of Science in Accounting. Mr. Leventhal is a member of the American Institute of Certified Public Accountants, and has been practicing Accounting for more than 40 years.

Mr. Leventhal was appointed to the Nassau County Interim Finance Authority by Governor Andrew Cuomo upon the recommendation of the Majority Leader of the Senate on January 31, 2014. His term expired on December 31, 2017 and he currently serves as a holdover.

Lester Petracca – Director

Lester Petracca founded Triangle Equities in 1986 and serves as President of the New York based real estate company. With over 35 years of industry experience and demonstrated expertise operating at the intersection of public and private enterprise, Mr. Petracca focuses his business, public and charitable work on creating positive changes in the New York metropolitan area. He has created a thriving, full-service real estate company by coupling the building and management experience he first gained as a partner at a family operated construction firm, with the innovative, results-oriented and community-centric approach that has come to define Triangle's work.

Under Mr. Petracca's leadership, Triangle is focused on creating value in communities by embracing the complexities inherent to responsible urban development and takes pride in working closely with the communities it develops in. Mr. Petracca has fostered a development strategy that joins the creativity, determination and skill of the first-rate team he has assembled, with the resources and amenities needed by each of the communities in which Triangle invests.

Mr. Petracca also devotes considerable time to public service and charitable work. Governor Andrew Cuomo appointed him to both the Battery Park City Authority and Nassau County Interim Finance Authority and he currently sits on both, serving as Chairman of the Battery Park City Investment Committee and Chairman of the Employment and Compensation Committee for the Nassau County Interim Finance Authority. He was also a member of the General Contractors Association of New York.

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Mr. Petracca graduated from the University of Dayton in 1977 with a B.S. in Finance and Management.

Mr. Petracca was appointed to the Nassau County Interim Finance Authority by Governor Andrew Cuomo on September 18, 2013. His expired on December 31, 2016 and he currently serves as a holdover.

Howard S. Weitzman – Director

Howard Weitzman has had a career spanning 49 years in Finance, Accounting, Healthcare and Government. Following their acquisition of his accounting firm in 1982, he served as a partner of the global accounting firm KPMG where he served as partner-in-charge of that firm's regional healthcare accounting, consulting and tax services. Subsequently he founded and served as CEO of a publicly traded mail service pharmaceutical company and a private healthcare financial services company. Howard earned his Bachelor of Arts degree with a major in Accounting from Queens College and has undergone management training at Stanford University. He became a certified public accountant in New York in 1971.

Howard was first elected Mayor of the Village of Great Neck Estates in 1989 and served 6 years in that position following 6 years as a Village Trustee. He was appointed to the Nassau County Board of Assessors in 1995 by then County Executive Thomas Gulotta. Howard was elected Nassau County Comptroller in 2001 and served 2 terms in that position. He brought much needed structural and technical changes to that office and was part of the team that stabilized Nassau's finances and restructured the finances of the Nassau University Medical Center. Howard was appointed by Governor Elliot Spitzer to serve on the NYS Commission on Government Efficiency and Consolidation in 2007. He also served as Chair of the NYS Association of Counties Committee on Taxation and Finance. He has served on the boards of charitable, civic, educational and business organizations, and has received many awards for his work in Government.

Mr. Weitzman was appointed to the Nassau County Interim Finance Authority by Governor Andrew Cuomo upon the recommendation of NYS Assembly Speaker Carl Heastie on August 26, 2016. He was reappointed, again upon the recommendation of Assembly Speaker Heastie on August 3, 2018. His term of office expires on December 31, 2021.

Christopher P. Wright – Director

Chris Wright, from Protiviti's New York office, is the firm-wide Managing Director of the Business Performance Improvement solution, which includes the firm's Public Company Transformation and Financial Reporting Remediation and Compliance groups. He has over thirty years of experience serving clients as an external auditor, including 6 years as a partner at two global accounting firms (Arthur Andersen and KPMG), and as an internal auditor and financial reporting risk consultant.

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At Protiviti, Chris has provided internal audit out-sourcing and co-sourcing, Sarbanes-Oxley readiness and compliance services, and significant assistance to companies experiencing restatements, regulatory inquiries, stock compensation and other financial investigations and difficulties in implementing new accounting pronouncements, including revenue recognition and lease accounting. Chris earned his Bachelor of Science degree with a major in Accounting from Franciscan University and a Master of Science degree in Organizational Leadership from Quinnipiac University.

Chris serves on the boards of several charitable, civic, educational and business organizations. His work in Financial Reporting Remediation and Compliance has also involved a significant commitment to public speaking and the development and delivery of internal and external training.

Mr. Wright was appointed to the NIFA Board by Governor Spitzer upon the recommendation from NYS Comptroller DiNapoli on September 24, 2007. He was re-appointed, again on the recommendation of Comptroller DiNapoli, by Governor Paterson on June 15, 2010, and Governor Cuomo on January 29, 2015 and August 3, 2018. His term of office expires on December 31, 2021.

Staff

Evan L. Cohen – Executive Director

Evan Cohen serves as Executive Director. Mr. Cohen has more than 25 years of financial management experience dealing with governments. He has worked for the Authority since 2000 and previously worked for the New York State Financial Control Board for the City of New York. Mr. Cohen earned a BE in Electrical Engineering and an MBA in Finance.

Carl A. Dreyer – Treasurer

Carl Dreyer serves as Treasurer at NIFA. Carl has a Master's Degree in Finance and has been a Certified Public Accountant in New York State since 1982. He recently completed the advanced curriculum in New York State's Government Finance Institute. He is a member of the American Institute of Certified Public Accountants, the New York State Government Financial Officers Association and the Chartered Global Managerial Accountants.

Kathleen Stella – Corporate Secretary & Chief Administrator

Kathleen Stella serves as Corporate Secretary and Chief Administrator. Ms. Stella's responsibilities include the organization of all meetings of the Directors as well as the preparation of numerous filings to fulfill State requirements. Prior to NIFA, Ms. Stella had

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18 years' experience with the Long Island Power Authority as their Human Resources Coordinator and served as Board Secretary.

Jeremy A. Wise – General Counsel

Jeremy Wise serves as General Counsel and Chief Borrowing Officer. Mr. Wise has been admitted to the practice of law in New York State since 1978. The majority of his legal career has been spent working in the area of public finance. He has been the General Counsel of the Authority since 2000.

Martha Worsham – Deputy Director

Martha Worsham serves as Deputy Director at NIFA. She has approximately 30 years of financial analysis experience in the private sector and government. Prior to joining NIFA, Mrs. Worsham worked for Nassau County as a Deputy Budget Director.

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INITIATIVES AND ACCOMPLISHMENTS IN 2018

In the eighteen years since NIFA was created it has continually worked to improve its efforts to support the State of New York and the citizens of Nassau County through service delivery that is accountable, transparent, and efficient. As such, we continue to revise and enhance reports, documents and supporting analyses to provide a fresh perspective and address the changing conditions of both the County and the larger economy.

NIFA also continues to work in cooperation with County staff and leaders to achieve mutually beneficial goals, help create cooperative alliances and generate problem-solving discussions.

Additionally, NIFA staff continues to improve its own professional development by attendance at various training programs and conferences. Its licensed professionals also complete mandatory courses that are required for recertification.

The following items describe some of the initiatives undertaken and accomplishments achieved by NIFA during 2018. The description is not intended to be all-encompassing or comprehensive, but provides a synopsis of progress and achievements of NIFA staff.

Reports

The following Reports were issued by NIFA staff to the Directors:

- *Review of Nassau County's Proposed Multi-Year Financial Plan Fiscal 2019-2022* (October 16, 2018).
- *Mid-Year Review and Analysis of the Multi-Year Financial Plan Update Fiscal 2018-2021* (July 31, 2018).
- *NIFA 2017 Annual Report* (May 8, 2018).
- *Financial Statements for the Year Ended December 31, 2017 and Independent Auditors' Report* (May 8, 2018).

In addition, NIFA staff continually reviews not only its own, but also Nassau County's financial and operational information. These include the:

- *Headcount* analysis designed to track year-to-date changes from the budget allocation and related vacancy savings.
- *Overtime Usage and History* reports that track current overtime spending by primary department usage and also compares this to historical spending for more accurate variance analysis.
- *Salaries and Wages* monitoring and year-to-date spending analysis as well as related projections.
- *Debt Issuance*
- *Monthly Variance Analysis* of the County's actual expenditures and revenue collections as compared to the Adopted Budget.

Training and Professional Development

NIFA staff attended, or participated via web-based training, in various seminars and conferences to keep current in relevant governmental disciplines. These included, but were not limited to:

- Albrecht, Viggiano, Zureck & Company hosted event for clients and associates
 - Overview of the Tax Cuts and Jobs Act (January)

- RSM LLP sponsored webcasts such as:
 - 2018 Economic Outlook (March)
 - Annual Government Accounting Update (April)

- New York State Government Finance Officers' Association regional training sessions such as:
 - GASB 75: The Latest on Postemployment Benefit Reporting (June)
 - Accounting and Financial Reporting for Debt (June)
 - Municipal Debt Markets in the Post Tax Reform Era (July)
 - State Finance Law (July)
 - GASB 75: The Latest on Postemployment Benefit Reporting (October)
 - Managing Workplace Violence and Harassment in the Public Sector (October)
 - Ethics for Non-CPA's (November)

NIFA staff members have also participated in continuing education meetings to maintain and improve professional competence, keep abreast of new technology and practices, or to comply with professional certification requirements.

Communication & Leadership

NIFA is constantly aware of the need for cooperative alliances in order to best serve its charge of assisting Nassau County and its citizens to restore fiscal integrity. As such, NIFA provides leadership by initiating meetings and maintaining the following lines of communication:

- Nassau County Office of Management and Budget (OMB) briefings (scheduled as needed). Per NIFA's request, meetings are also attended by staff from the County Comptroller, and the Office of Legislative Budget Review to receive updates from OMB; answers to questions submitted; and, obtain requested information.
- Leadership Meetings (scheduled as needed). NIFA acts as the moderator of ad-hoc meetings among County Leaders, which are attended by key County personnel including, but not limited to the County Executive, Majority and Minority Legislative

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Leaders, and the Comptroller. These meetings give the Leaders a forum to brief each other on critical Nassau County issues.

- Nassau Health Care Corporation Meetings. Because the financial health of the Nassau Health Care Corporation (“NHCC”) and its potential impact on Nassau County is a major concern for NIFA, staff maintains contact with NHCC to discuss financial reports and the multi-year financial plan of NHCC.
- NIFA Director and Committee Meetings (scheduled as needed). The meetings of the Directors cover all aspects of NIFA business in a public forum. Among the agenda items are matters dealing with the fiscal health of Nassau County, the compliance of NIFA with governmental accountability requirements, and approval of NIFA expenditures.
- Directors’ Briefings (scheduled as needed). These Briefings are an opportunity for NIFA staff to communicate with various Directors regarding NIFA staff views and analyses of County financial and operating issues; however, there is no discussion and no actions are taken by the Directors.

NIFA utilizes the services of the professional webcaster, Total Webcasting, to broadcast all NIFA public meetings and this has been done throughout fiscal year 2018. The webcast, posted on the NIFA website (<http://www.nifa.state.ny.us>), enables many more Nassau County citizens and stakeholders to view NIFA activities, business, and decisions that are conducted on their behalf.

Liaison Responsibilities

As noted above, in 2018 NIFA continued to monitor the County’s finances and helped to facilitate dialogue among the County’s elected and appointed leaders.

Financial monitoring meetings or discussions were held with representatives of the County Executive, County Legislature, County Comptroller and NIFA to review the County’s finances. NIFA also monitored key financial indicators such as sales tax, staffing, and social service costs in order to allow NIFA to project year-end operating results.

NIFA also meets or speaks with representatives of the Nassau Health Care Corporation (NHCC) to remain up-to-date on their financial condition because 1) it is a covered organization subject to NIFA review and 2) the financial condition of NHCC could have an impact on that of Nassau County.

Because the NIFA Directors must approve all County and Covered Organization financings during a Control Period, NIFA staff regularly reviews the terms, conditions and reasons for proposed County borrowings.

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NIFA ROLES AND RESPONSIBILITIES

The primary role of NIFA is to help restore Nassau County to fiscal health, so that the County can continue to provide essential services to its citizens while meeting obligations to holders of County debt. The Authority's powers and responsibilities fall, or have fallen, into the principal categories of: financial oversight and monitoring; liaison to and between Nassau County leaders; debt issuance on behalf of Nassau County and review of debt issuance by Nassau County.

Financial Oversight and Monitoring

NIFA's mission is to oversee and monitor the finances of Nassau County and, if necessary, establish a "control period" to exercise additional oversight powers. Since its inception, NIFA has continued to have a substantial positive impact on the County's budget, financial planning processes, and operating results.

Control Period Developments and Additional Responsibilities

NIFA Review of County Contracts, Approval of its Four Year Plan and Borrowings

Pursuant to the NIFA Act, during a control period the Authority is tasked with certain additional powers and responsibilities which include: the creation of Contract Guidelines for the review of County contracts; the review and approval of all borrowing by the County and Covered Organizations; and the review and approval of the County's Multi-Year Financial Plans.

During FY 2018, NIFA reviewed and approved 273 contracts. Depending on the amount of those contracts, the review was completed by staff, the Chairman or the Board.

NIFA also approved a total of \$936 million of borrowing for the County during 2018. The amount included \$836 million of bonds or notes for capital projects and \$100 million for certiorari related claims.

The proposed Multi-Year Financial Plan for Fiscal 2019 – 2022 was submitted to NIFA on September 17, 2018. On October 16, 2018, NIFA accepted a staff report which discussed and analyzed the Proposed Plan. On October 29, 2018, the County Legislature adopted its Multi-Year Financial Plan for Fiscal 2019 – 2022 (the "MYP") with certain amendments that were not part of the MYP presented by the County Executive; however, those amendments were vetoed by the County Executive (except for certain technical amendments) and the veto was not overridden by the County Legislature. Finally, on November 27, 2018 NIFA approved the MYP, which included the 2019 Budget.

Wage Freeze

A one year wage Freeze Period on the County Employees was imposed by the Directors in March of 2011, 2012, 2013 and 2014 (the “Wage Freeze”) after determining that a Wage Freeze was essential to the County’s adoption and maintenance of its corresponding budgets. NIFA believed that imposition of a Control Period and subsequent Freeze Period, when combined with directed borrowing and prudent administration, would hasten the County’s recovery. The Wage freeze was lifted for substantially all of the County’s Employees during 2014 after certain monetary concessions were negotiated. The Authority took no further action regarding the wage freeze in 2017, although wage freeze related litigation continued (see “Key Litigation” section below) and the State Legislature limited NIFA’s authority to institute a wage freeze for certain employees.

Litigation Related to the Wage Freeze

On March 24, 2011, after determining that the requirements of its governing legislation were met, the Authority exercised its authority to impose a one-year wage freeze on County personnel. Unions representing County personnel have filed lawsuits in the United States District Court for the Eastern District of New York against the Authority and its Directors. The lawsuits allege that the wage freeze is unauthorized by the Authority’s governing legislation and unconstitutionally impairs the unions’ collective bargaining agreements with the County in violation of the Contracts Clause of the United States Constitution. The unions also filed lawsuits in the same court challenging NIFA’s renewals of the one-year wage freeze in March 2012 and March 2013.

On February 14, 2013, United States District Judge Leonard D. Wexler granted summary judgment to the plaintiff unions in one of these wage freeze litigations, ruling that as a matter of statutory interpretation of NIFA’s enabling legislation NIFA’s wage freeze power expired in 2008. The District Court stayed its ruling pending appeal, so the wage freeze remained in effect. On September 20, 2013, the Second Circuit vacated the District Court’s judgment, ruling that it should have declined to exercise jurisdiction over the pendent state claim, and remanded the case with instructions to dismiss the claim. In accordance with the decision of the Second Circuit, in October 2013, the District Court closed all the pending federal actions without prejudice to re-opening at the conclusion of state litigation.

In October 2013, following the closure of the federal actions, the unions filed petitions in Nassau County Supreme Court pursuant to Article 78 of the N.Y. Civil Practice Law and Rules. Their petitions alleged that the wage freezes were unauthorized as NIFA’s wage freeze power under its enabling legislation expired in 2008. One of the unions also alleged that one of its members’ interest arbitration awards were not within the ambit of NIFA’s wage freeze powers. NIFA moved to dismiss the petitions. On March 11, 2014, Justice Arthur M. Diamond granted NIFA’s motion to dismiss, ruling that, as a matter of statutory interpretation, NIFA’s wage freeze power had not expired and that the interest arbitration award was within the ambit of that power. The Appellate Division, Second Judicial Department, affirmed the dismissal, and the New York Court of Appeals denied the unions’ applications for leave to appeal further.

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In January 2017, the unions asked Judge Wexler to re-open their federal case in the Eastern District of New York and rule on the parties cross-motions for summary judgment on the unions' Contracts Clause claims. After Judge Wexler passed away, the case was reassigned to District Judge Joanna Seybert, who granted NIFA's motions for summary judgment as to all the unions' remaining claims and ordered them dismissed in a decision of April 26, 2018. The unions have filed an appeal to the Second Circuit, and NIFA is currently awaiting notification from the Court when oral arguments regarding the unions' appeal will be heard.

Debt Issuance On Behalf of Nassau County

Revenues of the Authority ("Revenues") consist of sales tax revenues, defined as net collections from sales and compensating use taxes, penalties and interest authorized by the State and imposed by the County on the sale and use of tangible personal property and services in the County ("Sales Tax Revenues"), and investment earnings on money and investments on deposit in various Authority accounts. Sales Tax Revenues collected by the State Comptroller for transfer to the Authority are not subject to appropriation by the State or County. Revenues of the Authority that are not required to pay debt service, operating expenses and other costs of the Authority are payable to the County as frequently as practicable.

NIFA's debt program was initiated in FY 2000 and continued successfully through 2018. In total NIFA has issued \$5,465,098,000 in new or refunding debt on behalf of the County. Overall, NIFA bonds payable decreased in fiscal year 2018 by \$118,505,000 (18.12%) due to retirement of prior bond issues. As of December 31, 2018, the Authority had bonds outstanding of \$535,479,000, which were comprised of \$220,654,000 of conventional fixed rate debt and \$314,825,000 of synthetic fixed rate debt. Total estimated remaining debt service was \$598,826,000. NIFA's debt matures through the year 2025.

Fixed Rate Bonds – The Authority has outstanding fixed rate bonds with coupons ranging between 1.976% and 5.0%. Interest on the Authority's Fixed Rate Bonds is payable on May 15 and November 15 of each year, and interest on the Variable Rate Bonds is payable on the first business day of each month. Principal on all bonds is payable on November 15. A debt service account has been established under the Indenture to provide for the payment of interest on and principal of bonds outstanding under the Indenture. The Trustee makes monthly deposits to the debt service account in the amount of debt service accrued through the end of that month. For the Fixed Rate Bonds, this is essentially one-sixth of the next interest payment and one-twelfth of the next principal payment. For the Variable Rate Bonds, this is one-twelfth of the next principal payment and the amount needed to maintain a prudent level of funding in excess of the anticipated interest expense to be accrued that month.

Interest rates on all of NIFA's variable rate bonds are currently reset weekly by remarketing agents at the minimum rate necessary for the bonds to have a market value equal to the

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principal amount. Interest rates are set separately for each series of variable rate bonds. The variable rate bonds are in most circumstances subject to tender at the option of the bondholder.

In 2018, NIFA had no major transactions that affected its bonds.

Swap Agreements

Board-Adopted Guidelines – On March 25, 2004, NIFA adopted guidelines (“Interest Rate Swap Policy”) with respect to the use of swap contracts to manage the interest rate exposure of its debt. The Interest Rate Swap Policy establishes specific requirements that must be satisfied for NIFA to enter into a swap contract.

Objectives of Swaps – To protect against the potential of rising interest rates, to achieve a lower net cost of borrowing, to reduce exposure to changing interest rates on a related bond issue or in some cases where Federal tax law prohibits an advance refunding, and to achieve debt service savings through a synthetic fixed rate. In an effort to hedge against rising interest rates, NIFA entered into nine separate pay fixed, receive-variable interest rate Swap Agreements during FY 2004 (the “Swaps”).

Background – NIFA entered into the following six swap contracts with an effective date of April 8, 2004, in connection with the issuance of \$450 million in auction rate securities to provide for the refunding or restructuring of a portion of the County’s outstanding bonds, refunding of certain outstanding NIFA bonds, tax certiorari judgments and settlements to which the County was a party, other legal judgments and settlements, County capital projects and to pay costs of issuance. These auction rate securities were subsequently refunded on May 16, 2008 with variable rate demand bonds and the swap agreements transferred to the 2008 Bond Series A-E. The original notional amounts are as follows:

- \$72.5 million notional amount (2004 Series B – swap agreement) with Goldman Sachs Mitsui Marine Derivative Products, L.P. (“GSMMDP”)
- \$72.5 million notional amount (2004 Series C – swap agreement) with GSMMDP
- \$80 million notional amount (2004 Series D – swap agreement) with GSMMDP
- \$72.5 million notional amount (2004 Series E – swap agreement) with UBS AG
- \$72.5 million notional amount (2004 Series F – swap agreement) with UBS AG
- \$80.0 million notional amount (2004 Series G – swap agreement) with UBS AG

The individual notional values of the 2004 Series B, 2004 Series C, 2004 Series E and 2004 Series F declined to \$45.6 million, respectively, thereby collectively totaling \$182.3 million as of December 31, 2018. The 2004 Series D and 2004 Series G swap agreements terminated in accordance with their original terms, as of November 15, 2016.

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NIFA entered into the following three swap contracts with an effective date of December 9, 2004, in connection with the issuance of \$150 million in auction rate securities to provide for the refunding of a portion of the County's outstanding bonds, tax certiorari judgments and settlements to which the County was a party, other legal judgments, and settlements and to pay costs of issuance. These auction rate securities were subsequently refunded on May 16, 2008 with variable rate demand bonds and the swap agreements transferred to the 2008 Bond Series A-E.

- \$50 million notional amount (2004 Series I – swap agreement) with GSMMDP
- \$50 million notional amount (2004 Series J - swap agreement) with UBS AG
- \$50 million notional amount (2004 Series K – swap agreement) with Morgan Stanley Capital Services (“MSCS”)

The individual notional values of the 2004 Series I, 2004 Series J, and 2004 Series K declined to \$44.2 million, respectively, thereby collectively totaling \$132.5 million as of December 31, 2018.

Consequently, the combined notional value of outstanding swaps total \$314.8 as of December 31, 2018, which is down from the original combined notional value of \$600 million.

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NIFA Outstanding Bonds

	Dollars in thousands				Balance at 12/31/2018
	Bond Par Issued	Balance at 1/1/2018	Additions	Retired	
Sales Tax Secured Variable Rate Bonds Series 2008 A-B *					
due 2018 through 2025	250,000	250,000	-	-	250,000
Sales Tax Secured Variable Rate Bonds Series 2008 C-E *					
due 2012 through 2019	355,055	122,925	-	58,100	64,825
Sales Tax Secured Bonds Series 2009 A 1% to 5% serial bonds due through 2025	303,100	29,920	-	21,445	8,475
Sales Tax Secured Bonds Series 2012 A 3% to 5% serial bonds due 2015 through 2025	141,580	77,360	-	17,155	60,205
Sales Tax Secured Bonds 2012 B 0.688% to 2.822% serial bonds due 2014 through 2023	176,133	66,394	-	21,805	44,589
Sales Tax Secured Bonds 2015 A 4% to 5% serial bonds due 2016 through 2025	116,310	107,385	-	-	107,385
	<u>\$ 1,342,178</u>	<u>\$ 653,984</u>	<u>\$ -</u>	<u>\$ 118,505</u>	<u>\$ 535,479</u>

*During 2018, the interest rate on the Variable Rate Bonds ranged from .94% to 1.72%.

Aggregate debt service to maturity as of December 31, 2018 was as follows (dollars in thousands):

Years Ending December 31,	Principal	Interest*	Total
2019	123,500	19,891	143,391
2020	117,556	15,640	133,196
2021	90,085	11,415	101,500
2022	78,689	8,056	86,745
2023	59,719	4,868	64,587
2024-2025	65,930	3,477	69,407
	<u>\$ 535,479</u>	<u>\$ 63,347</u>	<u>\$ 598,826</u>
*Interest on the Variable Rate Bonds is calculated at the fixed payer rates on the associated interest rate swaps.			

Sales tax revenue of \$1,131,440,000 provided 7.9 times coverage of NIFA’s 2018 total debt service of approximately \$143,976,000. Historical sales tax collections and County rankings are shown in Appendix A. The Authority used \$1,626,000 for general and administrative operational expenses, and \$55,000 for legal, accounting, consulting services

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and other costs related to the imposition of a control period. Included in these expenses were salaries for certain positions that exceeded \$100,000. These positions were Executive Director, General Counsel, Deputy Director, and Treasurer.

NIFA maintained high credit ratings on both its long and short term debt at year end, as follows:

Rating Agency	NIFA Long Term Debt Rating	NIFA Short Term Debt Rating
Fitch	AAA	F-1+
Moody's Investors Service	Aa1	VMIG-1
Standard & Poor's	AAA	A-1+

Administrative Matters

The Authority leases office space at 1305 Franklin Avenue, Suite 302 in Garden City, New York. Its telephone number is (516) 248-2828 and its fax number is (516) 248-4050. Its website is <http://www.nifa.ny.gov>.

During 2018 the Authority maintained its staff complement of five employees, two of whom have been with NIFA for more than 18 years. NIFA continued to implement and improve its monitoring, internal controls and oversight mechanisms. The NIFA website was also maintained and updated.

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ADDITIONAL INFORMATION

Section 2800 of the New York State Public Authorities Law (“PAL”) specifies the required contents of State Authority Annual Reports. In addition to the information provided in the foregoing text, which sets forth the Authority’s Operations and Accomplishments, this NIFA Annual Report incorporates the Authority’s Audited Financial Statements for the year ended December 31, 2018 (Tab 2). The Audit sets forth NIFA’s receipts and disbursements, its assets and liabilities, and a schedule of its bonds and notes outstanding at the end of the year. Provision of the Audit also meets the requirements of Section 2802 of the Public Authorities Law.

NIFA has also included with this Annual Report other reports required by various provisions of State law as well as its authorizing legislation. These reports include:

- Authority Report on Debt Issuance, Tab 1 (NIFA Act, Section 3653)
- Audited Financial Statements for Year Ended December 31, 2018, Tab 2 (NIFA Act, Section 3663)
- Independent Auditor’s Compliance Report on Investment Policies and Procedures, Tab 2 (Required by NIFA Investment Guidelines)
- Revenues and Expenses - See Audited Financial Statements, Tab 2
- Assets and Liabilities - See Audited Financial Statements, Tab 2
- Outstanding Bonds and Notes - See Audited Financial Statements, Tab 2
- Assessment of Internal Controls – See Audited Financial Statements, Tab 2
- Authority Report on Investments, Tab 3 (PAL Section 2925)
- Authority Prompt Payment Report, Tab 4 (PAL Section 2880)
- Authority Procurement Contracts Guidelines Report, Tab 5 (PAL Section 2879)
- Compensation Schedule – See page 18
- Property Disposition Report, Tab 6
- Authority Mission Statement and Measurement Report, Tab 7
- Authority Code of Ethics, Tab 8
- Authority Act, Tab 9
- Authority By-Laws, Tab 10

The Authority Personnel Report required by PAL Section 2806 is submitted separately. The Authority Budget Report required by PAL Section 2801, which is to be submitted annually, not less than 90 days before the commencement of the Authority fiscal year, is also submitted separately.

For additional information on the Authority, please contact:

Nassau County Interim Finance Authority
1305 Franklin Avenue, Suite 302
Garden City, NY 11530
(516) 248-2828
www.nifa.ny.gov

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Appendix A

Historical Sales Tax Collections, Coverage Ratios, and County Rankings

**SALES TAX COLLECTIONS
EXCLUSIVE OF LOCAL GOVERNMENT ASSISTANCE PROGRAM
ALLOCATION
(000's omitted)**

Fiscal Year	Actual Sales Tax Revenues (a)	Fiscal Year	Actual Sales Tax Revenues (a)
2009	896,716	2014	1,026,900
2010	950,935	2015	1,038,788
2011	967,088	2016	1,063,123
2012	1,007,220	2017	1,094,716
2013	1,070,986	2018	1,131,440

(a) Actual Sales Tax Revenues are the amount of sales tax (and earnings on receipts prior to transfer) received by the Authority and available each year for debt service.

**DEBT SERVICE COVERAGE ON SENIOR BONDS
BY HISTORICAL SALES TAX REVENUES**

Year	Sales Tax Revenues (\$ Thousands) (a)	Coverage of Maximum Annual Debt Service on Senior Bonds (b)
2009	896,716	6.25
2010	950,935	6.63
2011	967,088	6.74
2012	1,007,220	7.02
2013	1,070,986	7.47
2014	1,026,900	7.16
2015	1,038,788	7.24
2016	1,063,123	7.41
2017	1,094,716	7.63
2018	1,131,440	7.89

(a) Actual Sales Tax Revenues are the amount of sales tax (and earnings on receipts prior to transfer) received by the Authority and available each year for debt service.

(b) Based on debt service for the hedged Series 2008A-E Bonds at the fixed payer rates on the associated interest rate swaps.

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RECENT SALES TAX COLLECTIONS

The following table sets forth, on a cash basis, monthly distributions of Local Sales Tax collections from the State Comptroller to the Authority since January 2014.

**MONTHLY SALES TAX COLLECTION DISTRIBUTIONS
TO THE AUTHORITY FROM THE STATE COMPTROLLER**

Month	2015	2016	2017	2018
January	\$28,602,795	\$33,687,932	\$28,305,492	\$32,334,250
February	85,302,801	84,851,494	87,620,122	92,361,761
March	69,167,659	69,693,318	73,123,041	78,293,575
April	91,326,703	100,024,222	97,177,462	98,296,026
May	82,649,784	79,975,611	80,789,766	84,023,420
June	148,550,133	154,174,072	162,711,595	169,658,803
July	31,802,511	26,518,380	27,251,759	30,626,237
August	83,779,049	82,874,958	85,110,384	88,936,158
September	81,197,046	79,176,111	82,336,337	88,869,574
October	101,162,669	110,050,603	111,320,124	110,637,201
November	81,223,890	80,808,850	84,428,096	85,529,501
December	150,080,459	165,140,693	166,855,697	168,446,661
Totals	\$1,034,845,498	\$1,066,976,243	1,087,029,875	1,128,013,166

**RETAIL SALES ACTIVITY RANKED BY COUNTY IN THE STATE
(in thousands)**

County	Rank (2016/2017)	Taxable Sales 2016/2017	Rank (2017/2018)	Taxable Sales 2017/2018	Change
New York City*	1	\$153,927,116,013	1	\$160,252,796,457	4.11%
Suffolk	2	31,642,633,881	2	32,752,931,013	3.51%
Nassau	3	26,062,249,491	3	26,854,853,297	3.04%
Westchester	4	19,597,880,659	4	20,214,874,728	3.15%
Erie	5	15,422,103,875	5	15,957,931,253	3.47%
Monroe	6	11,674,060,989	6	12,132,091,919	3.92%
Onondaga	7	8,197,511,950	7	8,480,848,160	3.46%
Orange	8	6,985,865,754	8	7,257,678,320	3.89%
Albany	9	6,357,136,688	9	6,442,413,738	1.34%
Rockland	10	4,919,878,825	11	4,983,950,118	1.30%

SOURCE: New York State Website <https://data.ny.gov/>. Represents taxable sales reported from March through February.

* Includes the five counties of the Bronx, Kings (Brooklyn), New York (Manhattan), Queens, and Richmond (Staten Island).

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TAB 1

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
AUTHORITY REPORT ON DEBT ISSUANCE
YEAR ENDED DECEMBER 31, 2018**

Section 3653(7) of the NIFA statute requires that “At least annually, commencing no more than one year after the date on which authority bonds are issued, the authority shall report...on the costs financed by the authority and the amount of such financing for each such cost over the past year.”

During 2018, the Authority did not issue any debt.

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TAB 2

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CERTIFICATION FORM

This is to certify that the attached Financial Statements for the Year Ended December 31, 2018 were approved by the Directors on May 23, 2019 and that based on the knowledge of the Chief Executive Officer and the Treasurer, (a) the information provided therein is accurate, correct, complete and does not contain any untrue statement of material fact; (b) does not omit any material fact which, if omitted, would cause the financial statement to be misleading in light of the circumstances under which such statements are made; and (c) fairly presents in all material respects the financial condition and results of operations of the Authority as of, and for, the periods presented in the financial statements.

Signed copy on file with NIFA

Evan L. Cohen, Executive Director

May 23, 2019

Date

Signed copy on file with NIFA

Carl Dreyer, CPA Treasurer

May 23, 2019

Date

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**To Be
Distributed
Under
Separate
Cover**

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NASSAU COUNTY INTERIM FINANCE AUTHORITY AUTHORITY REPORT ON INVESTMENTS YEAR ENDED DECEMBER 31, 2018

Section 2925 of the New York State Public Authorities Law requires State Authorities to “annually prepare and approve an investment report which shall include the investment guidelines, as specified in subdivision three of this section, amendments to the guidelines since the last investment report, an explanation of the investment guidelines and amendments, the results of the annual independent audit, the investment income record of the corporation 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 corporation since the last investment report.”

The Authority’s annual Audited Financial Statement and the Independent Auditor’s Compliance Report on Investment Policies and Procedures, as required by the Authority’s Investment Guidelines, are in Tab 2. Other information required by Section 2925 follows.

Explanation of the Investment Guidelines and Amendments

The NIFA Investment Guidelines in effect as of December 31, 2018 are based on the principles and precepts of investment safety and control contained in the Office of the State Comptroller’s “Investment Guidelines for Public Authorities” as revised on January 2, 1998 and updated to include requirements of the Public Authorities Accountability Act of 2005 and the Legislation applicable as issued by the New York State Comptroller. The NIFA Guidelines set forth the Authority’s policy and objectives regarding the investment of Authority funds, in accordance with the NIFA statute and the bond indenture, as amended or supplemented, executed by NIFA and its Trustee for debt issuances, the Bank of New York, New York, New York.

As indicated in the Investment Guidelines, the Authority’s objectives for its investment program are:

1. Foremost, safeguarding the principal amount of the investment funds.
2. Developing a portfolio that considers the factors of liquidity, reasonable return on investments and diversification.

Investment Activity

As reported in the Authority Audit, NIFA received or accrued a total of \$1,447,000 in interest and appreciation on investments during the fiscal year ended December 31, 2018. In addition, as of December 31, 2018 NIFA held marketable securities with maturity dates greater than 90 days for which accrued interest was included. Additionally, in accordance with accounting principles used by NIFA, these securities were valued at fair market value and the amount of unrealized depreciation of \$564,000 was included among debt service expense.

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In the year ended December 31, 2018, NIFA had two principal types of investment accounts: (1) accounts held by the Bank of New York, Trustee under the Authority's bond Indenture, which contained debt service deposits; (2) NIFA operating fund and reserve accounts

Interest earned in the year ended December 31, 2018 from these accounts was as follows:

<u>Type of Account</u>	<u>Total Interest Earnings</u>
Bond and Note Related, held by Trustee	\$1,893,000

The Authority invests in accordance with the Act, as well as other applicable rules and regulations, the Indenture, and Authority Investment Guidelines amended and readopted by the Authority Directors on May 8, 2018. As of December 31, 2018, the Authority held cash, Treasury Bills, Treasury Notes, Federal Home Loan Mortgage Corporation Notes and Federal Home Loan Bank Discount Notes. All bank deposits of Authority funds are required to be fully collateralized or insured. Collateral for the Authority cash and certificates of deposit, which is required to be 102% of the amount of the cash or certificate of deposit amount and is held by a third-party custodian in the Authority's account, consisted of U.S. government and agency obligations.

Fees, Commissions, or Other Charges Paid

The Authority has not paid any fees, commissions or other charges to any investment banker, broker, agent, dealer and advisor for investment associated services. Investments over dollar thresholds set forth in the NIFA Guidelines have been awarded through competitive bid based on the highest yield to the Authority, except in limited instances of market disruption or special cash flow needs for which eligible securities were not reasonably available through bidding (as documented in the records of the Authority), in which instances eligible securities were purchased directly from the Authority's bank, Trustee, or approved broker/dealer.

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
INVESTMENT GUIDELINES
(Re-adopted September 12, 2003)
(Re-adopted June 22, 2004)
(Re-adopted, as amended, June 16, 2005)
(Re-adopted May 4, 2006)
(Re-adopted May 2, 2007)
(Re-adopted June 18, 2008)
(Re-adopted May 28, 2009)
(Re-adopted April 22, 2010)
(Re-adopted April 20, 2011)
(Re-adopted May 17, 2012)
(Re-adopted June 5, 2013)
(Readopted June 18, 2014)
(Readopted May 8, 2015)
(Readopted May 17, 2016)
(Readopted April 18, 2017)
(Readopted May 8, 2018)**

Introduction

These investment guidelines (“Guidelines”) are adopted as required by Section 2925 of the New York Public Authorities Law.

ARTICLE ONE

Definitions

As used herein the terms set forth below are defined as follows:

- 1.1 "Authority" or “NIFA” means the Nassau County Interim Finance Authority, a corporate governmental agency and instrumentality of the State of New York, constituting a public benefit Corporation, established pursuant to Chapter 84 of the Laws of 2000 of the State of New York.
- 1.2 "Comptroller" means the State Comptroller.
- 1.3 "Investment Funds" means all monies and financial resources available for investment by the Authority, other than proceeds of bonds issued by the Authority.
- 1.4 "Repurchase Agreement" means a repurchase agreement satisfying the requirements set forth in Article 4 herein.
- 1.5 "Securities" means any or all of the investment obligations of the categories described in Section 4.1 of Article 4 herein.
- 1.6 "State" means the State of New York.

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ARTICLE TWO

Scope

These guidelines shall govern the investment and reinvestment of Investment Funds and the sale and liquidation of investments, as well as the monitoring, maintenance, accounting, reporting and internal controls by and of the Authority with respect to such investment, sale, reinvestment and liquidation.

ARTICLE THREE

Investment Objectives

The Authority's investment activities shall have as their first and foremost objective the safeguarding of the principal amount of the Investment Funds. Additional considerations regarding the Authority's investment activities shall be liquidity of investments, realization of a reasonable return on investments and diversification of investments.

ARTICLE FOUR

Permissible Investments

- 4.1 The Authority may invest its Investment Funds in any and all of the following, if and to the extent permitted by statutes, regulations and bond resolutions applicable at the time of investment of such Investment Funds:
- a) obligations of the State or the United States government;
 - b) obligations the principal and interest of which are guaranteed by the State or the United States government;
 - c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances (1) of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked in either of the two highest rating categories of two nationally recognized independent rating agencies; or (2) the certificates of deposit are fully collateralized by obligations of the United States government or obligations the principal and interest of which are guaranteed by the United States government; or (3) the certificates of deposit are held in a "municipal" bank account and fully

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- collateralized pursuant to General Municipal Law Section 10 and regulations of the Comptroller as the same shall be in effect from time to time, or (4) certificates of deposit in the amount of \$100,000 or less that are fully guaranteed by Federal Deposit Insurance.
- d) commercial paper of any bank or authority created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies;
 - e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage authority, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies;
 - f) any bonds or other obligations of any state, or the United States of America or of any political subdivision thereof or any agency, instrumentality or local government unit of any such state or political subdivision which bonds or other obligations, at the time of the investment, have received any of the three highest ratings of two nationally recognized independent rating agencies;
 - g) any repurchase agreement or other investment agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b), or (e) of this subdivision which securities shall at all times have a market value of not less than 102% of the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York State, as custodian;
 - h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any

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national banking association domiciled in New York State, as custodian.

- i) investment agreements or guaranteed investment contracts with any financial institution whose senior long term debt obligations, or whose obligations under such an investment agreement or guaranteed investment contract are guaranteed by a financial institution whose senior long term debt obligations, have a rating (at the time such agreement or contract is entered into) in one of the three highest rating categories for comparable types of obligations by a rating agency;
- j) money market funds rated in one of the three highest rating categories for comparable types of obligations by a rating agency;

4.2 Specific Requirements Regarding Certificates of Deposit

4.2.1 Collateral for a Certificate of Deposit. If a certificate of deposit is required to be collateralized pursuant to Section 2 of paragraph (c) of section 4.1 of these Guidelines, the collateral must be reviewed weekly to determine if the market value of the collateral equals or exceeds the principal amount of the uninsured portion of the certificate of deposit plus accrued interest. If the market value of the collateral is insufficient, the issuer of the certificate of deposit must exchange or add to the amount of collateral to bring its market value equal to or in excess of the uninsured portion of the principal amount of the certificate of deposit plus accrued interest.

4.2.2 Standard Terms for Certificate of Deposit Collateral Agreement. The Authority shall negotiate and enter into a written agreement with each bank (and custodian) from which it has obtained a certificate of deposit. Such written agreement shall, at a minimum, address the following concerns:

- (a) The frequency of the valuation of the collateral to market, as set forth above (such valuation shall be done at least weekly);
- (b) The right and ability of the bank to substitute like Investment Securities as collateral;
- (c) Description of events of default which would permit the Authority or its custodian to liquidate or purchase the underlying Investment Securities;
- (d) Description of the party who is to have title to the underlying Investment Securities during the term of the agreement; and
- (e) With respect to the custodial bank, the agreement shall also provide that the custodial bank takes possession of the Investment Securities as agent of the Authority and that the claims of the custodial bank are subordinate to those of the Authority.

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- 4.3 Specific Requirements Governing Repurchase Agreements. Notwithstanding Section 4.1 hereof, the following shall also apply to Repurchase Agreements.
- 4.3.1 Placement. The placement of Repurchase Agreements may be distributed among several authorized firms as appropriate to reduce the level of risk. The investment limit set for each such firm shall not be exceeded unless the Executive Director of the Authority makes a written finding that sufficient Securities are not available from other eligible firms. Not less frequently than once each year, the Authority's Executive Director shall review and, if appropriate, recommend adjustment of the investment limit for each eligible seller in light of such firm's current capitalization. All investment limit adjustments shall require the approval of the Treasurer and Executive Director.
- 4.2.2 Eligible Custodian Banks. To be eligible to hold the Securities which are the subject of a Repurchase Agreement, a custodial bank should be a member of the Federal Reserve Bank or maintain accounts with member banks to accomplish book-entry transfer of Securities to the credit of the Authority. Transfer of Securities, whether by book entry or physical delivery, should be confirmed in writing to the Authority by the custodial bank. The custodian should not be the same party that is selling the Securities. The Authority's Directors or their designee(s) must affirmatively find that a proposed custodial bank is financially sound before such bank may be eligible to perform custodial services for the Authority.
- 4.3.3 Maximum Maturity of Repurchase Agreements. Repurchase Agreements shall be limited to a maturity not to exceed thirty (30) days, or the Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral if any deficiency is not restored within five (5) business days of such valuation. Collateral securities shall have maturities not exceeding thirty (30) years.
- 4.3.4 Standard Terms for Repurchase Agreements. The Authority shall execute a master Repurchase Agreement with each broker-dealer which outlines the basic rights of both buyer and seller including:
- (a) The events of default which would permit the Authority to liquidate or purchase the underlying Securities;
 - (b) The relationship between parties to the agreement, which should ordinarily be purchaser and seller;
 - (c) A requirement that there be a written contract with the custodial bank outlining the responsibilities of the bank and the parties to the agreement. Such an agreement must provide, among other things, that the custodial bank will not make payment for the Securities until the bank actually receives them and that the custodial bank takes possession of the Securities exclusively for the Authority and that

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any claims of the custodial bank are subordinate to those of the Authority;

- (d) Procedures which ensure that the Authority obtains a perfected security interest in the underlying Securities. The Authority or its custodian must take possession of the Securities being purchased by physical delivery or book entry. Furthermore, the written agreement shall contain a provision that, in the event a court of final jurisdiction construes the specific Repurchase Agreement to be a loan, the seller shall be deemed to have granted the Authority a perfected security interest in the purchased Securities;
- (e) The market value of the Securities purchased under a repurchase transaction must be at least equal to the purchase price. The value of the Securities must be monitored and marked to market on a daily basis. Additional Securities shall be required if market fluctuations cause the market value of the purchased Securities to become less than the purchase price.

ARTICLE FIVE

Operating Procedures

- 5.1 Authorized Officers and Employees. Only the following persons shall be authorized to make investment decisions on behalf of the Authority: the Chairman of the Authority's Directors; the Executive Director; the Treasurer; and the General Counsel, but only if designated in writing by the Treasurer. The implementation of such investment decisions by placement of purchase or sale orders or otherwise shall be effected only by the foregoing officers and employees and by such employees as may from time to time be designated in writing by the Treasurer.
 - 5.1.1 The Authority's Investment Officer responsibilities are handled by the Treasurer.
- 5.2 Standards for the Qualification of Brokers, Dealers and Agents. Any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer which is authorized to do business in the State may become qualified by the Authority to transact purchases and sales of Securities (other than Repurchase Agreements) with the Authority. Factors to be considered in determining the qualification of such firms shall include the firm's capitalization, quality, size and reliability, the Authority's prior experience with the firm, the firm's level of expertise and prior experience with respect to the contemplated transaction. The determination of qualification shall be made by the Treasurer, who shall maintain a list of all such qualified firms.

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- 5.3 Standards for the Qualification of Investment Advisors. For the purpose of rendering investment advice to the Authority, the Authority may qualify any bank or trust company organized under the laws of any state of the United States of America, any national banking association, and any partnership, authority, or person which is authorized to do business in the State.

The Authority also shall consider the additional criteria (other than capitalization) enumerated in the preceding paragraph.

- 5.4 Standards for the Qualification of Custodial Banks. To be eligible to hold Securities as collateral for an investment made by the Authority, a custodial bank should be a member of the Federal Reserve Bank or maintain accounts with member banks to accomplish book-entry transfer of Securities to the credit of the Authority. Transfer of Securities, whether by book entry or physical delivery, should be confirmed to in writing to the Authority by the custodial bank. The custodian should not be the same party that is selling the Securities. To be eligible to perform custodial services, the Authority's Directors or their designee(s) must affirmatively find that the proposed custodial bank is financially sound.

- 5.5 Competitive Bids; Negotiated Prices. In connection with the purchase and sale of Securities, for each transaction in excess of two and one-half million dollars (\$2,500,000.00) (or such other threshold dollar amount as the Treasurer may specify in writing), the Authority shall utilize competitive quotations. For each transaction which is equal to or less than two and one-half million dollars (\$2,500,000.00) (or such other threshold dollar amount as the Treasurer may specify in writing), the Authority may utilize either competitive quotations or negotiated prices. The foregoing shall not apply to the purchase of government securities at initial auction. A complete and continuous record of all quotes, solicited and received, shall be maintained by the Treasury Department.

For each transaction (other than the purchase of governmental securities at initial auction) in excess of two and one-half million dollars (or such other threshold dollar amount as the Treasurer may specify in writing), a minimum of three separate solicitations will be made on each direct purchase or sale of a Security (including a Repurchase Agreement). The transaction shall be awarded to the dealer(s) offering the highest yield or return, provided that, with respect to Repurchase Agreements, the amount of the investment with each individual firm does not exceed the investment limit referred to in Section 4.2.1 above.

- 5.6 Written Contracts and Confirmations. A written contract and/or a written confirmation shall be a required for each investment transaction. With respect to the purchase or sale of Securities other than Repurchase Agreements, the Authority shall not be required to enter into a formal written contract, provided that the Authority's oral instructions to its broker, dealer, agent, investment advisor or custodian with respect to such transactions are confirmed in writing at the earliest

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practicable moment. A written contract shall be required for each purchase and sale of a Repurchase Agreement.

- 5.7 Payment. Payment for investments shall be made only upon written confirmation of presentation of the physical Security, or in the case of book-entry form Securities, when credited for the custodian's account, which shall be segregated for NIFA's sole use. The custodian may act on oral instructions from an authorized officer of the Authority, such instructions to be confirmed in writing immediately by an authorized officer of the Custodian. Such collateral shall, on the date of purchase, be at least equal in market value to the amount of the investment.
- 5.8 Collateral. Except as specifically otherwise provided herein, the Authority's financial interest in its investments shall be fully secured or collateralized at all times in an amount not less than the original amount invested plus accrued, unpaid interest thereon. Only Securities permissible for investment by the Authority pursuant to these Guidelines (other than Repurchase Agreements) may be accepted as collateral. Pledges of proportionate interests in pooled collateral shall not constitute acceptable collateral. In the case of certificates of deposit and demand and time deposits, collateral shall be provided for amounts in excess of the applicable limit of coverage provided by the Federal Deposit Insurance Authority. Collateral shall be maintained in the custody of the Authority or an approved third party custodian at all times. To assure that, at all times, the market value of said collateral is at least equal to the original amount invested plus all accrued, unpaid interest, collateral shall be marked to market at the time the investment is made and thereafter daily with respect to Repurchase Agreements and weekly with respect to certificates of deposit.
- 5.9 Operating Procedure Manual. The Authority's Treasurer shall prepare a Standard Operating Procedure Manual for placing, controlling and reporting of all investment activity which shall be consistent with these guidelines, be approved by the Authority's Executive Director and shall be consistent with the following:
- (a) Each disbursement of funds (and corresponding receipt of Securities) or delivery of Securities (and corresponding receipt of funds) should be based upon proper written authorization. If the authorization is initially given orally, there should be written or telegraphic confirmation from the Authority's authorized officer to the custodian;
 - (b) The process of initiating, reviewing and approving requests to buy and sell Securities should be documented and retained for audit purposes. Dealer limits should be established and reviewed regularly;
 - (c) Custodians must have prior authorization from the Authority to deliver obligations and collateral. All transactions must be

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confirmed in writing to the authority. Delivery of obligations sold should only be made upon receipt of funds;

- (d) Custodial banks should be required to report whenever activity has occurred in the Authority's custodial account;
- (e) There should be at least monthly verifications of both the principal amount and the market values of all investments and collateral. Appropriate listings should be obtained from the custodian and compared against the Authority's records;
- (f) A record of investments shall be maintained by the Authority's Treasurer. The records should identify the Security, the fund for which held, the place where kept, date of disposition and amount realized and the market value and custodian of collateral;
- (g) The establishment and maintenance of a system of internal controls;
- (h) Methods for adding, changing or deleting information contained in the investment record, including a description of the documents to be created and verification tests to be conducted;
- (i) A data base or record incorporating descriptions and amounts of investments, transaction dates, interest rates, maturities, bond ratings, market prices and related information necessary to manage the portfolio; and
- (j) Requirements for periodic reporting and a satisfactory level of accountability.

ARTICLE SIX

Reports and Audits

The following reports and audits shall be prepared in connection with the Authority's investment program.

- 6.1 Annual Investment Report. Within ninety (90) days after the close of each fiscal year of the Authority, the Chairman shall submit to the Directors and the Authority shall file with the State Division of the Budget, Comptroller, State Senate Finance Committee and Assembly Ways and Means Committee an annual investment report, prepared with the assistance of the Treasurer, which shall include the following:

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- 1) The Investment Guidelines required by Section 2925(3) of the Public Authorities Law and any amendments to such guidelines since the last investment report;
- 2) An explanation of the Investment Guidelines and amendments;
- 3) The results of the Annual Investment Audit (described below);
- 4) The investment income record of the Authority; and
- 5) 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 Authority since the date of the last investment report.

6.2 Annual Investment Audit. Each year, the Authority shall cause its independent auditors to conduct an audit (the "Annual Investment Audit") regarding the Authority's investments. (The Authority's financial statements with respect to investments, which are required to be prepared in conformance with generally accepted accounting principles for governments ("GAAP"), should contain all of the note disclosures on deposits with financial institutions and investments required by the Governmental Accounting Standards Board Statements No. 3 "Deposits with Financial Institutions, Investments (including Repurchase Agreements), and Reverse Repurchase Agreements" dated April 1986), as amended or supplemented. The Annual Investment Audit:

- 1) Shall determine whether: the Authority complies with its own investment policies; investment assets are adequately safeguarded; adequate accounts and records are maintained which accurately reflect all transactions and report on the disposition of the Authority's assets; and a system of adequate internal controls is maintained.
- 2) Shall determine whether the Authority has complied with applicable laws, regulations and State Comptroller's Investment Guidelines; and
- 3) Should be designed to the extent practical to satisfy both the common interest of the Authority and the public officials accountable to others.

6.3 Annual Investment Audit Report. The results of the Annual Investment Audit shall be set forth in a report (the "Annual Investment Audit Report") which shall include without limitation:

- 1) verification of collateral;
- 2) a description of the scope and objectives of the audit;

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- 3) a statement that the audit was made in accordance with generally accepted government auditing standards;
- 4) a description of any material weaknesses found in the internal controls;
- 5) a description of all non-compliance with the Authority's investment policies as well as applicable laws, regulations and the State Comptroller's Investment Guidelines;
- 6) a statement of positive assurance of compliance on the items tested and negative assurance on those items not tested;
- 7) a statement on any other material deficiency or finding identified during the audit not covered in (6) above;
- 8) a report on the status of any swaps entered into by the Authority in accordance with its "Interest Rate Swap Policy", as the same shall be amended from time to time, and
- 9) recommendations, if any, with respect to amendment of these Guidelines.

The Annual Investment Audit Report shall be filed within ninety (90) days after the close of the Authority's fiscal year with the Coordinator of Public Authority Programs, Office of the State Comptroller, 110 State Street, Albany, NY 12236.

6.4 Web site Posting A quarterly investment report is required under the Public Authority Law of 2005 and will be distributed to the NIFA board members and posted on the Authority's web site

ARTICLE SEVEN

Affirmative Action

A program of Affirmative Action shall apply with respect to NIFA's corporate investment activities. NIFA shall seek to encourage participation by minority and women-owned financial services firms in the conduct of NIFA's corporate investment activities.

ARTICLE EIGHT

Miscellaneous

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- 8.1 In connection with the Annual Investment Audit, each year the Authority shall review these Guidelines to determine whether the Authority shall amend or otherwise update these Guidelines.
- 8.2 The Authority's policy regarding conflicts of interest shall be followed regarding the investment of funds.

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TAB 4

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
AUTHORITY PROMPT PAYMENT REPORT
YEAR ENDED DECEMBER 31, 2018**

Section 2880 of the Public Authorities law (PAL) requires the Authority to report on the scope and implementation of its Prompt Payment Policy, the parameters of which are set forth in the PAL. The report is to include: “(i) a listing of the types or categories of contracts which the corporation entered into during the twelve month period covered by the report...; (ii) the number and amount of interest payments made...; (iii) the number of interest chargeable days and the total number of days taken to process each late contract payment; and (iv) a summary of the principal reasons that such late payments occurred.”

- (i) In the year ended December 31, 2018, NIFA entered into one principal category of contract:
 - (a) A contract with a consulting firm to oversee and assist Nassau County in its negotiation with its labor unions.

Payments were made pursuant to approved invoices. All payments were made within prescribed time limits, so that no charges for interest would be incurred.

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
AUTHORITY PROCUREMENT CONTRACTS GUIDELINES REPORT
YEAR ENDED DECEMBER 31, 2018**

Section 2879 of the New York State Public Authorities Law requires State Authorities to “annually prepare and approve a report on procurement contracts which shall include the guidelines.”

Attached are the Procurement Guidelines (“Guidelines”) which were amended and adopted by the Authority at its May 8, 2018 meeting. The Guidelines deal with the means by which the Authority acquires goods or services and have been fully utilized since their enactment.

As required by Article X of the Procurement Guidelines a report on Procurement Contracts as of the end of each fiscal year summarizing procurement activity by the Authority for the period of the report including a listing of all Contracts entered into, the selection process used to select such Contracts and the status of existing Procurement Contracts is herein attached.

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Procurement Contracts Entered Into In FY 2018

Pursuant to the Authority’s Procurement Guidelines, this chart describes contracts greater than \$25,000. All contractors are selected pursuant to a request for proposals and authorization from the Authority’s Directors.

Vendor	Service
Dellaverson Llp.	Consultant to assist Nassau County with its negotiation with its major labor unions.

Status of Contracts Entered Into Prior to FY 2018

Vendor	Service	Status of Contract
Albrecht, Viggiano, Zureck & Co	Accounting Services	Ongoing
AT&T	Phone Service	Ongoing
Bank of New York Mellon	Trustee Banking Services	Ongoing
Cablevision	Communications	Ongoing
Citigroup	Remarketing Agents	Ongoing
Fitch Investors Service	Bond Monitoring Services	Ongoing
Grant Thornton	Accounting Services	Terminated
Hawkins Delafield & Wood LLP	Bond Counsel	
Ikon	Service Contract	Ongoing
Lamont Financial Services Corp.	Financial Advisor	Ongoing
Micro Force	Accounting Software and Training	Ongoing
Moody’s Investors Service	Bond Monitoring Services	Ongoing
Morgan Stanley	Remarketing Agents	Ongoing
PFM Group	Financial Advisor for GASB 53 and GASB 72	Ongoing
Skadden Arps	Counsel	Ongoing
Standard & Poor’s	Bond Monitoring Services	Ongoing
Standard & Poor’s	Ratings Agency	Ongoing
Staples	Office Furniture and Supplies	Ongoing
Sumitomo Mitsui Banking Corp	Line of Credit (2008B Bonds)	Renewed
Total Web Casting	Web Casting	Ongoing
Verizon	Phone Service	Ongoing
Verizon Wireless	Phone Service	Ongoing

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
GUIDELINES REGARDING THE USE, AWARDING, MONITORING
AND REPORTING OF PROCUREMENT CONTRACTS**

(Effective June 13, 2000)
(Amended March 11, 2002)
(Re-adopted September 12, 2003)
(Re-adopted June 22, 2004)
(Re-adopted (as amended) June 16, 2005)
(Re-adopted May 4, 2006)
(Re-adopted May 2, 2007)
(Re-adopted-June 18, 2008)
(Re-adopted (as amended) May 28, 2009)
(Re-adopted April 22, 2010)
(Re-adopted April 20, 2011)
(Re-adopted May 17, 2012)
(Re-adopted June 5, 2013)
(Re-adopted (as amended) June 18, 2014)
(Re-adopted (as amended) September 10, 2014)
(Re-adopted (as amended) May 8, 2015)
(Re-adopted May 17, 2016)
(Re-adopted (as amended) April 18, 2017)
(Re-adopted May 8, 2018)

ARTICLE I

STATEMENT OF PURPOSE

101. These Nassau County Interim Finance Authority Guidelines Regarding the Use, Awarding, Monitoring and Reporting of Procurement Contracts (“Guidelines”) are adopted pursuant to the provisions of the Act and Section 2879 of the Public Authorities Law and shall be reviewed and approved by a quorum of the Authority’s Directors at least annually.

ARTICLE II

DEFINITION OF TERMS

Definitions. The following terms shall, for purposes of these Guidelines, have the following meanings unless the context shall clearly indicate some other meaning:

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“Act” shall mean Chapter 84 of the Laws of 2000, as amended or supplemented.

“Authority” or “NIFA” shall mean the Nassau County Interim Finance Authority.

“Officer” shall mean any person so designated by the Directors of the Authority.

“Procurement Contract” or “Contract” means any written agreement of the Authority for the acquisition of goods or services of any kind in the actual or estimated amount of \$25,000, or more.

ARTICLE III

TYPES OF SERVICES FOR PROCUREMENT

301. The areas of responsibility and oversight requiring Procurement Contracts for personal services include, but are not limited to the performance of legal, accounting, management consulting, investment, banking, planning, training, statistical, research, public relations, architectural, engineering, construction, surveying, or other services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such services as officers or employees of NIFA (“Personal Service(s)”).

302. The reasons for use of Procurement Contracts for Personal Service include, but are not limited to:

- a. Requirements of special expertise or unusual qualifications;
- b. Nature, magnitude complexity of services required;
- c. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;
- d. Lower cost;
- e. Short term need for the services;
- f. Infrequent need for the services; and
- g. Distance of the location or locations where the services must be performed from the Authority offices or facilities.

302. Procurement Contracts for Goods

The types of goods requiring Procurement Contracts include:

- a. Goods needed in order to proceed with a project of NIFA; and
- b. Goods needed in order to support the administrative needs of NIFA.

ARTICLE IV

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SELECTION OF PERSONAL SERVICE CONTRACTORS

400. Selection Criteria

Except as specifically waived in accordance with the provisions of these Guidelines, the Act, State law, rules or regulations, Procurement Contracts shall be awarded as follows:

1. General Policy

Procurement Contracts are to be awarded to persons/firms on a competitive basis to the maximum extent possible.

- a. Such awards are to be made after notice is published in the New York State Contract Reporter and after the solicitation of proposals obtained from at least three qualified persons/firms; however, this requirement shall be waived if there is already a vendor or vendors for such service(s) on the approved vendor list of the New York State Office of General Services.
- b. Such NIFA requests for proposals shall be preceded, where possible, by the preparation of reasonable cost estimates for such Contracts. Such cost estimates shall be the responsibility of the NIFA staff members initiating such requests for proposals.
- c. All proposals should be received at one designated location within the initiating department, and immediately should be stamped with the date and time of receipt.
- d. When appropriate, written selection criteria shall be prepared for each Contract, which shall include price as an important factor to be considered in the selection process. Analysis of the proposals and/or bids submitted and the award of the Contract shall be documented in reasonable detail. Awards to other than the low bidder shall include in such documentation the reason the low bidder was not selected.
- e. The initiator shall ensure that documentation related to proposals and/or bids and awards are maintained for not less than two years after completion of the services contracted for.

401. Advertisement Requirements

The solicitation of bids, proposals or submissions of qualification data for Personal Service contracts shall be made by the Authority in a manner determined by an authorized Officer of the Authority to be the most cost effective for providing reasonable competition for the Authority's Personal Service contracts while also promoting State business enterprises

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where possible, practical, feasible and consistent with open bidding. This may include advertisement in appropriate newspapers or trade journals, direct mailings to firms considered qualified and such other outreach mechanisms as are consistent with the policy of these Guidelines and as directed in section 2879 of the Public Authorities Law. Notice of Procurement Contracts opportunities must also be advertised in the State's New York State Contract Reporter.

402. Term

403. All contracts for Personal Services shall be limited to a maximum of one year unless the Authority Directors by resolution determine that a longer period for a particular contract is in the best interest of the Authority. Contracts for legal services and financial advice services shall not be longer than five years, including the initial contract period and any contract extensions approved by the Directors of the Authority.

403. Waiver of Selection Criteria

Procurement Contracts may be awarded without notice being published in the New York State Contract Reporter to persons/firms on a sole source or single source basis only on the written approval of the Executive Director or the Directors of NIFA. That approval will only be granted where the initiator can demonstrate:

- a. Emergency or other extraordinary circumstances exist which make competition impracticable or inappropriate; or
- b. Only one source for the goods or services is available; or
- c. Specialized services are required for which a certain person/firm's expertise is unique or such person/firm has greatly superior qualifications to perform the services at a cost that is determined to be fair and reasonable.

The initiator shall ensure that documentation related to the reason for awarding the contract on a sole source or single source basis and for not publishing notice in the New York State Contract Reporter is maintained for not less than two years after completion of the services contracted for.

404. Approval Process

The NIFA Directors shall approve the award of all Procurement Contracts for Personnel Services, regardless of the amount of said contract.

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ARTICLE V

SELECTION OF VENDORS AND SUPPLIERS FOR THE
PURCHASE OF GOODS

501. Except as provided by the Act, State law, rules or regulations, in the procurement of furniture, equipment, supplies and other goods for the Authority, the Authority shall perform the following tasks:
- a. Establish a realistic furniture, equipment and supplies budget.
 - b. Place advertisements for goods and service in the same manner as described in 401 of these Guidelines.
 - c. Perform a comparative pricing and cost analysis for each item needed, including prices of those items, which are available through the State Office of General Service contracts.
 - d. Prepare contracts and/or purchase orders for the acquisition of all commodities. Use of State contracts is preferable when the items are available at lower costs.
 - e. Monitor vendors for quality control and timely deliveries.
 - f. Verify the quantities received and the quality of the products in light of the specifications, and monitor the vendor invoices for timely payments.
 - g. If the estimated cost of the goods exceeds \$25,000 or more, a competitive bidding procedure will be followed.

ARTICLE VI

MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE
PARTICIPATION

601. The Authority shall, in order to promote the use of minority and women-owned enterprises in Procurement Contracts, solicit offers from minority and women-owned business enterprises known to have experience in the area of the goods or service to be provided, all in accordance with the NIFA Act and State and Federal laws and regulations.

ARTICLE VII

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POLICIES TO PROMOTE THE PARTICIPATION BY NEW YORK BUSINESS ENTERPRISES AND NEW YORK STATE RESIDENTS IN PROCUREMENT CONTRACTS

701. The Authority shall comply with the Act and the State Omnibus Procurement Law when applicable.

ARTICLE VIII

PROVISIONS MADE A PART OF SERVICE CONTRACTS

702. Provisions to be contained in Personal Service contracts shall include but not be limited to:
- a. Scope of services;
 - b. Contract price or fee structure;
 - c. Method or basis of payment;
 - d. Use of the Authority's supplies;
 - e. Use of the Authority's personnel
 - f. Term of the contract; and
 - g. The Authority's Schedule A, "Conditions Applicable to NIFA Agreements with Law Firms and other Consultants" which Schedule is made a part of these Guidelines.

ARTICLE IX

PROCUREMENT CONTRACTS WITH FORMER OFFICERS OR EMPLOYEES OF THE AUTHORITY

901. The Authority may not enter into Procurement Contracts with former Officers or employees of the Authority or former employees of New York State who provided services to the Authority, where such Contracts would be in contravention of law, would create a conflict of interest or may create the appearance of impropriety.

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ARTICLE X

REPORTS TO THE DIRECTORS CONCERNING PROCUREMENT CONTRACTS

1001. The Authority shall annually prepare for approval by the Directors and public availability a report on Procurement Contracts as of the end of each fiscal year summarizing procurement activity by the Authority for the period of the report, including a listing of all Contracts entered into, the selection process used to select such Contractors and the status of existing Procurement Contracts. NIFA's Executive Director shall also prepare, on an annual basis, a report for submission to:

- a. The Division of Budget;
 - b. The Department of Audit and Control;
 - c. The Senate Finance Committee;
 - d. The Assembly Ways and Means Committee;
- The Department of Economic Development; and
Members of the public (upon receipt of reasonable requests therefore),

which shall include the Guidelines, amendments thereto, and an explanation thereof.

ARTICLE XI

ANNUAL REVIEW AND APPROVAL OF GUIDELINES

1101. The Directors shall annually review and approve these Guidelines.

ARTICLE XII

AMENDMENT OF GUIDELINES

1201. The Authority may, from time to time, amend by resolution, these Guidelines.

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ARTICLE XIII

EFFECT OF NONCOMPLIANCE WITH GUIDELINES

1301. Failure by the Authority to comply with provisions of these Guidelines shall not be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement for the procurement of goods or services.

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Attachment: Schedule A

(For Contracts \$25,000 to \$250,000)

SCHEDULE A

STANDARD CLAUSES FOR NIFA CONTRACTS

For the purposes of this Schedule A, the Nassau County Interim Finance Authority is hereinafter referred to as "NIFA."

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than NIFA, whether a contractor, consultant, licensor, licensee, lessor, lessee or other party):

SUPERVISION BY NIFA. The services to be performed by Consultant under this Agreement shall be subject to the general supervision and direction of NIFA provided that neither NIFA's exercise nor failure to exercise such supervision and direction shall relieve the Consultant of any of its obligations or responsibilities for its acts or failure to act pursuant to this Agreement.

CONSULTANT'S PERSONNEL. The Consultant shall designate in writing to NIFA one individual, satisfactory to NIFA, who shall be responsible for coordinating all of the services to be rendered by the Consultant and who shall be NIFA's normal point of contact with the Consultant on matters relating to such services. Such individual shall be replaced upon NIFA's written request.

APPROVAL OF SUBCONSULTANTS. The Consultant shall not employ, contract with or use the services of any consultant, special contractors, or other third parties (collectively "Subconsultant") in connection with the performance of its obligations under this Agreement without the prior written consent of NIFA. The Consultant shall inform NIFA in writing of the name, proposed service to be rendered, and compensation of the Subconsultant, and of any interest it may have in the proposed Subconsultant.

CONSULTANT AS INDEPENDENT CONTRACTOR. Notwithstanding any other provisions of this Agreement, the Consultant's status (and that of any Subconsultant) shall be that of an independent contractor and not that of an agent or employee of NIFA. Accordingly, neither the Consultant nor any Subconsultant shall hold itself out as, or claim to be acting in the capacity of an employee, or agent of NIFA.

CONFLICT-OF-INTEREST. The Consultant represents that:

(a) The Consultant has not now, and will not acquire, any interest, direct or indirect, present or prospective, in the project to which the Consultant's work relates or the real estate which is the subject of the project, or in the immediate vicinity thereof and has not employed and will not knowingly employ in connection with work to be performed hereunder, any person or entity having any such interest during the term of this Agreement.

(b) No officer, employee, agent or director of NIFA, or any of its subsidiaries shall be admitted to any share or part hereof or to any benefit to arise here from.

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(c) No officer, employee, agent or director of NIFA, or any of its subsidiaries shall participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any officer, agent, director or employee of NIFA, or any of its subsidiaries have any interest, direct or indirect, in this Agreement or the proceedings thereof.

CONSULTANT TO COMPLY WITH LEGAL REQUIREMENTS. The Consultant in performing its obligations and in preparing all documents required under this Agreement shall comply with all material applicable laws and regulations. All provisions required by such laws and regulations to be included in this Agreement shall be deemed to be included in this Agreement with the same effect as if set forth in full.

NO ASSIGNMENT WITHOUT CONSENT. The Consultant agrees that:

(a) It is prohibited from assigning, transferring or otherwise disposing of this Agreement, or of its rights or interests therein, or its power to execute such agreement to any person, company, partnership, or corporation, without the previous written consent of NIFA;

(b) If the prohibition of this Section be violated, NIFA may revoke and annul this Agreement and NIFA shall be relieved from any and all liability and obligations hereunder to the Consultant and to the person, company, partnership or corporation to whom such assignment, transfer or other disposal shall have been made and the Consultant and such assignee or transferee shall forfeit and lose all the money theretofore earned under this Agreement.

ENTIRE AGREEMENT/AMENDMENT. This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto.

CONFIDENTIALITY. Consultant hereby agrees that all data, recommendations, reports and other materials developed in the course of this study are strictly confidential between Consultant and NIFA and Consultant may not at any time reveal or disclose such data, recommendations or reports in whole or in part to any third party without first obtaining permission from NIFA, other than as required by law. Notwithstanding the preceding sentence, Consultant shall cooperate fully with such third parties as NIFA may designate by written request. Such cooperation shall include making available to such parties, data, information and reports used or developed by Consultant in connection with this study.

INDEMNIFICATION. Notwithstanding anything to the contrary contained herein, Consultant shall be responsible for all injuries to persons, including death, or damage to property sustained while performing or resulting from the work under this Agreement, if and to the extent the same results from any act, omission, negligence, fault or default of Consultant or Sub consultants, or their employees, agents, servants, independent contractors or subcontractors retained by Consultant pursuant to this Agreement. Consultant agrees to defend, indemnify and hold the indemnities (the State of New York and NIFA) harmless from any and all claims, judgments and liabilities, including but not limited to, claims, judgments

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and liabilities for injuries to persons (including death) and damage to property, if and to the extent the same results from any act, omission, negligence, fault or default of Consultant or its Sub consultants, or their agents, employees, servants, independent contractors and subcontractors and from any claims against, or liability incurred by the indemnities by reason of claims against Consultant or its Sub consultants, or their employees, agents, servants, independent contractors and subcontracts for any matter whatsoever in connection with the services performed under this Agreement, including, but not limited to, claims for compensation, injury or death, and agree to reimburse the indemnities for reasonable attorneys' fees incurred in connection with the above. Consultant shall be solely responsible for the safety and protection of all its Sub consultants, or the employees, agents, servants, independent contractors, or subcontractors of Consultant or its Sub consultants, and shall assume all liability for injuries, including death, that may occur to said persons due to the negligence, fault or default of Consultant, its Sub consultants, or their respective agents, employees, servants, independent contractors or subcontractors.

This indemnification provision shall survive the expiration or earlier termination of this Agreement.

WORKER'S COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this Agreement shall be void and of no force and effect unless Contractor provides and maintains coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

NON-DISCRIMINATION REQUIREMENTS. Contractor shall comply with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its

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subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law and shall comply with all requirements set forth in Article 8 or Article 9 of the Labor Law whichever Article applies. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 2878 of the Public Authorities Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to NIFA a non-collusive bidding certification on Contractor's behalf.

INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, Contractor agrees, as a material condition of the contract, that neither Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC app. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

SET-OFF RIGHTS. NIFA shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, NIFA's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to NIFA with regard to this contract, any other contract with NIFA, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to NIFA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. NIFA shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by NIFA, its representatives, or the State Comptroller.

RECORDS. Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for six (6) years following the expiration or earlier termination of the contract. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. NIFA shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely

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inform NIFA in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

DISCLOSURE OF NIFA RECORDS OR INFORMATION. If any third party requests that Contractor disclose NIFA records or information, as defined in subdivision 4 of section 86 of the Public Officers Law, Contractor shall notify NIFA of such request and NIFA shall determine, in accordance with Chapter 39 of the Laws of 2010, whether such NIFA records or information may be disclosed.

CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Schedule A, the terms of this Schedule A shall control.

GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Section 2880 of the Public Authorities Law and the guidelines adopted by NIFA thereto.

SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of Contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of Contractor to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must

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meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the New York Laws of 1992), Contractor hereby stipulates that Contractor either (i) has no business operations in Northern Ireland, or (ii) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Article 165 of, the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

OMNIBUS PROCUREMENT ACT OF 1992 (as amended or supplemented). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St – 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Minority and Women's Business Development Division
30 South Pearl St – 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractor certifies that:

- (a) Contractor has made commercially reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and woman-owned business enterprises, on this Project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; and
- (c) Contractor agrees to make commercially reasonable efforts to provide notification to New York State residents of employment opportunities on this Project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. Contractor agrees to document these efforts and to provide said documentation to the State upon request.

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- (d) Contractor acknowledges that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

RECIPROCITY AND SANCTIONS PROVISIONS. Contractor is hereby notified that if its principal place of business is located in a state that penalizes New York State vendors, and if the goods or services it offers are substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 amendments (Chapter 684, Laws of 1994) require that Contractor be denied contracts which it would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

OPTIONAL TERMINATION BY THE AUTHORITY. NIFA reserves the right to terminate this contract in the event it is found that the certification filed by Contractor in accordance with New York State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, NIFA may exercise its termination right by providing written notification to Contractor in accordance with the written notification terms of the contract.

CONTINGENT FEES. Contractor hereby certifies and agrees that (a) Contractor has not employed or retained and will not employ or retain any individual or entity for the purpose of soliciting or securing any NIFA contract or any amendment or modification thereto pursuant to any agreement or understanding for receipt of any form of compensation which in whole or in part is contingent or dependent upon the award of any such contract or any amendment or modification thereto; and (b) Contractor will not seek or be paid an additional fee that is contingent or dependent upon the completion of a transaction by NIFA.

COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor’s agents, officers, employees or subcontractors.

PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES: REQUIREMENTS AND PROCEDURES

General Provisions (See also the Attachments to this Schedule A, which are incorporated into this Schedule A)

The Nassau County Interim Finance Authority (“NIFA”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and

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Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NIFA, to fully comply and cooperate with NIFA in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Schedule A and such other remedies are available to NIFA pursuant to the Contract and applicable law.

Contract Goals

For purposes of this Contract, NIFA hereby establishes an overall goal of 30 percent for MWBE participation, 30 percent for New York State-certified minority-owned business enterprise (“MBE”) participation and 0 percent for New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.

For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the **achievement of the** applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:

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Evidence of outreach to MWBEs;
Any responses by MWBEs to the Contractor's outreach;
Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;
The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by NIFA with MWBEs; and,
Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

In performing the Contract, the Contractor shall:

Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

The Contractor shall submit an EEO policy statement to NIFA within seventy-two (72) hours after the date of the notice by NIFA to award the Contract to the Contractor.

If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, NIFA may require the Contractor or subcontractor to adopt a model statement (see Equal Employment Opportunity Policy Statement).

The Contractor's EEO policy statement shall include the following language:

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

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Workforce Employment Utilization Report (forms as required by this section are attached to this schedule)

The Contractor shall submit a Workforce Utilization Report (Attachment D), and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by NIFA on a quarterly basis during the term of the Contract.

Separate forms shall be completed by the Contractor and any subcontractors.

The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

MWBE Utilization Plan

The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan (Attachment E), or shall submit an MWBE Utilization Plan at such time as shall be required by NIFA, through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to NIFA, either prior to, or at the time of, the execution of the contract.

The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.

The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, NIFA shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

Waivers

If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by NIFA. Such waiver request must be supported by evidence of the Contractor’s good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, NIFA shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.

If NIFA, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, NIFA may issue a notice of deficiency to the Contractor. The Contractor must respond

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to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report (Attachment D) through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to NIFA by the 10th day following the end of each quarter during the term of the Contract.

Liquidated Damages - MWBE Participation

Where NIFA determines that the Contractor is not in compliance with the requirements of this Schedule A and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to NIFA liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between:

All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals;
and

All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NIFA, the Contractor shall pay such liquidated damages to NIFA within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

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Attachment A (For Bid Proposals)

Certification Pursuant to State Finance Law §139

This form shall be completed and submitted with your proposal. Failure to complete and submit this form may result in a determination of non-responsiveness and disqualification of the proposal.

I. Affirmation relating to procedures governing permissible contacts:

(Proposer must check applicable box)

Proposer: affirms does not affirm

that it understands and has to date and agrees hereinafter to comply with the Authority’s procedures relative to permissible contacts for this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b).

II. Disclosure of Findings of Non-Responsibility and Prior Contract Terminations or Withholdings under the 2005 Procurement Lobbying Law:

1. Has any “governmental entity,” as defined by State Finance Law §139-j and §139-k, made a finding in the last four years that the firm was not responsible?

No Yes

2. If yes, was the basis for any such finding(s) the intentional provision of false or incomplete information required by State Finance Law § 139-j and §139-k, and/or the failure to comply with the requirements of State Finance Law §139-j (3) relating to permissible contacts?

No Yes

If yes, please provide details regarding each finding of non-responsibility below. (Attach additional pages, if necessary)

Governmental Entity: _____

Date of Finding: _____

Basis of Finding: _____

3. Has any “governmental entity” as defined in State Finance Law §139-j and §139-k terminated or withheld a procurement contract with the firm due to the intentional provision of false or incomplete information required by such Laws and/or the failure to comply with the requirements of State Finance Law §139-k(3) relating to permissible contacts?

No Yes

If yes, please provide details below. (Attach additional pages, if necessary)

Governmental Entity:

Date of Termination or Withholding of Contract:

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Basis of Termination or Withholding of Contract:

The undersigned acknowledges and states that all information provided to the Authority with respect to State Finance Law § 139-j and § 139-k is complete, true and accurate.

Signature of Authorized Officer

Date

Title

Address

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Attachment B

NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Contract, the Contractor agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, sexual orientation, or color discriminate against anyone who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the contract on account of gender, race, creed, sexual orientation, or color.
3. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor shall not discriminate by reason of gender, race, creed, sexual orientation, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
7. Nassau County Interim Finance Authority may cancel or terminate the Contract and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause.

Contractor Signature

Date

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Attachment C

EEO and MWBE Required Forms



Division of Minority
and Women's
Business Development


Your MWBE Utilization and Reporting Responsibilities

Under Article 15-A

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your incentive proposal or contract documents.

The New York State Contract System ("NYSCS") is the tool that New York State uses to monitor MWBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process. Once you log onto the website, click on the **Help & Support >>** link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals

on all features of the NYSCS. You may also click on the  icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the Knowledge Base through the Forum link, and submit feedback to help improve future enhancements to the system.

Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (<https://ny.newnycontracts.com>).

For more information, contact your project manager.

A Division of Empire State Development

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**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE

EEO

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from NIFA and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status

domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2 _____

By _____

Print: _____ Title: _____

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_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____ 30% Minority and Women's Business Enterprise Participation

_____ % Minority Business Enterprise Participation

_____ % Women's Business Enterprise Participation

_____ (Authorized Representative)
Title: _____

Date: _____

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Attachment D
Contractor M/WBE Quarterly Report
of

Is this a final report? Check
One

NYS AGENCY Contract No. _____ Project No. _____

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project.
The payments as shown made are in compliance with contract documents for the above referenced project.

Contractors Name and Address		Federal ID#		Goals/\$ Amt. MBE ____%=_____ WBE ____%=_____		Contract Type _____				
		Project Completion Date		Work Location		Reporting Period: ___ 1 st Quarter (4/1-6/30) ___ 3 rd Quarter (10/1-12/31) ___ 2 nd Quarter (7/1-9/30) ___ 4 th Quarter (1/1-3/31)				
M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments this Quarter		Previous Payments		Total Payment Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Total										

*See Reverse Side for Product Codes
Date _____

Total

Name _____ **Title** _____ **Signature** _____

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PRODUCT KEY CODE

A	=	Agriculture/ Landscaping (e.g., all forms of landscaping services)	
B	=	Mining (e.g., geological investigations)	
C	=	Construction	
C15	=	Building Construction – General Contractors	
C16	=	Heavy Construction (e.g., highway, pipe laying)	
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)	
D	=	Manufacturing	
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting	and cable systems)
F/G	=	Wholesale/Retail Goods (e.g. hospital supplies and equipment, food stores, computer stores, office supplies	
G52	=	Construction Materials (e.g., lumber, paint, law supplies)	
H	=	Financial, Insurance and Real Estate Services	
I	=	Services	
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer	programming, security services)
I81	=	Legal Services	
I82	=	Education Services (e.g., AIDS education, automobile safety, tutoring, public speaking)	
I83	=	Social Services (Counselors, vocational training, child care)	
I87	=	Engineering, architectural, accounting, research, management and related services	

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Attachment E - M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Offeror's Name:
 Address:
 City, State, Zip Code:
 Telephone No.:
 Region/Location of Work:

Federal Identification No.:
 Solicitation No.:
Project No.:
 M/WBE Goals in the Contract: MBE % WBE %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED MBE WBE			
B.	NYS ESD CERTIFIED MBE WBE			
6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).				
PREPARED BY (Signature): DATE: NAME AND TITLE OF PREPARER (Print or Type):			TELEPHONE NO.:	EMAIL ADDRESS:
			FOR M/WBE USE ONLY	
			REVIEWED BY:	DATE:

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SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.

UTILIZATION PLAN APPROVED: YES NO Date: _____
Contract No.: _____ **Project No. (if applicable):** _____

Contract Award Date: _____

Estimated Date of Completion: _____

Amount Obligated Under the Contract: _____

Description of Work: _____

NOTICE OF DEFICIENCY ISSUED: YES NO Date: _____

NOTICE OF ACCEPTANCE ISSUED: YES NO Date: _____

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(For Contracts in excess of \$250,000)
SCHEDULE A

STANDARD CLAUSES FOR NIFA CONTRACTS

For the purposes of this Schedule A, the Nassau County Interim Finance Authority is hereinafter referred to as "NIFA."

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than NIFA, whether a contractor, consultant, licensor, licensee, lessor, lessee or other party):

SUPERVISION BY NIFA. The services to be performed by Consultant under this Agreement shall be subject to the general supervision and direction of NIFA provided that neither NIFA's exercise nor failure to exercise such supervision and direction shall relieve the Consultant of any of its obligations or responsibilities for its acts or failure to act pursuant to this Agreement.

CONSULTANT'S PERSONNEL. The Consultant shall designate in writing to NIFA one individual, satisfactory to NIFA, who shall be responsible for coordinating all of the services to be rendered by the Consultant and who shall be NIFA's normal point of contact with the Consultant on matters relating to such services. Such individual shall be replaced upon NIFA's written request.

APPROVAL OF SUBCONSULTANTS. The Consultant shall not employ, contract with or use the services of any consultant, special contractors, or other third parties (collectively "Subconsultant") in connection with the performance of its obligations under this Agreement without the prior written consent of NIFA. The Consultant shall inform NIFA in writing of the name, proposed service to be rendered, and compensation of the Subconsultant, and of any interest it may have in the proposed Subconsultant.

CONSULTANT AS INDEPENDENT CONTRACTOR. Notwithstanding any other provisions of this Agreement, the Consultant's status (and that of any Subconsultant) shall be that of an independent contractor and not that of an agent or employee of NIFA. Accordingly, neither the Consultant nor any Subconsultant shall hold itself out as, or claim to be acting in the capacity of an employee, or agent of NIFA.

CONFLICT-OF-INTEREST. The Consultant represents that:

(a) The Consultant has not now, and will not acquire, any interest, direct or indirect, present or prospective, in the project to which the Consultant's work relates or the real estate which is the subject of the project, or in the immediate vicinity thereof and has not employed and will not knowingly employ in connection with work to be performed hereunder, any person or entity having any such interest during the term of this Agreement.

(b) No officer, employee, agent or director of NIFA, or any of its subsidiaries shall be admitted to any share or part hereof or to any benefit to arise here from.

(c) No officer, employee, agent or director of NIFA, or any of its subsidiaries shall participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any officer, agent, director or employee of NIFA, or any of its subsidiaries have any interest, direct or indirect, in this Agreement or the proceedings thereof.

CONSULTANT TO COMPLY WITH LEGAL REQUIREMENTS. The Consultant in performing its obligations and in preparing all documents required under this Agreement shall comply with all material applicable laws and regulations. All provisions required by such laws and regulations to be included in this Agreement shall be deemed to be included in this Agreement with the same effect as if set forth in full.

NO ASSIGNMENT WITHOUT CONSENT. The Consultant agrees that:

(a) It is prohibited from assigning, transferring or otherwise disposing of this Agreement, or of its rights or interests therein, or its power to execute such agreement to any person, company, partnership, or corporation, without the previous written consent of NIFA;

(b) If the prohibition of this Section be violated, NIFA may revoke and annul this Agreement and NIFA shall be relieved from any and all liability and obligations hereunder to the Consultant and to the person, company, partnership or corporation to whom such assignment, transfer or other disposal shall have been made and the Consultant and such assignee or transferee shall forfeit and lose all the money theretofore earned under this Agreement.

ENTIRE AGREEMENT/AMENDMENT. This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto.

CONFIDENTIALITY. Consultant hereby agrees that all data, recommendations, reports and other materials developed in the course of this study are strictly confidential between Consultant and NIFA and Consultant may not at any time reveal or disclose such data, recommendations or reports in whole or in part to any third party without first obtaining permission from NIFA, other than as required by law. Notwithstanding the preceding sentence, Consultant shall cooperate fully with such third parties as NIFA may designate by written request. Such cooperation shall include making available to such parties, data, information and reports used or developed by Consultant in connection with this study.

INDEMNIFICATION. Notwithstanding anything to the contrary contained herein, Consultant shall be

responsible for all injuries to persons, including death, or damage to property sustained while performing or resulting from the work under this Agreement, if and to the extent the same results from any act, omission, negligence, fault or default of Consultant or Sub consultants, or their employees, agents, servants, independent contractors or subcontractors retained by Consultant pursuant to this Agreement. Consultant agrees to defend, indemnify and hold the indemnities (the State of New York and NIFA) harmless from any and all claims, judgments and liabilities, including but not limited to, claims, judgments and liabilities for injuries to persons (including death) and damage to property, if and to the extent the same results from any act, omission, negligence, fault or default of Consultant or its Sub consultants, or their agents, employees, servants, independent contractors and subcontractors and from any claims against, or liability incurred by the indemnities by reason of claims against Consultant or its Sub consultants, or their employees, agents, servants, independent contractors and subcontracts for any matter whatsoever in connection with the services performed under this Agreement, including, but not limited to, claims for compensation, injury or death, and agree to reimburse the indemnities for reasonable attorneys' fees incurred in connection with the above. Consultant shall be solely responsible for the safety and protection of all its Sub consultants, or the employees, agents, servants, independent contractors, or subcontractors of Consultant or its Sub consultants, and shall assume all liability for injuries, including death, that may occur to said persons due to the negligence, fault or default of Consultant, its Sub consultants, or their respective agents, employees, servants, independent contractors or subcontractors.

This indemnification provision shall survive the expiration or earlier termination of this Agreement.

WORKER'S COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this Agreement shall be void and of no force and effect unless Contractor provides and maintains coverage during the life of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

NON-DISCRIMINATION REQUIREMENTS. Contractor shall comply with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law and shall comply with all requirements set forth in Article 8 or Article 9 of the Labor Law whichever Article applies. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 2878 of the Public Authorities Law, if this contract was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to NIFA a non-collusive bidding certification on Contractor's behalf.

INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, Contractor agrees, as a material condition of the contract, that neither Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC app. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

SET-OFF RIGHTS. NIFA shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, NIFA's option to withhold for the purposes of set-off any moneys due to Contractor under this contract up to any amounts due and owing to NIFA with regard to this contract, any other contract with NIFA, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to NIFA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. NIFA shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by NIFA, its representatives, or the State Comptroller.

RECORDS. Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for six (6) years following the expiration or earlier termination of the contract. The State Comptroller, the Attorney General and any other person or entity

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authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. NIFA shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) Contractor shall timely inform NIFA in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

DISCLOSURE OF NIFA RECORDS OR INFORMATION. If any third party requests that Contractor disclose NIFA records or information, as defined in subdivision 4 of section 86 of the Public Officers Law, Contractor shall notify NIFA of such request and NIFA shall determine, in accordance with Chapter 39 of the Laws of 2010, whether such NIFA records or information may be disclosed.

CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Section 2880 of the Public Authorities Law and the guidelines adopted by NIFA thereto.

SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165 (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of Contractor to establish to meet with the approval of the State. In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of

the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of Contractor to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the New York Laws of 1992), Contractor hereby stipulates that Contractor either (i) has no business operations in Northern Ireland, or (ii) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Article 165 of, the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St – 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Minority and Women's Business Development Division
30 South Pearl St – 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractor certifies that:
(e) Contractor has made commercially reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and woman-owned business enterprises, on this Project, and has retained the documentation of these efforts to be provided upon request to the State;

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- (f) Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended; and
- (g) Contractor agrees to make commercially reasonable efforts to provide notification to New York State residents of employment opportunities on this Project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. Contractor agrees to document these efforts and to provide said documentation to the State upon request.
- (h) Contractor acknowledges that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

RECIPROCITY AND SANCTIONS PROVISIONS. Contractor is hereby notified that if its principal place of business is located in a state that penalizes New York State vendors, and if the goods or services it offers are substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 amendments (Chapter 684, Laws of 1994) require that Contractor be denied contracts which it would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

PROCUREMENT LOBBYING. To the extent this agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

OPTIONAL TERMINATION BY THE AUTHORITY. NIFA reserves the right to terminate this contract in the event it is found that the certification filed by Contractor in accordance with New York State Finance Law § 139-k was intentionally false or intentionally incomplete. Upon such finding, NIFA may exercise its termination right by providing written notification to Contractor in accordance with the written notification terms of the contract.

CONTINGENT FEES. Contractor hereby certifies and agrees that (a) Contractor has not employed or retained and will not employ or retain any individual or entity for the purpose of soliciting or securing any NIFA contract or any amendment or modification thereto pursuant to any agreement or understanding for receipt of any form of compensation which in whole or in part is contingent or dependent upon the award of any such contract or any amendment or modification thereto; and (b) Contractor will not seek or be paid an additional fee that is contingent or dependent upon the completion of a transaction by NIFA.

COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). Contractor shall be liable for the costs associated with such breach if caused by Contractor’s negligent or willful acts or omissions, or the negligent or willful acts or omissions of the Contractor’s agents, officers, employees or subcontractors.

**PARTICIPATION BY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES:
REQUIREMENTS AND PROCEDURES**

General Provisions

The Nassau County Interim Finance Authority (“NIFA”) is required to implement the provisions of New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”) for all State contracts, as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to NIFA, to fully comply and cooperate with NIFA in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State-certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) and other applicable federal, state, and local laws.

Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the assessment of liquidated damages pursuant to Section VII of this Appendix and such other remedies are available to NIFA pursuant to the Contract and applicable law.

Contract Goals

For purposes of this Contract, NIFA hereby establishes an overall goal of 30 percent for MWBE participation, in any percentage between New York State-certified minority-owned business enterprise (“MBE”) participation and New York State-certified women-owned business enterprise (“WBE”) participation (collectively, “MWBE Contract Goals”) based on the current availability of MBEs and WBEs.

For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section II-A hereof, the Contractor should reference the directory of MWBEs at the following internet address: <https://ny.newnycontracts.com>.

Additionally, the Contractor is encouraged to contact the Division of Minority and Women’s Business Development at (212) 803-2414 to discuss additional methods of maximizing participation by MWBEs on the Contract.

The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may be applied towards the achievement of the

applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25 percent of the total value of the contract.

The Contractor must document “good faith efforts,” pursuant to 5 NYCRR § 142.8, to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. Such documentation shall include, but not necessarily be limited to:

Evidence of outreach to MWBEs:

Any responses by MWBEs to the Contractor’s outreach;

Copies of advertisements for participation by MWBEs in appropriate general circulation, trade, and minority or women-oriented publications;

The dates of attendance at any pre-bid, pre-award, or other meetings, if any, scheduled by NIFA with MWBEs; and,

Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for MWBE participation.

EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to the Contract.

In performing the Contract, the Contractor shall:

Ensure that each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

The Contractor shall submit an EEO policy statement to NIFA within seventy-two (72) hours after the date of the notice by NIFA to award the Contract to the Contractor.

If the Contractor, or any of its subcontractors, does not have an existing EEO policy statement, NIFA may require the Contractor or subcontractor to adopt a model statement (see Equal Employment Opportunity Policy Statement).

The Contractor’s EEO policy statement shall include the following language:

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan (Form A) to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the staffing plan form and submit it as part of their bid or proposal or within a reasonable time, as directed by NIFA.

Workforce Utilization Report

The Contractor shall submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by NIFA on a quarterly basis during the term of the Contract.

Separate forms shall be completed by the Contractor and any subcontractors.

The Contractor shall comply with the provisions of the Human Rights Law, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

MWBE Utilization Plan

The Contractor represents and warrants that the Contractor has submitted an MWBE Utilization Plan (Form D), or shall submit an MWBE Utilization Plan at such time as shall be required by NIFA, through the New York State Contract System ("NYSCS"), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that the Contractor may arrange to provide such evidence via a non-electronic method to NIFA, either prior to, or at the time of, the execution of the contract.

The Contractor agrees to adhere to such MWBE Utilization Plan in the performance of the Contract.

The Contractor further agrees that failure to submit and/or adhere to such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach,

NIFA shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is non-responsive.

Waivers

If the Contractor, after making good faith efforts, is unable to achieve the MWBE Contract Goals stated herein, the Contractor may submit a request for a waiver through the NYSCS, or a non-electronic method provided by NIFA. Such waiver request must be supported by evidence of the Contractor's good faith efforts to achieve the maximum feasible MWBE participation towards the applicable MWBE Contract Goals. If the documentation included with the waiver request is complete, [AGENCY] shall evaluate the request and issue a written notice of approval or denial within twenty (20) business days of receipt.

If NIFA, upon review of the MWBE Utilization Plan, quarterly MWBE Contractor Compliance Reports described in Section VI, or any other relevant information, determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals, and no waiver has been issued in regards to such non-compliance, NIFA may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

Quarterly MWBE Contractor Compliance Report

The Contractor is required to submit a quarterly MWBE Contractor Compliance Report (Form C) through the NYSCS, provided, however, that the Contractor may arrange to provide such report via a non-electronic method to NIFA by the 10th day following the end of each quarter during the term of the Contract.

Liquidated Damages - MWBE Participation

Where NIFA determines that the Contractor is not in compliance with the requirements of this Appendix and the Contractor refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to NIFA liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between:
All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals;
and
All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by NIFA, the Contractor shall pay such liquidated damages to NIFA within sixty (60) days after they are assessed. Provided, however, that if the Contractor has filed a complaint with the Director of the Division of Minority and Women's Business Development pursuant to 5 NYCRR § 142.12, liquidated damages shall be payable only in the event of a determination adverse to the Contractor following the complaint process.

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Attachment A

Certification Pursuant to State Finance Law §139

This form shall be completed and submitted with your proposal. Failure to complete and submit this form may result in a determination of non-responsiveness and disqualification of the proposal.

I. Affirmation relating to procedures governing permissible contacts:

(Proposer must check applicable box)

Proposer: affirms does not affirm

that it understands and has to date and agrees hereinafter to comply with the Authority’s procedures relative to permissible contacts for this procurement as required by State Finance Law §139-j (3) and §139-j (6) (b).

II. Disclosure of Findings of Non-Responsibility and Prior Contract Terminations or Withholdings under the 2005 Procurement Lobbying Law:

1. Has any “governmental entity,” as defined by State Finance Law §139-j and §139-k, made a finding in the last four years that the firm was not responsible?

No Yes

2. If yes, was the basis for any such finding(s) the intentional provision of false or incomplete information required by State Finance Law § 139-j and §139-k, and/or the failure to comply with the requirements of State Finance Law §139-j (3) relating to permissible contacts?

No Yes

If yes, please provide details regarding each finding of non-responsibility below. (Attach additional pages, if necessary)

Governmental Entity: _____

Date of Finding: _____

Basis of Finding: _____

3. Has any “governmental entity” as defined in State Finance Law §139-j and §139-k terminated or withheld a procurement contract with the firm due to the intentional provision of false or incomplete information required by such Laws and/or the failure to comply with the requirements of State Finance Law §139-k(3) relating to permissible contacts?

No Yes

If yes, please provide details below. (Attach additional pages, if necessary)

Governmental Entity:

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding of Contract:

The undersigned acknowledges and states that all information provided to the Authority with respect to State Finance Law § 139-j and § 139-k is complete, true and accurate.

Signature of Authorized Officer Date

Title

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Revised 12/18

Address

Attachment B

NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Contract, the Contractor agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, sexual orientation, or color discriminate against anyone who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the contract on account of gender, race, creed, sexual orientation, or color.
3. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor shall not discriminate by reason of gender, race, creed, sexual orientation, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
7. Nassau County Interim Finance Authority may cancel or terminate the Contract and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause.

Contractor Signature

Date

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Attachment C

EEO and MWBE Required Forms



Division of Minority
and Women's
Business Development


Your MWBE Utilization and Reporting Responsibilities

Under Article 15-A

As a vendor conducting business with New York State, you have a responsibility to utilize minority- and/or women-owned businesses in the execution of your contracts, per the MWBE percentage goals stated in your incentive proposal or contract documents.

The New York State Contract System ("NYSCS") is the tool that New York State uses to monitor MWBE participation in state contracting. Through the NYSCS you will submit utilization plans, request subcontractors, record payments to subcontractors, and communicate with your project manager throughout the life of your awarded contracts.

There are several reference materials available to assist you in this process. Once you log onto the website, click on the **Help & Support >>** link on the lower left hand corner of the Menu Bar to find recorded trainings and manuals

on all features of the NYSCS. You may also click on the  icon at the top right of your screen to find videos tailored to primes and subcontractors. There are also opportunities available to join live trainings, read up on the Knowledge Base through the Forum link, and submit feedback to help improve future enhancements to the system.

Technical assistance is always available through the **Contact Us & Support** link on the NYSCS website (<https://ny.newnycontracts.com>).

For more information, contact your project manager.

A Division of Empire State Development

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**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

M/WBE AND EEO POLICY STATEMENT

I, _____, the (awardee/contractor) _____ agree to adopt the following policies with respect to the project being developed or services rendered at _____

M/WBE

EEO

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (7) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (8) Request a list of State-certified M/WBEs from NIFA and solicit bids from them directly.
- (9) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (10) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (11) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (12) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization’s obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status

domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract

Agreed to this _____ day of _____, 2 _____

By _____

Print: _____ Title: _____

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_____ is designated as the Minority Business Enterprise Liaison
(Name of Designated Liaison)

responsible for administering the Minority and Women-Owned Business Enterprises- Equal Employment Opportunity (M/WBE-EEO) program.

M/WBE Contract Goals

_____ 30% Minority and Women's Business Enterprise Participation

_____ % Minority Business Enterprise Participation

_____ % Women's Business Enterprise Participation

_____ (Authorized Representative)
Title: _____
Date: _____

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Diversity Practices Questionnaire for Bidders

I, _____, as _____ (title) of _____ firm or company (hereafter referred to as the company), swear and/or affirm under penalty of perjury that the answers submitted to the following questions are complete and accurate to the best of my knowledge:

1. Does your company have a Chief Diversity Officer or other individual who is tasked with supplier diversity initiatives? Yes or No

If Yes, provide the name, title, description of duties, and evidence of initiatives performed by this individual or individuals.

2. What percentage of your company's gross revenues (from your prior fiscal year) was paid to New York State certified minority and/or women-owned business enterprises as subcontractors, suppliers, joint-venturers, partners or other similar arrangement for the provision of goods or services to your company's clients or customers?

3. What percentage of your company's overhead (i.e. those expenditures that are not directly related to the provision of goods or services to your company's clients or customers) or non-contract-related expenses (from your prior fiscal year) was paid to New York State certified minority- and women-owned business enterprises as suppliers/contractors?¹

4. Does your company provide technical training² to minority- and women-owned business enterprises? Yes or No

If Yes, provide a description of such training which should include, but not be limited to, the date the program was initiated, the names and the number of minority- and women-owned business enterprises participating in such training, the number of years such training has been offered and the number of hours per year for which such training occurs.

Is your company participating in a government approved minority- and women-owned business enterprise mentor-protégé program?

If Yes, identify the governmental mentoring program in which your company participates and provide evidence demonstrating the extent of your company's commitment to the governmental mentoring program.

6. Does your company include specific quantitative goals for the utilization of minority- and women-owned business enterprises in its non-government procurements? Yes or No

If Yes, provide a description of such non-government procurements (including time period, goal, scope and dollar amount) and indicate the percentage of the goals that were attained.

7. Does your company have a formal minority- and women-owned business enterprise supplier diversity program? Yes or No

If Yes, provide documentation of program activities and a copy of policy or program materials.

¹ Do not include onsite project overhead.

² Technical training is the process of teaching employees how to more accurately and thoroughly perform the technical components of their jobs. Training can include technology applications, products, sales and service tactics, and more. Technical skills are job-specific as opposed to soft skills, which are transferable.

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8. Does your company plan to enter into partnering or subcontracting agreements with New York State certified minority- and women-owned business enterprises if selected as the successful respondent? Yes or No

If Yes, complete the attached Utilization Plan

All information provided in connection with the questionnaire is subject to audit and any fraudulent statements are subject to criminal prosecution and debarment.

Signature
of
Printed
Name of

Title
Name of
Business

Address
City,
State. Zip

STATE OF _____
COUNTY OF _____

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Form A - STAFFING PLAN Submit with Bid or Proposal – Instructions on page 2

Solicitation No.:	Reporting Entity:	Report includes Contractor's/Subcontractor's: <input type="checkbox"/> Work force to be utilized on this contract <input type="checkbox"/> Total work force
Offeror's Name:		<input type="checkbox"/> Offeror <input type="checkbox"/> Subcontractor Subcontractor's name _____
Offeror's Address:		

Enter the total number of employees for each classification in each of the EEO-Job Categories identified

EEO-Job Category	Total Work force	Work force by Gender		Work force by Race/Ethnic Identification								Disabled		Veteran				
		Total Male (M)	Total Female (F)	White (M) (F)		Black (M) (F)		Hispanic (M) (F)		Asian (M) (F)		Native American (M) (F)		(M)	(F)	(M)	(F)	
Officials/Administrators																		
Professionals																		
Technicians																		
Sales Workers																		
Office/Clerical																		
Craft Workers																		
Laborers																		
Service Workers																		
Temporary /Apprentices																		
Totals																		

PREPARED BY (Signature):	TELEPHONE NO.: EMAIL ADDRESS:	DATE:
NAME AND TITLE OF PREPARER (Print or Type):	Submit completed with bid or proposal M/WBE 101 (Rev 11/08)	

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General instructions: All Offerors and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan (M/WBE 101) and submit it as part of the bid or proposal package. Where the work force to be utilized in the performance of the State contract can be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form only for the anticipated work force to be utilized on the State contract. Where the work force to be utilized in the performance of the State contract cannot be separated out from the contractor's and/or subcontractor's total work force, the Offeror shall complete this form for the contractor's and/or subcontractor's total work force.

Instructions for completing:

1. Enter the Solicitation number that this report applies to along with the name and address of the Offeror.
2. Check off the appropriate box to indicate if the Offeror completing the report is the contractor or a subcontractor.
3. Check off the appropriate box to indicate work force to be utilized on the contract or the Offerors' total work force.
4. Enter the total work force by EEO job category.
5. Break down the anticipated total work force by gender and enter under the heading 'Work force by Gender'
6. Break down the anticipated total work force by race/ethnic identification and enter under the heading 'Work force by Race/Ethnic Identification'. Contact the OM/WBE Permissible contact(s) for the solicitation if you have any questions.
7. Enter information on disabled or veterans included in the anticipated work force under the appropriate headings.
8. Enter the name, title, phone number and email address for the person completing the form. Sign and date the form in the designated boxes.

RACE/ETHNIC IDENTIFICATION

Race/ethnic designations as used by the Equal Employment Opportunity Commission do not denote scientific definitions of anthropological origins. For the purposes of this form, an employee may be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this survey are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN & PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE INDIAN (NATIVE AMERICAN/ ALASKAN NATIVE)** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

OTHER CATEGORIES

- **DISABLED INDIVIDUAL** any person who:
 - has a physical or mental impairment that substantially limits one or more major life activity(ies)
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- **VIETNAM ERA VETERAN** a veteran who served at any time between and including January 1, 1963 and May 7, 1975.
- **GENDER** Male or Female

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Is this a final report? Check One
 Yes _____ No _____

**Form C
 -Contractor M/WBE Quarterly Report
 of**

NYS AGENCY Contract No. _____ **Project No.** _____

The following information indicates the payment amounts made by the grantee/contractor to the NYS Certified M/WBE subcontractor on this project.
 The payments as shown made are in compliance with contract documents for the above referenced project.

Contractors Name and Address		Federal ID#		Goals/\$ Amt. MBE _____%= _____ WBE _____%= _____		Contract Type _____				
		Project Completion Date		Work Location		Reporting Period: ___ 1 st Quarter (4/1-6/30) ___ 3 rd Quarter (10/1-12/31) ___ 2 nd Quarter (7/1-9/30) ___ 4 th Quarter (1/1-3/31)				
M/WBE Subcontractor/Vendor	Product Code*	Work Status This Report	Total Subcontractor Contract Amount		Payments this Quarter		Previous Payments		Total Payment Made to Date	
			MBE	WBE	MBE	WBE	MBE	WBE	MBE	WBE
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Name:		___ Active								
FED ID#		___ Inactive								
		___ Complete								
Total										

*See Reverse Side for Product Codes

Date _____ **Name** _____ **Title** _____ **Signature** _____

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PRODUCT KEY CODE

A	=	Agriculture/ Landscaping (e.g., all forms of landscaping services)
B	=	Mining (e.g., geological investigations)
C	=	Construction
C15	=	Building Construction – General Contractors
C16	=	Heavy Construction (e.g., highway, pipe laying)
C17	=	Special Trade Contractors (e.g., plumbing, heating, electrical, carpentry)
D	=	Manufacturing
E	=	Transportation, Communication and Sanitary Services (e.g., delivery services, warehousing, broadcasting and cable systems)
F/G	=	Wholesale/Retail Goods (e.g. hospital supplies and equipment, food stores, computer stores, office supplies)
G52	=	Construction Materials (e.g., lumber, paint, law supplies)
H	=	Financial, Insurance and Real Estate Services
I	=	Services
I73	=	Business Services (e.g., copying, advertising, secretarial, janitorial, rental services of equipment, computer programming, security services)
I81	=	Legal Services
I82	=	Education Services (e.g., AIDS education, automobile safety, tutoring, public speaking)
I83	=	Social Services (Counselors, vocational training, child care)
I87	=	Engineering, architectural, accounting, research, management and related services

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Form D - M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Offeror's Name:

Address:

City, State, Zip Code:

Telephone No.:

Region/Location of Work:

Federal Identification No.:

Solicitation No.:

Project No.:

M/WBE Goals in the Contract: MBE % WBE %

1. Certified M/WBE Subcontractors/Suppliers Name, Address, Email Address, Telephone No.	2. Classification	3. Federal ID No.	4. Detailed Description of Work (Attach additional sheets, if necessary)	5. Dollar Value of Subcontracts/ Supplies/Services and intended performance dates of each component of the contract.
A.	NYS ESD CERTIFIED MBE WBE			
B.	NYS ESD CERTIFIED MBE WBE			

6. IF UNABLE TO FULLY MEET THE MBE AND WBE GOALS SET FORTH IN THE CONTRACT, OFFEROR MUST SUBMIT A REQUEST FOR WAIVER FORM (M/WBE 104).

<p>PREPARED BY (Signature):</p> <p>DATE:</p> <p>NAME AND TITLE OF PREPARER (Print or Type): <small>SUBMISSION OF THIS FORM CONSTITUTES THE OFFEROR'S ACKNOWLEDGEMENT AND AGREEMENT TO COMPLY WITH THE M/WBE REQUIREMENTS SET FORTH UNDER NYS EXECUTIVE LAW, ARTICLE 15-A, 5 NYCRR PART 143, AND THE ABOVE-REFERENCED SOLICITATION. FAILURE TO SUBMIT COMPLETE AND ACCURATE INFORMATION MAY RESULT IN A FINDING OF NONCOMPLIANCE AND POSSIBLE TERMINATION OF YOUR CONTRACT.</small></p>	TELEPHONE NO.:	EMAIL ADDRESS:
	FOR M/WBE USE ONLY	
	REVIEWED BY:	DATE:
	<p>UTILIZATION PLAN APPROVED: YES NO Date: _____</p> <p>Contract No.: _____ Project No. (if applicable): _____</p> <p>Contract Award Date: _____</p> <p>Estimated Date of Completion: _____</p> <p>Amount Obligated Under the Contract: _____</p> <p>Description of Work: _____</p> <p>NOTICE OF DEFICIENCY ISSUED: YES NO Date: _____</p> <p>NOTICE OF ACCEPTANCE ISSUED: YES NO Date: _____</p>	

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TAB 6

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Property Disposition Report

No less frequently than annually, the Contracting Officer shall prepare and submit to the Directors a report which summarizes all Property Disposition Contracts and entered into for the period of the report, which report will include a list of all Property Disposition Contracts, the process used to sell or dispose of any Property and the consideration and/or other benefits received or paid therefore, the name of the purchaser for all such property sold by the Authority, and the status of all existing Property Disposition Contracts.

For purposes of this Report the following defined terms shall apply:

“Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with these guidelines.

"Property" shall mean personal property in excess of five thousand dollars in value, real property, and any inchoate or other interest in such property owned by the Authority, 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.

"Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of Property.

"Real Property" shall mean real property and interests therein.

Based upon the foregoing definitions, there have been no Property Disposition Contracts for calendar year 2018.

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TAB 7

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NASSAU COUNTY INTERIM FINANCE AUTHORITY (NIFA) MISSION STATEMENT AND MEASUREMENT REPORT

MISSION

Created by the State of New York as a public benefit corporation, it is the mission of NIFA to provide fiscal oversight of Nassau County (the “County”) in a manner that discourages certain practices which have occurred in the past and provides direction and assistance in budgetary and financial matters to restore the County to fiscal health while retaining the County’s right to operate independently as a municipal corporation of the State of New York.

DESCRIPTION

The Authority is a corporate governmental agency and instrumentality of the State of New York, constituting a public benefit corporation. The Authority’s operations are supported entirely through sales tax revenues (“NIFA Revenues”) and investment earnings.

GOALS

1. Evaluate Nassau County's financial condition.
2. Comment upon the County's Operating Budget, Multi-Year Financial Plan and related financial issues.
3. Serve as liaison between the County’s legislative and executive branches.
4. Manage NIFA's bond and swap portfolio on behalf of the County.
5. Review all County contracts that fall within the NIFA Contract Review Guidelines to ensure that spending complies with the requirements of the financial plan approved by the Authority.
6. Enhance NIFA's commitment to implement its mission through continued internal development and growth.

OBJECTIVES

1. Utilize analytic tools, economic indicators, and policy trends to evaluate the County's short-term and long-term fiscal stability.
2. Produce reports and correspondence to inform the County's stakeholders of NIFA's assessment of the County's spending and revenue decisions.
3. Facilitate meetings among Nassau County elected officials, administration and NIFA Board members and staff.
4. Monitor the financial markets for opportunities to refund NIFA bonds and swaps to achieve cost savings and ensure fiscal stability.
5. Conduct periodic bids for the investment of NIFA's debt service set-asides to maximize interest earnings.
6. Review and approve or disapprove County contracts as mandated by the NIFA Statute that meet the qualifications and standards of review established by the NIFA Contract Review Guidelines adopted by the NIFA Board of Directors.
7. Provide professional development opportunities to NIFA staff via training, seminars and conferences.

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PERFORMANCE MEASURES

	FY 2017 Actual	FY 2018 Actual	FY 2019 Projected
Analysis of County Financial Reports (% completed)	100%	100%	100%
NIFA Reports Produced (# of)	4	3	4
Contracts Reviewed	325	273	300
Bond and Portfolio Adjustments (# completed)	0	0	0
Investment Bids (# of bids solicited)	13	13	13
Training Sessions (# attended)	13	8	8
Webinar Sessions (# participated)	5	2	2
NIFA Meeting of the Board of Directors	8	6	9

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TAB 8

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**CODE OF ETHICS
OF THE
NASSAU COUNTY INTERIM FINANCE AUTHORITY**

(Adopted, May 4, 2006)
(Readopted, as Amended, May 2, 2007)
(Readopted June 18, 2008)
(Readopted May 28, 2009)
(Readopted April 22, 2010)
(Readopted, as Amended, April 20, 2011)
(Re-adopted May 17, 2012)
(Re-adopted June 5, 2013)
(Readopted June 18, 2014)
(Readopted May 8, 2015)
(Readopted May 17, 2016)
(Readopted April 18, 2017)
(Readopted May 8, 2018)

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**NASSAU COUNTY INTERIM FINANCE AUTHORITY
CODE OF ETHICS**

I. Introduction

The Nassau County Interim Finance Authority (the “Authority”), as a public entity, has a responsibility for maintaining the highest level of honesty, ethical conduct and public trust in all of its activities. To meet this responsibility the Authority is adopting this Code of Ethics to address important aspects of ethical conduct.

Authority Employees are entitled to privacy in their personal affairs. At the same time, as employees of a public entity, Authority Employees are responsible for conducting Authority business solely in the public interest.

This Code of Ethics applies to the Authority's Employees, including Directors, and Former Employees. This Code of Ethics is divided into the following areas: (1) introduction (2) definitions used in this Code of Ethics, (3) standards of ethical conduct, (4) use of material, nonpublic and confidential information (5) restrictions on post-employment activities, (6) certification of absence of conflict of interest, (7) requests for interpretation, clarification and waiver of this Code of Ethics, and (8) remedies for breaches of this Code of Ethics.

This Code of Ethics states in specific form the Authority's position on conflicts of interest. Personal integrity is the cornerstone of this Code of Ethics. Each Employee has the primary responsibility for avoiding Financial Interests and Other Interests, which create a conflict with his or her job.

In a case where any Employee, regardless of level or job assignment, believes his or her Financial Interest or involvement in a Transaction might present a conflict of interest, the Employee must immediately notify his or her supervisor and disqualify himself or herself from involvement in the Transaction until advised in writing that he or she may continue to be involved in the Transaction.

Upon the request of an Employee's supervisor, the General Counsel of the Authority may advise the supervisor whether an existing or prospective Transaction involving the Employee would create a possible conflict of interest.

Any person, who has a question as to whether a prospective personal or business Transaction or assumption of a position of responsibility or trust would be a violation of this Code of Ethics, may request in writing an advance determination on the matter from the Authority's General Counsel pursuant to Section VIII of this Code of Ethics.

This Code will be reviewed and updated as necessary with a copy distributed to each Employee.

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II. Definitions

The following definitions apply to this Code of Ethics.

- A. "Authority" means the Nassau County Interim Finance Authority.
- B. "Benefit" means any gain or advantage to, or reduction in the liabilities of, the beneficiary and includes any gain or advantage to, or reduction in the liabilities of, a third person pursuant to the desire or consent of the beneficiary.
- C. "Confidential Information" means information which is available to an Employee only because of his or her status as an Employee of the Authority and is not a matter of public knowledge.
- D. "County" means Nassau County, New York.
- E. "Dependent Child" means a son, daughter, stepson or stepdaughter of an Employee, who is either: (1) unmarried, under age 21, and is living in the household of the Employee or (2) a "dependent" of the Employee within the meaning of section 152 of the Internal Revenue Code of 1954.
- F. "Employee" means, for the purpose of this Code of Ethics, any person employed by the Authority, and any Director.
- G. "Employee's Independent Business" means, for the purposes of Section III (B) (6) of this Code of Ethics, a firm or association of which an (1) Employee, or an Employee's Spouse or Dependent Child is a member, or (2) a corporation, 10% or more of the stock of which is owned or controlled directly or indirectly by such Employee or an Employee's Spouse or Dependent Child. This definition shall exclude any employee of a governmental public entity.
- G. "Family Member" means any person living in the same household as the Employee, and any person related to the Employee within the third degree of consanguinity or affinity.
- I. "Financial Interest" means:
 - 1. Ownership of an interest, either active or passive (e.g., stock ownership), or involvement in a relationship from which or as a result of which there has been received within the past 12 months, or there is an entitlement to receive in any future year, more than \$1,000 or its equivalent;
 - 2. Ownership of an interest in a business or real property which interest (a) has a market value in excess of \$5,000, (b) reflects a 10 percent ownership of the business, or (c) in the case of an Employee or an Employee's Spouse or Dependent Child, constitutes 25 percent of the net worth of the person owning such interest, or the combined net worth of the Employee and his or her Spouse and Dependent Child. This excludes an interest in the Employee's primary personal residence. In determining the value of an interest, debts, mortgages, liens or other encumbrances thereon are to be disregarded; or

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3. Liability or indebtedness to a person or business in excess of \$5,000, excluding liabilities owed to relatives and excluding mortgages, liens or other encumbrances on or secured by real property which is the Employee's primary personal residence or furniture or appliances therein.

J. "Former Employee" means persons other than Directors who are no longer Employees of the Authority but were Employees in the time period following the effective date of this Code of Ethics.

K. "Gift" means a payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless the donor receives consideration of equal or greater value.

L. "Key Employee" means any Employee who (1) receives annual compensation in excess of the filing rate established by paragraph (1) of § 73-a of the Public Officers Law,* or (2) holds a policy-making position as determined annually by the Authority and filed with the State Ethics Commission.**

M. "Other Interest" means holding a position in a business such as an officer, director, trustee, partner, proprietor, executor, employee, or a position of management, or acting as a consultant, agent or representative therefore in any capacity.

N. "Spouse" means the married partner of an Employee (1) who has not received a decree of permanent separation from such Employee or (2) who is not living separate and apart from the reporting Employee with the intention of terminating the marriage or providing for permanent separation.

O. "Trading" means, in reference to securities, the buying and selling of securities (including bonds or notes), or the buying and selling of options, calls, puts, or any other right relating to a security.

P. "Transaction" means buying, selling, renting (as lessor or lessee), or otherwise acquiring or disposing of services, materials, supplies, equipment, or property having a value of one hundred dollars or more or an interest having a value of one hundred dollars or more in such services, materials, supplies, equipment or property; borrowing or investment of money; preparing, requisitioning, ordering, approving, advising on, administering or otherwise acting in reference to the performance of a contract having a value of one hundred dollars or more; or the promulgation of rules and regulations affecting such activities.

* **As of April 1, 2010 this level is \$88,256;**

** **A list of the Employees who hold policy making positions at the Authority is attached hereto as Appendix A.**

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III. Standards and Principles of Conduct

The following standards and principles of conduct are to be followed to assure compliance with this Code of Ethics. A breach of these standards and principles constitutes a violation of this Code of Ethics.

A. General Standards and Principles

1. An Employee shall not have any interest or incur any obligation, financial or otherwise, direct or indirect, or engage in any business or Transaction or professional activity, which is in conflict with the proper discharge of his or her duties in the public interest.

2. An Employee shall avoid any action, whether or not specifically prohibited by this Code of Ethics, which might result in or create the appearance of:

- (a) using his or her official position for private gain;
- (b) giving preferential treatment to any person, including himself or herself;
- (c) lacking independence or impartiality;
- (d) affecting adversely the confidence of the public in the integrity of the Authority; or
- (e) violating any provision of this Code of Ethics.

3. No Employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

4. An Employee shall not by his or her conduct give reasonable basis for the impression that any person may 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.

B. Specific Standards and Principles

1. No Employee shall be involved in any Transaction as representative or agent of the Authority with, or be involved in any evaluation of, any business entity in which the Employee, the Employee's Spouse or Dependent Child has a direct or indirect Financial Interest that might reasonably tend to conflict with the proper discharge of his or her official duties. Prior to becoming involved in any Transaction as representative or agent of the Authority with, or becoming involved in any evaluation of, a business entity in which the Employee, the Employee's Spouse or Dependent Child holds a Financial Interest, the Employee, the Employee's Spouse or Dependent Child must sell or transfer such Financial Interest.

2. No Employee, Employee's Spouse or Dependent Child shall acquire, except by Gift, inheritance or the dissolution of a trust, any Financial Interest in any business entity which the Employee has reason to believe may be directly involved in decisions to be made by him or her which will create conflict between his or her duty in the public interest and his or her private interest. If an Employee, an Employee's Spouse or Dependent Child receives such a Financial Interest by Gift, inheritance, operation of an automatic dividend reinvestment plan or the dissolution of a trust, the interest shall be promptly sold or transferred. If an Employee's Spouse or Dependent Child receives or retains such a Financial

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Interest in violation of the foregoing provisions, it will be deemed to be a violation by the Employee of this provision.

3. No Employee shall (1) accept employment which will impair his or her independence of judgment in the exercise of his or her official duties, including employment by Nassau County or any Covered Organization under the NIFA Act, or which involves a matter in which the Authority has a substantial interest, or (2) receive or enter into any agreement for any compensation for the appearance or rendition of services against the interest of the Authority in relation to any case, proceeding, or matter.

4. If any Employee shall have a Financial Interest, either direct or indirect, in any Transaction to which the Authority is, or is to be, a party, such interest shall be promptly disclosed in writing to the General Counsel of the Authority.

5. No Employee shall accept employment or engage in any business, which will require him or her to disclose Confidential Information which he or she has gained by reason of his or her official position or authority.

6. No Employee shall 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.

7. No Employee, Employee's Spouse or Dependent Child, or an Employee's Independent Business shall (1) sell any goods or services having a value in excess of twenty-five dollars to the Authority, or (2) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by the Authority or any of its officers, unless such goods or services are provided pursuant to an award of contract let after public notice and competitive bidding. If an Employee's Spouse or Dependent Child engages in the conduct described in the preceding sentence, it will be deemed to be a violation by the Employee of this provision.

8. (a) No Employee may take part in any hiring or employment decision relating to a Family Member. If a hiring or employment matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

(b) No Employee may take part in any contracting decision: (i) relating to a Family Member; or (ii) relating to any entity in which a Family Member is an officer, director or partner, or in which a Family Member owns or controls 10% or more of the stock of such entity. If a contracting matter arises relating to a Family Member, then the Employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

9. (a) No Employee, Employee's Spouse or Dependent Child shall, directly or indirectly, solicit, accept or receive any Gift having a value of \$75 or more, whether in the form of money, service, loan, meal payment, travel, entertainment, hospitality, thing, or promise, or in any other form, from any person or entity:

(1) which is regulated by, negotiates with, appears before on other than a ministerial matter, does business with or seeks to do business with or has contracts with the Authority (including, but not limited

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to, vendors, bidders, proposers, contractors, subcontractors or consultants), as well as anyone, whether or not a registered lobbyist, who attempts to influence the Authority's decisions; or

(2) under circumstances in which it could reasonably be inferred that the Gift was intended to influence the Employee, or could reasonably be expected to influence the Employee in the performance of the Employee's official duties, or was intended as a reward for any official action on the Employee's part.

(a) An Employee, and an Employee's Spouse or Dependent Child may not receive within a single calendar year, two or more Gifts of the type identified in paragraph (a) above, which individually are worth less than \$75 but in the aggregate equal or exceed \$75.

(b) An Employee may not solicit, accept or receive a gift of any value if to do so would constitute a substantial conflict with the proper discharge of his or her duties in the public interest.

(c) If an Employee's Spouse or Dependent Child engages in the conduct prohibited by paragraph (a) or (b) above, it will be deemed to be a violation by the Employee of such provisions.

C. Applicable New York Law

These standards do not replace and are in addition to the requirements of law, particularly Sections 73 and 74 of the New York Public Officers Law, which, among other things, govern the business activities of Authority Employees and set forth the State Code of Ethics.

Sections 73 and 74 of the Public Officers Law are incorporated by reference into this Code of Ethics.

IV Use of Material, Nonpublic and Confidential Information

It is the policy of the Authority to prohibit all Employees from (1) trading in securities (which includes municipal bonds or notes) based on material, nonpublic information derived from or relating to Authority activities and (2) disclosing confidential information to unauthorized third parties

A. Trading of Securities Based on Material, Nonpublic Information

1. Employees shall not trade in bonds or other securities issued by the Authority based on material, nonpublic information derived from any source or from disclosing such information for the purpose of allowing third parties to profit from trading in Authority securities.
2. Employees shall not trade in stocks, bonds or other securities issued by other business entities based on material, nonpublic information obtained in the course of their duties for the Authority and shall not disclose such information for the purpose of allowing others to profit from trading in securities issued by other business entities based on such information.

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Information is material if there is a substantial likelihood that a reasonable investor would consider the information important in making his or her investment decision concerning the securities in question.

Information is nonpublic if, in the case of Authority securities, it has not been publicly disseminated by the Authority. Information is nonpublic if, in the case of securities issued by other business entities, it has not been publicly disseminated by those business entities.

Disclosure or Use of Confidential Information

Employees shall not disclose confidential information obtained in the course of their duties at the Authority to any third party not authorized to receive such information and shall not profit from the use of such information.

Information is confidential if it has been expressly designated as confidential or should be treated as confidential because of the nature of, or circumstances surrounding, such information. If an Employee has a question concerning the confidential status of any information, he or she should consult with General Counsel regarding such information.

Employees who violate the provisions of this section may be subject to civil and criminal penalties under Federal and state laws, including fines and/or imprisonment. In addition, Employees who violate the provisions of this section may be subject to disciplinary action by the Authority, including termination of employment.

VI. Restrictions on Post-Employment Activities of Former Employees

The post-employment activities of persons who are Former Employees are governed by the restrictions set forth in Section 73 of the Public Officers Law, attached hereto as Appendix A.

VII. Certification of Absence of Conflict of Interest

All Employees are required to certify that they have read this Code of Ethics and that they have no conflict of interest. The Certification Form is attached hereto as Appendix E. These certifications shall be submitted to the Human Resources Department.

Any Employee who knowingly fails to complete, sign and submit the required Certification Form violates this Code of Ethics and may be subject to disciplinary action.

VIII. Requests for Interpretation, Clarification or Waiver of This Code of Ethics

A. Interpretation and Clarification

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An Employee may submit a written request to the General Counsel for an interpretation or clarification of the provisions of this Code of Ethics.

B. Waivers

An Employee may submit a written request to the Chairman of the Authority for a waiver of any restriction contained in this Code of Ethics. All waiver requests shall include a description of the nature of the restriction or prohibition for which waiver is sought; the nature of the Employee's interest involved; the effect on the Employee or the Authority of the restriction or prohibition for which the waiver is sought; and the reasons why the waiver should be granted.

IX. Remedies for Breaches of This Code of Ethics

In addition to any other remedies, civil or otherwise, which the Authority may have, an Employee or Former Employee who violates this Code of Ethics may be disciplined under this Code of Ethics. Remedies or disciplinary action may be imposed only upon the basis of a written statement of findings and recommendations by the General Counsel, and may include one or more of the following:

1. Issuance of written warnings;
2. Direction of corrective action to eliminate the conflict of interest;
3. Restitution;
4. Changes in assigned duties or suspension or termination of employment; provided, however, that only the Chairman shall impose said remedies.

A Former Employee found to have violated this Code of Ethics is subject to one or more of the following: written warnings; termination of existing Transactions involving the individual in question to the extent permitted by law; disqualification or suspension from future Transactions of the Former Employee and/or the person on whose behalf he or she is participating in Transactions with the Authority; and notification to appropriate persons that a conflict exists.

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APPENDIX A

Policy Making Positions of the Nassau County Interim Finance Authority

Executive Director

Deputy Director

General Counsel

Corporate Secretary

Treasurer

Deputy Treasurer

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APPENDIX B

Anti-Retaliation Policy

NASSAU COUNTY INTERIM FINANCE AUTHORITY (“NIFA”) ANTI-RETALIATION POLICY

A. PRELIMINARY STATEMENT

The Authority is committed to a professional working environment and the prevention of discrimination, harassment, violence, malfeasance, misconduct, wrongdoing and/or any other unethical conduct in the workplace. The Authority prohibits acts of Retaliation against any Employee or Former Employee who files a complaint, provides information or otherwise assists in an investigation regarding acts of discrimination, harassment, violence, malfeasance, misconduct, wrongdoing and/or unethical behavior in the workplace.

B. SCOPE

This policy is applicable to all Authority Employees and Former Employees, as defined below, and prohibits Retaliation against any Employee or Former Employee who exercises his/her rights under law and/or as outlined herein. This Anti-Retaliation Policy is not intended to supplant, but rather complement and supplement, existing NIFA policies.

C. DEFINITIONS

As used in this Anti-Retaliation Policy, the following terms have the following meanings:

1. “Authority” or “NIFA” means the Nassau County Interim Finance Authority.
2. “Code of Ethics and Conduct” means the “Code of Ethics of the Nassau County Interim Finance Authority” dated May 4, 2006, as the same may be amended or supplemented from time to time.
3. "Employee" means any person employed by the Authority and any Director of the Authority.
4. “Employee Handbook” means the policies, principles and procedures established for Employees of the Authority, as periodically updated.
5. “Former Employee” means any person who is no longer an Employee of the Authority.
6. “Retaliation” means acts or omissions taken in response to reports made pursuant to this policy, including but not limited to discrimination, harassment, discharge, demotion, suspension, threats and negative job references.

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D. REPORTING

Employees and Former Employees are encouraged to report, provide information or otherwise assist in the investigation of actual, potential or suspected violations of the Code of Ethics and Conduct, the Employee Handbook and/or any other applicable laws, policies or regulations governing Employee or Former Employee behavior, including this Anti-Retaliation Policy. Early reporting and intervention is encouraged in order to minimize the possibility of continued violations.

Depending on the circumstances, Employees and Former Employees may, in good faith, report alleged violations to the General Counsel, the Executive Director, the NIFA Chairman or the Finance and Internal Controls Committee (each defined as a “Reporting Entity”) either in person, via email or other form of writing. Reports of alleged violations will be kept confidential, except to the extent reasonably necessary to conduct an investigation, as set forth below. Reports may also be made anonymously; however, a lack of sufficient, specific information may adversely affect the ability to conduct a meaningful investigation of the alleged violation.

E. INVESTIGATIONS

Upon notification of an alleged violation of the law and/or the Authority’s policies and/or regulations governing Employee and Former Employee behavior, including acts of Retaliation, the Reporting Entity will promptly investigate or cause the investigation of such violation, as appropriate under the circumstances. In no event shall any person who is alleged to be involved in the alleged violation or Retaliation supervise or conduct the investigation. The investigation, which will be conducted through interviews with the reporting Employee or Former Employee and/or other Employees or Former Employees, as well as through the required production and review of relevant documentation and such other steps as are determined appropriate by the official conducting or supervising the investigation, will seek to ascertain whether such violation occurred.

Employees alleged to have violated this Anti-Retaliation Policy will be given an opportunity to be heard during the investigation process.

Upon the conclusion of an Investigation, the Reporting Entity shall review the findings of the investigation with the Executive Director (unless he is the subject of the Investigation, in which case the finding shall be discussed directly with the Chairman), and shall promptly make a recommendation to the Chairman as to what disciplinary action, if any, should be taken. Such recommendation will be communicated to the appropriate supervisor and any other affected Employees, as necessary.

The Authority will maintain a written record of each report and how it was investigated and resolved. The Authority will endeavor to maintain the confidentiality of such written record, to the extent possible and appropriate.

F. REMEDIES

Investigations of violations that are determined to be substantiated, or knowingly false reports of violations under this Anti-Retaliation Policy, will result in disciplinary action, including but not limited to issuance of written warnings, corrective action, restitution, change of employment status, training, counseling, suspension without pay, or termination.

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APPENDIX C

Certification Form

Please sign & return a copy of this Certification Form to the General Counsel.

RECEIPT FOR CERTIFICATION FORM

This is to acknowledge that I have received a copy of the Code of Ethics and understand that it contains important information on the Authority's policy and on my obligations as an employee.

I acknowledge that I have read the Code of Ethics and that it is intended to give me information about the Code of Ethics policy of the Authority.

I have read and understand the contents of the Code of Ethics. I agree to abide by the conditions specified in this policy and by other rules, practices or procedures that the Authority adopts.

Please sign and date this receipt and return it to the General Counsel.

Print Name

Dated

Signature

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Mckinney's Consolidated Laws of New York Annotated [Currentness](#)
Public Authorities Law
Chapter 43-A. Of the Consolidated Laws
[Article 10-D](#). Miscellaneous Authorities
[Title 1](#). Nassau County Interim Finance Authority

→ § 3650. Short title

This title shall be known and may be cited as the “Nassau County Interim Finance Authority Act”.

→ § 3651. Definitions

For the purposes of this title, unless the context otherwise requires:

1. “Authority” or “Nassau county interim finance authority” means the public benefit corporation created by this title.
2. “Bonds” means bonds, notes and other evidences of indebtedness, issued or incurred by the authority.
3. “Chief fiscal officer” means the chief fiscal officer of the county as defined in the county charter.
4. “Comptroller” means the comptroller of the county.
5. “Control period” means a period determined by the authority in accordance with [section thirty-six hundred sixty-nine](#) of this title.
6. “County” means the county of Nassau.
7. “County charter” means the county government law of Nassau county, as amended.
8. “County executive” means the county executive of the county.
9. “County tax revenues” means (a) that portion of tax revenues that is deducted and withheld for transfer and credit by the authority to the county of Nassau revenue anticipation note withholding fund established by the authority and (b) the balance of tax revenues transferred by the authority to the county, pursuant to [section thirty-six hundred fifty-seven](#) of this title.
10. “Covered organization” means the Nassau health care corporation, and any other governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the county, but excluding the authority and (i) any governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this title by order of the authority upon application of such agency, public authority, or corporation to the authority or at the authority's own motion upon a finding by the authority that such exemption does not materially affect the ability of the county to adopt and maintain a budget pursuant to the provisions of this title, and provided that at the time of such exemption, there shall have been and during the period of such exemption there shall be an annual audit by a nationally recognized independent certified public accounting firm or

consortium of firms, one of which shall be a nationally recognized firm, of the covered organization's financial statements performed in accordance with generally accepted auditing standards and report by such auditor thereon which includes an opinion that the financial statements so audited have been prepared in accordance with generally accepted accounting principles and such other information as such auditors deem appropriate, (ii) any state public authority as defined in [section two hundred one of the civil service law](#), unless specifically named above, or (iii) any governmental agency, authority, commission or instrumentality created by compact or agreement between the state of New York and another state or states; provided, however, that the authority may terminate any exemption granted by order of the authority pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

11. "Director of the budget" means the director of the budget of the state.

12. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to accomplish a refunding, repayment or restructuring of a portion of the county's outstanding indebtedness or that of any covered organization, (b) cash flow needs of the county, (c) tax certiorari settlements and judgments of any kind to which the county is a party, (d) appropriated capital costs of the county, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, (e) amounts necessary to finance any county deficit, to the extent authorized by state law, or (f) incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in [subdivisions seven through ten of section thirty-six hundred fifty-four](#) of this title or any underwriting or other costs incurred in connection with the financing thereof.

13. "Financial plan" means the financial plan of the county and the covered organizations to be developed pursuant to [section thirty-six hundred sixty-seven](#) of this title, as from time to time amended.

14. "Interim finance period" means the period of time from the effective date of this title until the date when (a) the authority shall determine, based on annual audit reports furnished in accordance with this title, that for each fiscal year, through and including fiscal year two thousand eight, that the county has adopted and adhered to budgets covering all expenditures the results of which did not show a major operating funds deficit when reported in accordance with generally accepted accounting principles, subject to the provisions of this title, and shall further determine that in the then current fiscal year there is a substantial likelihood that the results of the county's operations will not show a deficit in the major operating funds when so reported and (b) the chief fiscal officer shall certify that securities sold by or for the benefit of the county during the fiscal year immediately preceding such date and the then current fiscal year in the general public market satisfied the financing requirements of the county during such period and that there is a substantial likelihood that such securities can be sold in the general public market from such date through the end of the next succeeding fiscal year in amounts which will satisfy substantially all of the capital and seasonal financing requirements of the county during such period in accordance with the financial plan then in effect.

15. "Legislature" means the legislature of the county.

16. "Major operating funds" means the general fund, the police district fund, the police headquarters fund, the county parks fund and the fire prevention fund of the county, together with any other funds of the county or a covered organization from time to time designated by the authority.

17. "NCIFA assistance" means the amount of debt service savings in a given fiscal year generated from the proceeds of bonds made available to or for the benefit of the county or any covered organization as determined by the authority.

18. "Presiding officer" means the presiding officer of the legislature, elected pursuant to the rules of the legislature.

19. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the county and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of NCIFA assistance or transitional state aid expected to be available for such fiscal year.

20. "Public corporation" means and includes the county, the state and every public corporation as defined in the general construction law.

21. "Revenues" means the tax revenues and all aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority to the extent such amounts are pledged to bondholders, but in no event shall revenues include any transitional state aid.

22. "State" means the state of New York.

23. "Tax revenues" means sales and compensating use tax net collections paid or payable to the authority pursuant to [section twelve hundred sixty-one of the tax law](#).

24. "Transitional state aid" means any state aid appropriated to the authority for the benefit of the county for (a) unrestricted aid purposes and (b) the purpose of assisting the county in streamlining the tax certiorari claims process and eliminating the need to borrow for such costs.

→ § 3652. Nassau county interim finance authority

1. There is hereby created the Nassau county interim finance authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. In accordance with the provisions of this title, the authority may issue bonds only to finance costs, including the refunding of bonds issued by the authority to finance costs, and fund reserves to secure such bonds.

3. The authority shall continue until its oversight, control or other responsibilities, and its liabilities have been met or otherwise discharged. Upon the termination of the existence of the authority, all of its rights and property shall pass to and be vested in the county.

→ § 3653. Administration of the authority

1. The authority shall be administered by seven directors appointed by the governor. Of the seven directors, one each shall be appointed on the written recommendation of the majority leader of the state senate, the speaker of the state assembly and the state comptroller, respectively. Two of the members appointed directly by the governor and the members appointed on the recommendation of the majority leader of the state senate, the recommendation of the speaker of the state assembly and the recommendation of the state comptroller shall be residents of the county of Nassau. Each director shall be appointed for a term of four years, provided however, that two of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand four, and the five other directors first appointed shall serve for the following terms: the directors appointed on recommendation of the majority leader of the state senate, the speaker of the state assembly and the state comptroller shall serve for a term ending

December thirty-first, two thousand five and the two remaining directors first appointed directly by the governor shall serve for a term ending on December thirty-first, two thousand six. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

3. The directors of the authority shall serve without salary, but each director shall be reimbursed for actual necessary expenses incurred in the performance of such director's official duties as a director of the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state of New York, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a director, officer or employee of the authority, nor shall service as such director, officer or employee of the authority be deemed incompatible or in conflict with such office or employment.

5. Four directors shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. No action shall be taken by the authority except pursuant to a favorable vote of at least four directors participating in a meeting at which such action is taken.

6. The authority shall appoint a treasurer and may appoint officers and agents as it may require and prescribe their duties.

7. At least annually, commencing no more than one year after the date on which authority bonds are first issued, the authority shall report to the county executive, county legislature, the county comptroller, the director of the budget and the state comptroller on the costs financed by the authority and the amount of such financing for each such cost over the past year.

→ § 3654. General powers of the authority

Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;
2. to have a seal and alter the same at pleasure;
3. to make and alter by-laws for its organization and management and, subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;
4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any

powers and functions expressly given in this title;

5. to commence any action to protect or enforce any right conferred upon it by any law, contract or other agreement;

6. to borrow money and issue bonds, or to refund the same, and to provide for the rights of the holders of its bonds;

7. as security for the payment of the principal of and interest on any bonds issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

8. to procure insurance, letters of credit or other credit enhancement with respect to its bonds, or facilities for the payment of tenders of such bonds or facilities for the payment upon maturity of short-term notes not renewed;

9. to enter into interest rate exchange or similar arrangements with any person under such terms and conditions as the authority may determine, not inconsistent with the general laws of this state and other provisions of this title, including, without limitation, provisions as to default or early termination and indemnification by the authority or any other party thereto for loss of benefits as a result thereof; provided, however, that such exchanges or similar arrangements shall be limited to fifty percent of the amount authorized in [subdivision one of section thirty-six hundred fifty-six](#) of this article to pay the financeable costs described in paragraph (a) of [subdivision eleven of section thirty-six hundred fifty-one](#) of this article;

10. to procure insurance, letters of credit or other credit enhancement with respect to arrangements described in subdivision nine of this section;

11. to accept gifts, grants, loans or contributions of funds or financial or other aid in any form from the county, state or federal government or any agency or instrumentality thereof, or from any other source and to expend the proceeds for any of its corporate purposes in accordance with the provisions of this title;

12. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked in either of the two highest rating categories of two nationally recognized independent rating agencies, (d) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment, have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of

this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York State, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York State, as custodian.

13. to appoint such officers and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, and compensation, and to retain or employ counsel, auditors and private financial consultants and other services on a contract basis or otherwise for rendering professional, business or technical services and advice; and, in taking such actions, the authority shall consider the financial impact on the county; and

14. to do any and all things necessary or convenient to carry out its purposes and exercise the powers expressly given and granted in this title; provided, however, such authority shall under no circumstances acquire, hold or transfer title to, lease, own beneficially or otherwise, manage, operate or otherwise exercise control over any real property, any improvement to real property or any interest therein other than a lease or sublease of office space deemed necessary or desirable by the authority.

→ § 3655. Declaration of need

1. The county shall determine and declare whether it requests the authority to undertake a financing of costs. Any such request shall be made by the county executive and approved by the legislature. Any such financing shall be consistent with the adopted budget and financial plan required under [sections thirty-six hundred sixty-six](#) and [thirty-six hundred sixty-seven](#) of this title, as applicable.

2. Upon declaration by the county of such need, the county executive shall request that the authority provide financing in accordance with the provisions of this title.

3. Upon approval by the authority, in its discretion in accordance with the provisions of this title, of such financing request, the authority may enter into agreements with the county, and the county, acting by the county executive, approved by the legislature, may enter into agreements with the authority in accordance with the provisions of this title as to the financing of costs by the authority, the application of tax revenues to the authority to secure its bonds, and further assurances in respect of the authority's receipt of such revenues and the fiscal affairs of the county, including but not limited to the manner of preparation of budget reports and financial plans as provided for in [sections thirty-six hundred sixty-six](#) and [thirty-six hundred sixty-seven](#) of this title, as applicable. The authority's revenues shall not be deemed funds of the county. Any such agreements may be pledged by the authority to secure its bonds and may not be modified thereafter except as provided by the terms of the pledge.

4. Such agreements shall (a) describe the particular financeable costs to be financed in whole or in part by the authority, (b) describe the plan for the financing of the costs, (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the county, (d) where appropriate, provide for the payment of such costs by the county under such contracts as shall be awarded by the county or for the county to make a capital contribution of such proceeds as county funds to another entity for the payment or reimbursement of such costs, and (e) require every contract entered into by the county, or another entity receiving

funds from the county, for costs to be financed in whole or in part by the authority to be subject to the provisions of the county charter and other applicable laws governing contracts of the county or such entity, as the case may be. Nothing contained in this title shall relieve or modify the application to the county or any entity acting on behalf of the county or any covered organization of the requirements of law relating (i) to contracts for procurement, design, construction, services and materials, or (ii) the provisions of [section two hundred twenty of the labor law](#), or (iii) the provisions of article five-A of the general municipal law.

5. At least annually, commencing no more than one year after the date on which authority bonds are first issued, the county executive shall report to the authority, the comptroller, the legislature, the state comptroller, the chairs of the senate finance committee and the assembly ways and means committee, and the director of the budget on the costs financed by the authority and the amount of such financing over the past year, which report shall describe, by reference to the specific items in the county's budget or financial plan, its compliance therewith.

→ **§ 3656. Bonds of the authority**

1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary pursuant to [section thirty-six hundred fifty-five](#) of this title to pay any financeable costs and to fund reserves to secure such bonds, including incidental expenses in connection therewith. Provided, however, the aggregate principal amounts of such bonds issued to pay the financeable costs described in paragraph (a) of [subdivision twelve of section thirty-six hundred fifty-one](#) of this title shall not exceed four hundred fifteen million dollars, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes. Notwithstanding the foregoing limit on the amount of bonds that the authority may issue to pay the financeable costs described in paragraph (a) of [subdivision twelve of section thirty-six hundred fifty-one](#) of this title, the authority shall have the power to issue up to an additional seven hundred ninety million dollars of bonds, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purpose, to pay such costs if the county's indebtedness to be refunded, repaid or restructured with the payment of such bonds was originally incurred by the county to pay tax certiorari settlements or assignments of any kind to which the county is a party. Provided further, the aggregate principal amounts of such bonds issued to pay the financeable costs described in paragraph (c) of [subdivision twelve of section thirty-six hundred fifty-one](#) of this title, which resulted from certiorari proceedings commenced prior to June first, two thousand, shall not exceed four hundred million dollars, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes. And, provided further, the aggregate principal amounts of such bonds issued to pay the financeable county costs described in paragraph (c) of [subdivision twelve of section thirty-six hundred fifty-one](#) of this title, which resulted from certiorari proceedings commenced on or after June first, two thousand, shall not exceed four hundred million dollars in the aggregate for the fiscal years two thousand through two thousand seven, however, of said four hundred million dollars only fifteen million dollars may be issued in the fiscal year two thousand six and ten million dollars may be issued in the fiscal year two thousand seven, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes. Effective in the year two thousand six, upon request of the county, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the county is a party, not to exceed fifteen million dollars; and effective in the year two thousand seven, upon request of the county, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the county is a party, not to exceed ten million dollars. Whenever this title establishes a limit on the principal amount of bonds that the authority is authorized to issue, there shall not be counted against such limit (i) amounts determined by the authority as reasonable to be used to pay the cost of issuing such bonds, (ii) the amount of bonds that would constitute interest under the Internal Revenue Code of 1986, [\[FN1\]](#) as amended, and (iii) amounts determined by the authority as necessary to establish any reserves.

The authority shall have the power from time to time to refund any bonds of the authority by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds of the authority then outstanding and partly to pay the financeable costs pursuant to [section thirty-six hundred fifty-five](#) of this title. Bonds issued by the authority shall be payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the county, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys; but in no event shall transitional state aid be pledged as security for or be made available for the payment of bonds.

2. The authority is authorized to issue its bonds for a period ending not later than December thirty-first, two thousand seven. The authority may issue bonds to refund bonds previously issued without regard to the limitation in the first sentence of this subdivision, but in no event shall any bonds of the authority finally mature later than January thirty-first, two thousand thirty-six. Notwithstanding any other provision of law, no bond of the authority shall mature more than thirty years from the date of its issue.

3. Bonds of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law; provided, however, that the principal amount of outstanding bonds issued by the authority shall be deemed to be indebtedness of the county solely in ascertaining the amount of indebtedness the county may contract pursuant to the local finance law and the state constitution and the authority shall not exceed such limitation.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the final terms of bonds.

5. The authority in its sole discretion shall determine that the issuance of its bonds is appropriate. Bonds shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No bonds of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the state comptroller where such sale is not to the state comptroller, or (b) the director of the budget, where such sale is to the state comptroller.

6. As a condition precedent to authorizing the issuance of any bonds hereunder, the authority may include in any agreement with the county such provisions as are deemed necessary and appropriate including express provisions regarding compliance with [sections thirty-six hundred sixty-six](#) and [thirty-six hundred sixty-seven](#) of this title, as applicable.

7. Any resolution or resolutions authorizing bonds or any issue of bonds may contain provisions which may be a part of the contract with the holders of the bonds thereby authorized as to:

(a) pledging all or part of the authority's revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purposes to which the proceeds from the sale of bonds may be applied;

(d) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured

and the refunding of bonds;

(e) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;

(f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to [section thirty-six hundred sixty-four](#) of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and

(g) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

8. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements for the benefit of the bondholders as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys, including the entrusting, pledging or creation of any other security interest in any such revenues, moneys and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

9. Notwithstanding any provision of the uniform commercial code [\[FN2\]](#) to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

10. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

11. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds or other obligations of the authority shall not be a debt of either the state or the county, and neither the state nor the county shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds shall contain on the face thereof a statement to such effect.

12. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds of the authority out of any moneys available therefor, which shall thereupon be cancelled.

→ § 3657. Resources of the authority

1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived including (a) tax revenues; (b) the proceeds of bonds; and (c) any other payments, gifts or appropriations to the authority from any other source.

2. Subject to the provisions of any contract with bondholders, (a) the money of the authority shall be paid to the authority and shall not be commingled with any other money, and (b) all money received by the authority which, together with other money of the authority available for the expenses of the authority, the payment of debt service and payments to reserve funds, exceeds the amount required for such purposes, as determined by the authority, shall, subject to the provisions of subdivision six of this section and to the terms of any agreement between the authority and the county, be transferred to the county as frequently as practicable.

3. The money in any of the authority's accounts shall be paid out on checks signed by the treasurer of the authority, or by other lawful and appropriate means such as wire or electronic transfer, on requisitions of the chairperson of the authority or of such other officer as the directors shall authorize to make such requisition, or pursuant to a bond resolution or trust indenture.

4. All deposits of authority money shall be secured by obligations of the United States or of the state or of the county at a market value at least equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the other provisions of this title. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such money may be secured in the same manner as money of the authority, and all banks and trust companies are authorized to give such security for such deposits.

5. Tax revenues received by the authority pursuant to [section twelve hundred sixty-one of the tax law](#), together with any other revenues received by the authority, shall be applied in the following order of priority: first pursuant to the authority's contracts with bondholders, then to pay the authority's operating expenses not otherwise provided for, and then, subject to the authority's agreements with the county, to transfer the balance of such tax revenues not required to meet contractual or other obligations of the authority to the county as frequently as practicable.

6. (a) This subdivision shall apply only to revenue anticipation notes, including renewals thereof, issued by the county during its fiscal year ending December thirty-first, two thousand, in anticipation of the receipt of county tax revenues, and only to such issues of revenue anticipation notes as to which the certificate described in paragraph (b) of this subdivision is filed.

(b) Notwithstanding the provisions of subdivision five of this section with respect to the transfer of the balance of tax revenues to the county, prior to the delivery of each such issue of revenue anticipation notes, the chief fiscal officer of the county shall file with the authority a request that the authority establish a county of Nassau revenue anticipation note withholding fund which shall constitute a special bank account for purposes of [paragraph g of section 25.00 of the local finance law](#). Such request by such chief fiscal officer shall be accompanied by a certificate setting forth with respect to such issue (i) the principal amount, (ii) the date of issue, (iii) the maturity date, (iv) the interest rate or rates, (v) if interest shall be payable otherwise than at maturity, the date or dates for the payment thereof, (vi) the name and address of the paying agent, (vii) the name and address of each purchaser, or, if a purchaser shall be a syndicate or

similar account, the name and address of each managing underwriter of such syndicate or similar account, (viii) the amount payable on each principal payment date and interest payment date, and (ix) a schedule setting forth the total amount of county tax revenues anticipated to be received, and the expected date or dates of anticipated receipt of such county tax revenues. Such certificate shall be accompanied by a statement executed by the chief fiscal officer certifying that the amounts and times of payments of county tax revenues contained in such schedule have been estimated by the use of reasonable and appropriate data and methods of estimation, all in accordance with applicable law.

(c) All such revenue anticipation notes, in addition to a pledge of the faith and credit of the county for the payment thereof, shall contain a recital to the effect that they are entitled to the benefits of the provisions of this subdivision.

(d) Commencing on the date not less than five days prior to and on each day thereafter up to and including any principal and/or interest payment date referred to in the certificate filed by the chief fiscal officer with the authority pursuant to paragraph (b) of this subdivision, the authority shall pay to such paying agent from county tax revenues transferred and credited by the authority to the county of Nassau revenue anticipation note withholding fund as provided in paragraph (e) of this subdivision the amount required to pay in full the principal and/or interest due on such payment date as set forth in such certificate. Moneys so paid shall pass immediately from the authority and vest in such paying agent in trust for the benefit of the holders of the revenue anticipation notes to which such certificate relates. No other person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against the moneys held by such paying agent, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such other person. Such moneys shall be held by such paying agent in a separate trust account and shall be applied only to the payment of the principal and/or interest due on such revenue anticipation notes, provided, however, that the contract by and between the county and such paying agent may provide for (i) the investment by such paying agent of such moneys in direct obligations of, or in obligations guaranteed by, the United States of America, provided such obligations shall be payable or redeemable at the option of the holder within such time as the proceeds shall be needed to pay such principal and/or interest due on such revenue anticipation notes, and (ii) the use by such paying agent of such moneys for the purchase of direct obligations of, or obligations guaranteed by, the United States of America under one or more repurchase agreements with any bank or trust company having its principal office in the state of New York, provided that any such repurchase agreement shall provide for the repurchase of such obligations within such time as such moneys are needed to pay the principal and/or interest due on such revenue anticipation notes at a repurchase price at least sufficient to make the amount so invested available for the payment of principal and/or interest due on such revenue anticipation notes, and provided, further, that, at the time of such purchase, the market value of such obligations shall be at least equal to one hundred two per centum of the amount so invested. No person having any claim of any kind in tort, contract or otherwise against the county shall have any right to or claim against any moneys in anticipation of which such notes have been issued, other than a claim for payment by the holders of such notes, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such person. Notwithstanding any provision of law to the contrary, no instrument relating to any transaction authorized or contemplated by this paragraph need be filed under the provisions of the uniform commercial code.

(e) Commencing on the day when the authority determines that the principal and interest due or to come due on such outstanding revenue anticipation notes issued against such county tax revenues in accordance with the provisions of this subdivision shall equal the amount of such county tax revenues as set forth on the schedule included in the certificate filed with the authority pursuant to paragraph (b) of this subdivision remaining to be paid to the county on or prior to any principal and/or interest payment date, the authority shall deduct and withhold from the amount of such county tax revenues otherwise payable to the county an amount sufficient to pay, when due, the principal of and interest on all such revenue anticipation notes issued and then outstanding in anticipation thereof. Amounts so deducted and withheld shall be transferred and credited by the authority to the account established for such county tax revenues in the county of Nassau revenue anticipation note withholding fund established by the authority in accordance with the chief fiscal officer's request pursuant to paragraph (b) of this subdivision. The payments required to be

made by the authority pursuant to paragraph (d) of this subdivision shall be made from amounts on deposit in the accounts established for such county tax revenues in the county of Nassau revenue anticipation note withholding fund.

(f) Notwithstanding any other provision of this subdivision, at the expiration of one hundred eighty days after the maturity date of any issue of revenue anticipation notes issued in accordance with the provisions of this subdivision, the amounts held by the paying agent thereof for the payment of the principal of and interest on the notes of such issue which have not been presented for payment shall be paid over and remitted by such paying agent to the county and thereafter the holders of such notes shall look only to the county for such payment.

(g) All other provisions of the local finance law not inconsistent with the provisions of this subdivision shall continue to apply to the authorization and issuance of revenue anticipation notes by the county.

→ § 3658. Agreement with the state

The state does hereby pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

→ § 3659. Agreement with the county

The county is authorized to pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the county will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. Nothing contained in this title shall be deemed to restrict any right of the county to amend, modify or otherwise alter local laws, ordinances or resolutions imposing or relating to the taxes imposed pursuant to the authority of article twenty-nine of the tax law or other taxes or fees or appropriations related to any such taxes or fees, so long as, after giving effect to such amendment, modification or other alteration, the amount of tax revenues projected by the authority to be available during each of its fiscal years following the effective date of such amendment, modification or other alteration shall be not less than two hundred percent of maximum annual debt service on authority bonds then outstanding. Subject to the foregoing sentence, the authority shall not include in any resolution, contract or agreement with the holders of its bonds any provision which provides that a default occurs as a result of the county exercising its right to amend, modify, or otherwise alter such taxes imposed pursuant to the authority of article twenty-nine of the tax law or other taxes or fees. Nothing in this title shall be deemed to obligate the county to make additional payments or impose taxes other than those imposed pursuant to the authority of [paragraph one of subdivision \(a\) of section twelve hundred ten of the tax law](#) to satisfy the debt service obligations of the authority.

→ § 3660. Bonds legal for investment and deposit

The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

→ § 3661. Tax exemption and tax contract by the state

1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The property of the authority, its income and its operations shall be exempt from taxation, assessments, special assessments and ad valorem levies. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title, their transfer and the income therefrom shall, at all times, be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, moneys, and other property pledged to pay or to secure the payment of such bonds shall at all times be exempt from taxation.

→ § 3662. Actions against the authority

1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with [section fifty-e of the general municipal law](#), (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the

claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of [section fifty-h of the general municipal law](#).

3. The authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a director, counsel or an attorney, officer or employee thereof designated for such purpose, concerning such account or claim and when so sworn, to answer orally as to any facts relative to such account or claim. The authority shall have power to settle or adjust any claims in favor of or against the authority.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment on bonds, shall not exceed the maximum rate of interest on judgments and accrued claims against municipal authorities as provided in the general municipal law. Interest on payments of principal or interest on any bonds in default shall accrue at the rate specified in the general municipal law until paid or otherwise satisfied.

5. The venue of every action, suit or special proceeding brought against the authority shall be laid in the supreme court in the county of Nassau.

6. Neither any director of the authority nor any officer, employee, or agent of the authority, while acting within the scope of his or her authority, shall be subject to any liability resulting from exercising or carrying out any of the powers given in this title.

7. Indemnification. (a) The state shall save harmless and indemnify directors, officers and employees of and representatives to the authority, all of whom shall be deemed officers and employees of the state for purposes of [section seventeen of the public officers law](#), against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of his or her duties and within the scope of his or her service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of or representative to the authority shall be saved harmless and indemnified, notwithstanding the limitations of [subdivision one of section seventeen of the public officers law](#), unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which he or she reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that his or her conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of or representative to the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant

any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by [section seventeen of the public officers law](#), by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

→ § 3663. Audits

1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the county executive, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

2. For each fiscal year during the existence of the authority, and within one hundred twenty days after the close of the county's fiscal year, the county shall submit its audited financial statements to the authority.

→ § 3664. Remedies of bondholders

Subject to any resolution or resolutions adopted pursuant to [paragraph \(f\) of subdivision seven of section thirty-six hundred fifty-six](#) of this title:

1. In the event that the authority shall default in the payment of principal of or interest on any issue of bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or shall default in any agreement made with the holders of any issue of bonds, the holders of at least twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purpose provided in this section.

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds outstanding shall, in his or her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds; and

(d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds.

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of

the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders.

→ § 3665. Assistance to the authority; employees of the authority

1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

2. Officers and employees of state or county agencies may be transferred to the authority without examination and without loss of any civil service or retirement status or rights. Any officer or employee of the authority who heretofore acquired or shall hereafter acquire such position status by transfer and who at the time of such transfer was a member of the New York state and local employees' retirement system shall continue to be a member of such system as long as he or she continues in such service, and shall continue to have all the rights, privileges and obligations of membership in such system.

→ § 3666. 2000 fiscal year budget modification

1. The control period as set forth in [section thirty-six hundred sixty-nine](#) of this title shall be instituted on June thirtieth, two thousand, unless prior to such date (a) the county executive, after approval by the legislature, shall have submitted to the authority a modification to the county's budget for the 2000 fiscal year, as in effect on May tenth, two thousand; and (b) the authority shall have determined that such modification when implemented will ensure a reduction of the projected gap, through recurring or nonrecurring actions, for the 2000 fiscal year and, together with any budget modifications prior to May tenth, two thousand, through recurring actions, for the three next succeeding fiscal years, in an amount not less than fifty million dollars per year.

2. In order that such budget modification be effective on or before June thirtieth, two thousand, the county executive shall within seven days following the effective date of this title [\[FN1\]](#) submit a proposed modification to the legislature. Within seven days thereafter, the legislature shall approve such modification or a substitute modification. Upon approval by the legislature, the county executive shall submit such modification to the authority. Not later than ten days after such budget modification shall have been submitted to the authority, the authority shall approve or disapprove such modification, provided that the authority may approve such modification only upon its determination that such modification when implemented will ensure such reduction of the projected gap for each fiscal year as required by subdivision one of this section.

3. In the event the authority shall disapprove such budget modification based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the county executive of its reasons. The county executive shall thereafter, after approval by the legislature, resubmit a budget modification, based on actions or assumptions other than those that have been disapproved by the authority, for consideration by the authority and in sufficient time for the authority to have a seven day review period prior to June thirtieth, two thousand.

→ § 3667. County financial plans

1. The county executive shall prepare and submit to the authority a four-year financial plan, initially for the fiscal years ending December thirty-first, two thousand one through two thousand four, together with the proposed budget for the fiscal year ending on December thirty-first, two thousand one, not later than the date required for submission of such budget to the legislature pursuant to the county charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending December thirty-first, two thousand one through two thousand seven, such plan may assume (a) borrowings by the county or the authority to finance tax certiorari judgments or settlements in annual amounts not exceeding one hundred million dollars, or, in the aggregate for all such years, four hundred million dollars; however, of said four hundred million dollars, no more than fifteen million dollars may be counted as operating revenue in the fiscal year two thousand six and no more than ten million dollars may be counted as operating revenue in fiscal year two thousand seven, and (b) receipt by the county of NCIFA assistance and transitional state aid in the following collective amounts for each respective fiscal year:

Amount	Fiscal Year
2001 amount	2001
2002 amount	2002
2003 amount	2003
2004 amount	2004.

The one hundred million dollars annual limit on assumed tax certiorari borrowings may be waived by the authority respecting any fiscal year, upon its determination that the results of any increased and accelerated settlement or litigation efforts by the county justify such waiver.

As used in this subdivision:

“2001 amount” means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between thirty-five per centum (35%) and forty per centum (40%) of the projected gap.

“2002 amount” means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between forty-five per centum (45%) and fifty per centum (50%) of the projected gap.

“2003 amount” means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between sixty per centum (60%) and sixty-five per centum (65%) of the projected gap.

“2004 amount” means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the county has taken recurring actions to close between eighty per centum (80%) and eighty-five per centum (85%) of the projected gap.

2. Pursuant to the procedures contained in this subdivision, each year during the interim finance period or during a

control period the county shall develop, and may from time to time modify, taking into account recommendations of the authority, a four year financial plan covering the county and the covered organizations. Each such financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the county will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and approved, and may from time to time be modified, in accordance with the following procedures:

(a) The county executive shall prepare and submit to the authority and the legislature a revised financial plan to the authority covering the four year period beginning with the ensuing fiscal year, together with the proposed budget for the ensuing fiscal year, not later than the date required for submission of such budget pursuant to the county charter. On such dates, the county executive shall also submit to the authority a certificate stating that such budget is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of [section thirty-six hundred sixty-six](#) and this section and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

(c) Upon the approval by the county of a budget in accordance with the provisions of the county charter and approval of the financial plan by the legislature, the county executive shall submit such approved budget and financial plan to the authority accompanied by expenditure, revenue and cash flow projections on a quarterly basis and certify to the authority that such budget is consistent with the financial plan to be submitted to the authority.

(d) If the authority determines that the financial plan or financial plan modification provided pursuant to paragraphs (c) or (f) of this subdivision is complete and complies with the standards set forth in this subdivision, the authority shall make a certification to the county setting forth revenue estimates agreed to by the authority in accordance with such determination.

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraphs (c) or (f) of this subdivision, provide notice thereof to the county executive, the legislature and the comptroller, with copies to the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee, if, in the judgment of the authority, such plan:

(i) is incomplete;

(ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation;

(iii) fails to provide that operations of the county and the covered organizations will be conducted within the cash resources available according to the authority's revenue estimates; or

(iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the county and the covered organizations and the county executive shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the county or a covered

organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the county or covered organization prior to the expiration of the fiscal year, the county executive shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the county fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding.

(h) The county shall amend its budget or shall submit a financial plan modification for the approval of the authority such that the county's budget and the approved financial plan shall be consistent. In no event shall the county operate under a budget that is inconsistent with an approved financial plan.

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the authority may specify, and shall include the county and all the covered organizations, and shall, in such detail as the authority from time to time may prescribe, include (a) statements of all estimated revenues and of all expenditures and cash flow projections of the county and each of the covered organizations, (b) a report on the status of efforts to reform and streamline the tax certiorari claims process and eliminate the need in each year of the plan for the county to borrow to finance such claims or judgments, including an accounting of the expenditure of any transitional state aid for such purposes, and (c) an accounting of the expenditure of any remaining transitional state aid available to the county for each year of the plan.

4. The financial plan shall include any information which the authority may request to satisfy itself that (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan, (b) the county and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period, and (d) the county has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the county, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the county executive shall prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget rather than individual line items and updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with variances and their explanation. All quarterly reports shall be accompanied by recommendations from the county executive to the legislature setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the legislature, the authority, the director of the budget and the state comptroller. Except during a control period, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the county executive shall submit a proposed budget or revision thereto to the authority concurrent with submission to the legislature, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the county executive to the authority pursuant to the provisions of this section, the covered organizations shall submit to the county such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such

financial plan or modification as the county executive shall determine. Notwithstanding any other provision of law limiting the authority of the county with respect to any covered organization, the county, in the preparation and submission of the financial plan and modifications thereof, shall (except for debt service or for other expenditures to the extent that such expenditures are required by law) have the power to determine the aggregate expenditures to be allocated to any covered organization in the financial plan and any modifications thereto.

6. The authority and the county shall confer concerning the projected effect on the budgets of the county and the covered organizations of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the county and the covered organizations, made or to be implemented after the effective date of this title. If the authority determines that immediate compliance with such change will have a material effect on such budgets over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services by the county, the authority may authorize and approve a method of phasing the requirements of such change into such budgets over such reasonably expeditious time period as the authority deems appropriate.

→ § 3668. Monitoring and review

Except as otherwise provided in [section thirty-six hundred sixty-nine](#) of this title, the authority shall:

1. conduct meetings at least annually;
2. obtain from the county all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title;
3. recommend to the county and the covered organizations such measures relating to their operation, management, efficiency and productivity as the authority deems appropriate to reduce costs and improve services so as to advance the purposes of this title;
4. consult with the county in the preparation of the budget of the county;
5. with respect to any county borrowing proposed to be issued after July first, two thousand, review the terms of and comment, within thirty days after notification by the county of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the county and no such borrowing shall be made unless first reviewed and commented upon by the authority. The authority shall provide such comments within thirty days after notification by the county of a proposed borrowing to the county executive, the comptroller, the legislature, the director of the budget and the state comptroller;
6. determine whether to make transitional state aid available, and on what schedule, based upon the county's compliance with the requirements of [sections thirty-six hundred sixty-six](#) and [thirty-six hundred sixty-seven](#) of this title, as applicable, and the requirements, if any, of the appropriations bills authorizing such transitional state aid; and
7. perform such audits and reviews of the county and any agency thereof and any covered organizations as it deems necessary.

→ § 3669. Control period

1. The authority shall impose a control period upon its determination at any time that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the county shall have failed to pay the principal of or interest on any of its bonds or notes when due or payable, (b) the county shall have incurred a major operating funds deficit of one percent or more in the aggregate results of operations of such funds during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title, (c) the county shall have otherwise violated any provision of this title and such violation substantially impairs the marketability of the county's bonds or notes, (d) the chief fiscal officer's certification at any time, at the request of the authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time such officer could not make the certification described by paragraph (b) of this subdivision in the definition of interim finance period in [section thirty-six hundred fifty-one](#) of this title, or (e) the authority makes the finding required under [paragraph \(g\) of subdivision two of section thirty-six hundred sixty-seven](#) of this title. The authority shall terminate any such control period when it determines that none of the conditions which would permit the authority to impose a control period exist. After termination of a control period the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the chief fiscal officer hereunder shall be based on such officers' [\[FN1\]](#) written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond the later of (i) January first, two thousand thirty, or (ii) the date when all bonds of the authority are refunded, discharged or otherwise defeased.

2. In carrying out the purposes of this title during any control period:

(a) The authority shall (i) consult with the county and the covered organizations in the preparation of the financial plan, and certify to the county the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including but not limited to the revenue estimates contained therein, and (iv) in the event the authority has made the finding required under [section thirty-six hundred sixty-seven](#) of this title, formulate and adopt its modifications to the financial plan, such modifications to become effective on their adoption by the authority.

(b) The authority shall, from time to time and to the extent it deems necessary or desirable in order to accomplish the purposes of this title, (i) review the operations, management, efficiency and productivity of such county operations and of such covered organizations or portions thereof as the authority may determine, and make reports thereon; (ii) audit compliance with the financial plan in such areas as the authority may determine; (iii) recommend to the county and the covered organizations such measures relating to their operations, management, efficiency and productivity as it deems appropriate to reduce costs and improve services so as to advance the purposes of this title; and (iv) obtain information on the financial condition and needs of the county and the covered organizations. Nothing herein shall diminish the powers of the state comptroller otherwise provided by law and the authority may request the assistance of the state comptroller in the performance of the above functions.

(c) The authority shall (i) receive from the county and the covered organizations and from the state comptroller, and review, such financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title, and (ii) inspect, copy and audit such books and records of the county and the covered organizations as the authority deems necessary or

desirable to accomplish the purposes of this title.

(d) All contracts entered into by the county or any covered organization during any control period must be consistent with the provisions of this title and must comply with the requirements of the financial plan as approved by the authority. With respect to all contracts or other obligations to be entered into by the county or any covered organization during any control period requiring the payment of funds or the incurring of costs by the county or any covered organizations:

(i) Within twenty days from the commencement of a control period, the county executive shall present to the authority proposed guidelines respecting the categories and types of contracts and other obligations required to be reviewed by the authority pursuant to this subdivision. Any such guidelines may provide a different standard for review with respect to contracts of any covered organization as the authority shall determine. Within thirty days from the commencement of a control period, the authority shall approve or modify and approve such proposed guidelines or promulgate its own in the event that such proposed guidelines are not submitted to it within the twenty days as provided for herein. Such guidelines may thereafter be modified by the authority from time to time on not less than thirty days' notice to the county executive and the county executive may from time to time propose modifications to the authority. Unless expressly disapproved or modified by the authority within thirty days (or such additional time, not exceeding thirty days, as the authority shall have notified the county or covered organization that it requires to complete its review and analysis) from the date of submission by the county executive, any such proposed guidelines or modifications shall be deemed approved by the authority;

(ii) Prior to entering into any contract or other obligation subject to review of the authority under its guidelines, the county or any covered organization shall submit a copy of such contract or other obligation to the authority accompanied by an analysis of the projected costs of such contract or other obligation and certification that performance thereof will be in accordance with the financial plan, all in such form and with such additional information as the authority may prescribe. The authority shall promptly review the terms of such contract or other obligation and the supporting information in order to determine compliance with the financial plan;

(iii) The authority shall, by order, disapprove any contract or other obligation reviewed by it only after adoption of a resolution determining that, in its judgment, the performance of such contract or other obligation would be inconsistent with the financial plan, and upon such order the county or covered organization shall not enter into such contract or other obligation; and

(iv) If the authority approves the terms of a reviewed contract or other obligation, the county or covered organization may enter into such contract or other obligation upon the terms submitted to the authority. Failure of the authority to notify the county or covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority shall have notified the county or covered organization that it requires to complete its review and analysis) after submission to it of a contract or other obligation that such contract or other obligation has been disapproved shall be deemed to constitute authority approval thereof.

(e) The authority shall review the terms of each proposed long-term and short-term borrowing by the county and any covered organization to be effected during any control period, and no such borrowing shall be made during any control period unless it is approved by the authority. Neither the county nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes.

(f) The authority shall issue, to the appropriate official of the county and each covered organization, such orders as it deems necessary to accomplish the purposes of this title, including, but not limited to, timely and satisfactory implementation of an approved financial plan. Any order so issued shall be binding upon the official to whom it was

issued and failure to comply with such order shall subject the official to the penalties described in subdivision four of this section.

(g) The authority is authorized to and shall withhold any transitional state aid and not pay such moneys to the county during any control period.

3. Authorization for wage freeze. (a) During a control period, upon a finding by the authority that a wage freeze is essential to the adoption or maintenance of a county budget or a financial plan that is in compliance with this title, the authority, after enactment of a resolution so finding, may declare a fiscal crisis. Upon making such a declaration, the authority shall be empowered to order that all increases in salary or wages of employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the county and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any suspended other payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable. The suspensions authorized hereunder shall continue until one year after the date of the order and, to the extent of any determination of the authority that a continuation of such suspensions, to a date specified by the authority, is necessary in order to achieve the objectives of the financial plan, such suspensions shall be continued to the date specified by the authority, which date shall in no event be later than the end of the interim finance period, provided that such suspensions shall terminate with respect to employees who have agreed to a deferral of salary or wage increase upon the certification of the agreement by the authority pursuant to paragraph (b) of this subdivision.

(b) This subdivision shall not be applicable to employees of the county or employees of a covered organization covered by a collective bargaining agreement or an employee of the county or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the county. Any such agreement to a deferment of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable.

(c) The authority may, if it finds that the fiscal crisis has been sufficiently alleviated or for any other appropriate reason, direct that the suspensions of salary or wage increases or suspensions of other increased payments or benefits shall, in whole or in part, be terminated.

4. Prohibition; penalties. (a) During any control period (i) no officer or employee of the county or of any of the covered organizations shall make or authorize an obligation or other liability in excess of the amount available therefor under the financial plan as then in effect; (ii) no officer or employee of the county or of any of the covered organizations shall involve the county or any of the covered organizations in any contract or other obligation or liability for the payment of money for any purpose required to be approved by the authority unless such contract has been so approved and unless such contract or obligation or liability is in compliance with the financial plan as then in effect.

(b) No officer or employee of the county or any of the covered organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present

or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employees of the county or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the county executive; and any officer or employees of the county or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

(d) In the case of a violation of paragraph (a) or (b) of this subdivision by an officer or employee of the county or any of the covered organizations, the county executive or the chief executive officer of such covered organization shall immediately report to the authority all pertinent facts together with a statement of the action taken thereon.

→ **§ 3670. Miscellaneous provisions**

1. Notwithstanding anything to the contrary in title six-A of article two of the local finance law, neither the county nor any covered organization shall file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the county or a covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the county or covered organization that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval thereof.

2. Nothing contained in this title shall limit the right of the county or any covered organization to comply with the provisions of any existing contract within or for the benefit of the holders of any bonds or notes of the county or such covered organization.

3. Nothing contained in this title shall be construed to limit the power of the county or a covered organization during any interim finance period to determine, from time to time, within available funds for the county or for such covered organization, the purposes for which expenditures are to be made by the county or such covered organization and the amounts of such expenditures, consistent with the aggregate expenditures then permitted under the financial plan for the county or such covered organization.

4. The authority's fiscal year shall be January first through December thirty-first.

5. Nothing contained in this title shall alter or modify the right of any town, city or village within the county regarding funding assistance due from the county as authorized pursuant to [section twelve hundred sixty-two-e of the tax law](#).

6. The authority shall adopt guidelines for procurement contracts in accordance with [section twenty-eight hundred seventy-nine](#) of this chapter.

→ § 3671. Effect of inconsistent provisions

Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

→ § 3672. Separability; construction

If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

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NASSAU COUNTY INTERIM FINANCE AUTHORITY

BY-LAWS

Adopted June 28, 2000
Amended April 20, 2011

ARTICLE I

THE AUTHORITY

SECTION 1. The Authority. The Nassau County Interim Finance Authority (“the Authority”) is a corporate governmental agency constituting a public benefit corporation.

SECTION 2. Acts of the Authority. All acts, agreements and documents of the Corporation shall be performed or executed in the name of the Authority by a Director or other duly authorized officer of the Authority.

SECTION 3. Certification of Instruments. Each Director or other duly authorized officer of the Authority shall have the authority, when necessary or appropriate, to certify the records, proceedings, rules and regulations and other instruments of the Authority and to affix and attest to the official seal of the Authority on contracts and other instruments of the Authority.

SECTION 4. Administration. The powers, organization and administration of the Authority shall be in accordance with the provisions of the Nassau County Interim Finance Authority Act, other applicable laws and these By-Laws.

SECTION 5. Fiscal year. The fiscal year of the Authority shall begin January 1 and end the following December 31.

SECTION 6. Seal of the Authority. The official seal of the Authority shall be in such form as may be determined, from time to time, by the resolution of the Directors of the Authority. No document properly executed by a Director or other duly authorized officer or employee of the Authority on behalf of the Authority shall be required to be sealed to be binding and effective. The seal on any corporate obligation for the payment of money may be a facsimile.

SECTION 7. Offices. The principal office and place of business of the Authority shall temporarily be located in the city of Albany, State of New York. The Authority

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may also have other offices at such other places within the State of New York as may be deemed necessary by the Directors of the Authority.

ARTICLE II DIRECTORS

SECTION 1. Directors. The business and affairs of the Authority shall be managed by the Directors of the Authority who shall be selected and shall hold office as provided in the Nassau County Interim Finance Authority Act.

SECTION 2. Compensation of Directors. The Directors of the Authority shall serve without salary, but each Director shall be reimbursed for actual necessary expenses incurred in the performance of such Director's official duties as a Director of the Authority.

SECTION 3. Chairperson and Vice-Chairperson. The Governor shall designate a Chairperson and a Vice-Chairperson from among the Directors. The Chairperson shall preside over all meetings of the Directors and shall have such other duties as the Directors of the Corporation may direct. The Vice-Chairperson shall preside over all meetings of the Directors in the absence of the Chairperson and shall have such other duties as the Directors of the Authority may prescribe; except that if in such event that the office of the Vice-Chairperson is vacant or the Vice-Chairperson is absent or disabled, the Authority shall choose, from among those Directors present, a presiding officer to preside at such meeting.

SECTION 4. Appointment and Delegation. The Directors of the Authority shall appoint a Treasurer and may appoint such officers, employees and other agents of the Authority as are deemed necessary to effectuate the purposes of the Authority and may delegate to such officers, employees and agents such powers and duties as the Directors may deem proper and in accordance with the above goal.

ARTICLE III MEETINGS OF THE AUTHORITY

SECTION 1. Annual Meeting. The Annual Meeting of the Authority shall be held on such date as shall be agreed upon by the Directors and shall be designated in the notice of such meeting.

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SECTION 2. Regular Meetings. The Directors of the Authority may establish a schedule of regular meetings to be held, within the State of New York, between the annual meetings.

SECTION 3. Special Meetings. Special Meetings may be called by the Chairperson, whenever she/he deems it expedient, and shall be called by the Chairperson upon the request of the majority of the Directors of the Authority.

SECTION 4. Notice. Three days notice shall be given to each Director prior to any meeting of the Authority.

SECTION 5. Waiver of Notice. Notice of any meeting of the Authority need not be given to any Director if waived in writing by him/her either before or after such meeting, or if he/she shall be present at such meeting. No notice need be given of any meeting if all the Directors then in office shall be present thereat. Notice of an adjourned meeting need not be given to any Director present at the time of the adjournment. Neither the business to be transacted at, nor the purpose of, any meeting of the Authority need be specified in any notice of written waiver of notice unless so required by these By-Laws.

SECTION 6. Quorum and Exercise of Powers. In accordance with Section 3653, subdivision 5 of the NIFA Act, four Directors shall constitute a quorum for the transaction of any business and no action shall be taken by the Authority except pursuant to a favorable vote of at least four Directors participating in a meeting which such action is taken.

SECTION 7. Meetings by Video Conference. In accordance with Section 104, subdivision 4 of the Public Officers Law, if videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.

SECTION 8. Procedure. The order of business and all other matters of procedure at each meeting of the Authority may be determined by the presiding officer.

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ARTICLE IV COMMITTEES

SECTION 1. Committees. The Authority may create one or more committees of the Authority, which committees shall exercise the powers and perform such duties as the Authority may determine.

ARTICLE V INDEMNIFICATION

SECTION 1. Indemnification of Officers, Directors and Employees. The Authority shall indemnify and hold harmless all Directors, officers and employees of the Authority in the same manner as State employees are indemnified in their official actions and to the full extent permitted by law, as the same may exist at the time such person may become entitled to indemnification by the Authority.

ARTICLE VI AMENDMENTS

SECTION 1. Amendments. These By-Laws may be amended by resolution duly adopted at any meeting, provided that notice of intention to present such resolution shall have been given in advance of the meeting at which the motion to adopt such resolution is made. Such notice shall have appended thereto the complete, written text of the By-Laws being proposed. Approval of amended By-Laws requires affirmative vote of at least four of the Directors..

ARTICLE VII SUSPENSION OF BY-LAWS

SECTION 1. Suspension of By-Laws. By affirmative vote of at least four Directors, the provisions of any or all of these By-Laws, except as may be otherwise provided by law, may be temporarily suspended.