

## DEPOSITS AND INVESTMENTS OF AGENCY FUNDS

SECTION 401. PURPOSE AND AUTHORITY. (A) Agency Funds. The purpose of this Part is to implement Section 858-a(3) of Title One of Article 18-A of the General Municipal Law (the “Act”), which provides that the provisions of Sections 10 and 11 of the General Municipal Law shall be applicable to deposits and investments made by Albany County Industrial Development Agency (the “Agency”) of funds for the use and account of the Agency (“Agency Funds”).

(B) Non-Agency Funds. The provisions of this Part 4 shall not apply to funds derived from the sale of bonds, notes or other obligations issued to fund a particular project for the benefit of a particular applicant, or any other funds of the Agency which are not Agency Funds.

SECTION 402. DEPOSITS OF AGENCY FUNDS. (A) Designation of Depositories. The Agency shall by resolution or resolutions of the members of the Agency designate one or more banks or trust companies (each, a “Depository”) for the deposit of Agency Funds received by the treasurer or any other officer of the Agency authorized by law or the by-laws of the Agency to make deposits. Such resolution or resolutions shall specify the maximum amount that may be kept on deposit at any time in each Depository. Such designations and amounts may be changed at any time by a further resolution of the members of the Agency.

(B) Security. All Agency Funds in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereinafter amended shall be secured in accordance with the provisions of Section 10(3) of the General Municipal Law. Generally, Section 10(3) of the General Municipal Law provides that Agency Funds may be secured by (1) a pledge of “eligible securities” (as defined in Section 10(1) of the General Municipal Law), together with a security agreement and custodial agreement meeting the requirements of Section 10(3)(a) of the General Municipal Law, or (2) an “eligible surety bond” or an “eligible letter of credit” (as such quoted terms are defined in Section 10(1) of the General Municipal Law) securing 100% of such Agency Funds.

SECTION 403. INVESTMENTS OF AGENCY FUNDS. (A) Investment Policy. It is the general policy of the Agency that Agency Funds not required for immediate expenditure shall be invested as described in subsection (C) below. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

(B) Designation of Investment Officers. The treasurer and any other officer or employee of the Agency so authorized by the by-laws of the Agency or by resolution of the members of the Agency (each, an “Investment Officer”) are authorized to temporarily invest Agency Funds not required for immediate expenditure. Any designation of an Investment Officer made by resolutions of the members of the Agency may be changed at any time by a further resolution of the members of the Agency.

(C) Types of Investments. Except as otherwise provided by resolution of the

members of the Agency, an Investment Officer may invest Agency Funds in any obligation described in Section 11(2) and Section 11(3) of the General Municipal Law. Generally, Sections 11(2) and 11(3) of the General Municipal Law permit the following types of investments:

(1) special time deposits in, or certificates of deposit issued by, any bank or trust company located and authorized to do business in the State of New York, provided that such deposit account or certificate of deposit is secured in the same manner as is provided for securing deposits of Agency Funds by Section 10(3) of the General Municipal Law;

(2) obligations of, or obligations where the payment of principal and interest are guaranteed by, the United States of America;

(3) obligations of the State of New York; and

(4) with the approval of the State Comptroller, tax anticipation notes and revenue anticipation notes issued by any municipality or school district or district corporation organized under the laws of the State of New York.

(D) Custodians. The Agency may, by resolution of the members of the Agency, authorize the Investment Officers to turn over the physical safekeeping and evidences of the investments made pursuant to subsection (C) of this Section (“Agency Investments”) to any entity authorized pursuant to Section 11(4) of the General Municipal Law to act as a custodian of Agency Investments, but only upon compliance with the requirements of Section 11(4) of the General Municipal Law. Generally, Section 11(4) of the General Municipal Law allows the following types of entities to act as custodians of Agency Investments:

(1) any bank or trust company incorporated in the State of New York;

(2) any national bank located in the State of New York; and

(3) any private banker duly authorized by the New York State Superintendent of Banks to engage in business in New York State which maintains a permanent capital of not less than one million dollars in New York State.

(E) Commingling. Any Agency Funds invested pursuant to this Section may be commingled for investment purposes upon compliance with the requirements of Section 11(6) of the General Municipal Law. Generally, Section 11(6) of the General Municipal Law allows commingling of Agency Investments so long as (1) such investment is payable or redeemable at the option of the Agency within such time as the proceeds are needed by the Agency, (2) the separate identity of such funds are maintained at all times, and (3) income received on such commingled monies is credited on a pro rata basis to the fund or account from which the monies were invested.

(F) Proper Records. The treasurer of the Agency shall maintain (or cause the Investment Officers to maintain) a proper record of all books, notes, securities or other evidences

of indebtedness held by or for the Agency for purposes of investment. Such record shall at least (where applicable) (1) identify the security, (2) the fund for which held, (3) the place where kept, (4) the date of sale or other disposition, and (5) the amount received from such sale or other disposition.

(G) Sample Resolution. Attached hereto as Appendix 4A is a sample form of resolution naming Depositories and Investment Officers pursuant to this Part and restricting the types of investments in which an Investment Officer may invest Agency Funds.

SECTION 404. INTERNAL CONTROLS. (A) Periodic Reviews. To the maximum extent possible, the treasurer of the Agency shall prepare and submit to the members of the Agency at each regular meeting of the Agency (but not more often than monthly), a summary showing the amount of Agency Funds on deposit in each Depository and the general nature of the investment of such Agency Funds.

(B) Annual Report. Within thirty (30) days of the end of each fiscal year, the treasurer of the Agency shall prepare and submit to the members of the Agency an annual investment report (the “Annual Investment Report”) showing the deposits and investments of Agency Funds as of the beginning of such fiscal year, a summary of the changes in such amounts during such fiscal year, a summary of the earnings thereon during such fiscal year, and the balance thereof as of the end of such fiscal year.

(C) Annual Audit. The Annual Investment Report shall be audited by the Agency’s independent certified public accountant as part of the Agency’s annual general audit required pursuant to Section 859 of the Act.

(D) Annual Review. The members of the Agency shall review the Annual Investment Report and the annual audit and this Part, and shall make any amendments to this Part necessary to achieve the purposes of this Part.

APPENDIX A

SAMPLE RESOLUTION NAMING DEPOSITORIES  
AND INVESTMENT OFFICERS  
AND RESTRICTING TYPES OF INVESTMENTS  
RESOLUTION NAMING DEPOSITORIES  
AND INVESTMENT OFFICERS  
AND RESTRICTING TYPES OF INVESTMENTS

WHEREAS, Albany County Industrial Development Agency (the “Agency”) is a public benefit corporation of the State of New York duly established pursuant to Title One of Article 18-A of the General Municipal Law of the State of New York (the “Enabling Act”) and Chapter 178 of the 1975 Laws of the State of New York, as amended (collectively with the Enabling Act, the “Act”); and

WHEREAS, pursuant to Section 858-a(3) of the Act, the provisions of Section 10 and Section 11 of the General Municipal Law apply to the deposit and investment of funds for the Agency’s own use and account (“Agency Funds”); and

WHEREAS, Part 4 of the Rules and Regulations of the Agency, constituting a policy regarding the deposit and investment of Agency Funds (the “Deposit and Investment Policy”), was adopted by the members of the Agency on \_\_\_\_\_; and

WHEREAS, the members of the Agency now desire to determine certain matters required to be determined pursuant to the Deposit and Investment Policy;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ALBANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

SECTION 1. Pursuant to the Deposit and Investment Policy, the Agency hereby (A) designates the following banks and/or trust companies as depositories (each, a “Depository”) for the deposit of Agency Funds received by the Agency, and (B) determines that the maximum amount that may be kept on deposit in each such depository is the amount set forth opposite the name of such depository in the following table:

<u>INSTITUTION</u>	<u>MAXIMUM AMOUNT TO BE ON DEPOSIT</u>
_____	\$ _____
_____	\$ _____

SECTION 2. Pursuant to the Deposit and Investment Policy, the following officers of the Agency (each, an “Investment Officer”) are authorized to temporarily invest Agency Funds not required for immediate expenditure:

<u>NAME</u>	<u>OFFICE</u>
_____	_____
_____	_____
_____	_____

SECTION 3. Unless otherwise determined by resolution of the members of the Agency, Agency Funds shall be kept in insured certificates of deposit, insured money market accounts or other accounts of a Depository which are insured by the Federal Deposit Insurance Corporation, and no Agency Funds shall be deposited in an account if such deposit would cause such account to exceed the maximum insured limit.

SECTION 4. This resolution shall take effect immediately, and shall remain in effect, as modified, amended, supplemented by subsequent resolutions of the members of the Agency, until the same may be rescinded by subsequent resolutions of the members of the Agency.