



# POLICY MANUAL

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*Livingston County Capital Resource Corporation*

*Updated March 1, 2019*

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# **Livingston County Capital Resource Corporation Policy Manual**

## **Introduction**

The effective date of all policies described in this manual is March 2, 2018. If a policy is added or amended subsequent to this date, the effective date of the new/amended policy will be indicated immediately following the policy heading.

The Livingston County Capital Resource Corporation shall review the policies and procedures herein not later than the date the annual meeting is held, and each year thereafter.

Amendments to these policies and procedures may be made at any time during the year.

Statutes cited throughout this manual are subject to revision from time to time. To the extent that revisions cause this manual to be inconsistent with the statutes, the statutes, as amended, shall control.

The unintentional failure to fully comply with the provisions of the policies and procedures set forth herein shall not be grounds to void action taken or give rise to a cause of action against the Livingston County Capital Resource Corporation, its Members, or any officer or employee of the Livingston County Capital Resource Corporation.



**Livingston County Capital Resource Corporation  
Policy Manual**

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# Livingston County Capital Resource Corporation By-Laws

## Article I The Corporation

**Section 1. Name.** The name of the Corporation shall be as provided in its Certificate of Incorporation and is currently the Livingston County Capital Resource Corporation.

**Section 2. Seal.** The Corporation's seal shall be in the form of a circle and shall bear the name of the Corporation and the year of its organization.

**Section 3. Office.** The office of the Corporation shall be located at Geneseo, New York, or such other address as the Corporation may designate, from time to time, by resolution.

## Article II Member

The County of Livingston (the "County") acting through its Board of Supervisors shall be the sole Member of the Corporation.

## Article III Board

**Section 1. Power of the Board and Qualification of Directors.** The Corporation shall be overseen and governed by its Board who shall exercise oversight and control over the officers and staff of the Corporation. Each Director shall be at least eighteen years of age. The Board shall have all powers conferred on Boards of public benefit corporations and local public authorities pursuant to New York State law, including, without limitation, Public Authorities Accountability Act of 2005, as amended (the "PAAA"), and any other New York State Law that is applicable to the Corporation.

**Section 2. Number of Directors and Term of Office.**

- a. The Board shall consist of not less than three (3) nor more than seven (7) Directors, all of whom shall be appointed by the Member. Each Director shall serve at the pleasure of the Member and shall continue to hold office until his or her successor is appointed and qualified. As used in this Article III, "entire Board" means the total number of Directors entitled to vote which the Corporation would have if there were no vacancies.
- b. No Director, including the Chair, shall serve as the Corporation's Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Comptroller, or hold any other equivalent executive position or office while also serving as a Director.
- c. As soon as practicable and in compliance with Section 2825 of the New York Public Authorities Law, the majority of the Directors of the Board shall be Independent

Directors, as such term is defined in paragraph (d) below.

- d. Independence. For the purposes of these By-Laws, an Independent Director is one who:
  - i. is not, and in the past two (2) years has not been, a staff member of or otherwise employed by the Corporation or another corporate body having the same ownership and control of the Corporation in an executive capacity;
  - ii. is not, and in the past two (2) years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars (\$15,000.00) for goods and services provided to the Corporation or received any other form of financial assistance valued at more than fifteen thousand dollars (\$15,000.00) from the Corporation;
  - iii. is not a relative of an executive officer or employee in an executive position of the Corporation or another corporate body having the same ownership and control of the Corporation; and
  - iv. is not, and in the past two (2) years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation or another corporate body having the same ownership and control of the Corporation.
- e. Each Director shall have one vote.

**Section 3. Organization.** At each meeting of the Board, the Chair, or, in the absence of the Chair, a Vice Chair shall preside, or in the absence of either of such officers, a chair chosen by a majority of the Directors present shall preside. The Secretary shall act as secretary of the Board.

**Section 4. Resignations and Removal of Directors.**

- a. Any Director of the Corporation may resign at any time by giving written notice to the Chair or to the Secretary. Such resignation shall take effect at the time specified therein or, if no time be specified, then on delivery.
- b. Any or all of the Directors may be removed for cause by a vote of the Member, or by a vote of the Directors provided there is a quorum of not less than a majority of the entire Board of Directors present at the meeting of Directors at which such action is taken. Any or all of the Directors may be removed without cause by the Member.

**Section 5. Newly Created Directorships and Vacancies.** Newly created Directorships resulting from an increase in the number of Directors and vacancies occurring in the Board of Directors for any reason shall be filled by vote of the Member. Directors elected to fill newly created Directorships shall hold office until their successors have been elected or appointed and qualified. Directors elected to fill vacancies shall serve for the remaining term of the Director for whom they are replacing, and until their successors are elected and have qualified.

**Section 6. Action by the Board.** Except as otherwise provided by law or in these By-Laws, the act of the Board means action taken at a meeting of the Board by vote of a majority of the

Directors present at the time of the vote, if a quorum is present at such time.

**Section 7. Place of Meeting.** The Board may hold its meetings at its principal place of business, or at such place or places within the State of New York as the Board may from time to time by resolution determine.

**Section 8. Annual Meetings.** Except in case of the Annual Meeting in calendar year 2010, the annual meeting of the Corporation shall be held in March in each calendar year at the regular meeting place of the Corporation as described in Section 7 of this Article III. Such 2010 annual meeting may be held at such other time or location as approved by the chairman of the Corporation; and if it is held at another time, notice shall be given as hereinafter provided for special meetings of the Board.

**Section 9. Regular Meetings.** Regular meetings of the Board may be held without notice at such times as may be fixed from time to time by resolution of the Board.

**Section 10. Special Meetings.** Special meetings of the Board shall be held whenever called by the Chair or in the absence of the Chair by a Vice Chair, or by any two (2) of the Directors. Notice shall be given orally, by telefax, by e-mail, or by mail and shall state the purposes, time and place of the meeting. If notice is given orally, in person or by telephone, it shall be given not less than two (2) days before the meeting; if it is given by telefax, by e-mail or by mail, it shall be given not less than three (3) days before the meeting. At such special meeting no business shall be considered other than that designated in the notice.

**Section 11. Waivers of Notice.** Notice of a meeting need not be given to any Director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him or her.

**Section 12. Quorum.**

- a. A majority of the entire Board of Directors shall constitute a quorum for the transaction of business.
- b. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place without notice to any Director.

**Section 13. Compensation.** Directors shall receive no compensation for their services but may be reimbursed for the expenses reasonably incurred by them in the performance of their duties.

**Section 14. Annual Report.** The Board of Directors shall present to the Member at the annual meeting, a report verified by a majority of the Board, showing the following:

- a. the assets and liabilities, including the status of reserve, depreciation, special or other funds including the receipts and payments of such funds, of the Corporation as of the

- end of the fiscal year;
- b. the principal changes in assets and liabilities, including trust funds, during said fiscal period;
- c. the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period; and
- d. the expenses or disbursements of the Corporation for both general and restricted purposes, during said fiscal period.

Furthermore, if required by statute, the Board shall have an annual independent audit report performed in accordance with the requirements of the PAAA and generally accepted government auditing standards certified by a firm of independent public accountants selected by the Board.

**Section 15. Annual Budget.** The Board of Directors shall present to the Member the annual budget prepared in accordance with the requirements of the PAAA.

#### **Article IV Committees**

**Section 1. Audit and Finance Committee.** There shall be an Audit Committee consisting entirely of Independent Directors, who shall be elected by the Directors at each Annual Meeting and shall serve until the next Annual Meeting. To the extent practicable, members of the Audit Committee should be familiar with corporate financial and accounting practices. The Audit Committee shall recommend to the Board the hiring of a certified independent accounting firm in compliance with the Public Authorities Law of New York State to conduct the annual independent audit, establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the annual independent audit.

**Section 2. Governance Committee.** There shall be a Governance Committee consisting entirely of Independent Directors, who shall be elected by the Directors at each Annual Meeting and shall serve until the next Annual Meeting. The Governance Committee shall keep the Board informed of current best governance practices, review corporate governance trends, update the Corporation's governance principles, and advise the Board on the skills and experience required of potential Directors.

**Section 3. Other Standing Committees.** The Board of Directors, by resolution adopted by a majority of the entire Board, may designate from among its members other standing committees consisting of three (3) or more Directors, which can make recommendations to the entire Board. The standing committees shall have such authority as the Board shall by resolution provide, except that no such committee shall have authority as to the following matters:

- a. the submission to the Member of any action requiring Member approval under the law;
- b. the filling of vacancies in the Board or in any committee;

- c. the amendment or repeal of the By-laws, or the adoption of new By laws; or
- d. the amendment or repeal of any resolution of the Board which by its terms, shall not be so amendable or repealable.

**Section 4. Special Committees.** The Board of Directors may designate special committees, each of which shall consist of such persons and shall have such authority as is provided in the resolution designating the committee.

**Section 5. Meetings.** Meetings of committees, of which no notice shall be necessary, shall be held at such time and place as shall be fixed by the Chair of the Board or the chair of such committee or by vote of a majority of all the members of the committee.

**Section 6. Quorum and Manner of Acting.** Unless otherwise provided by resolution of the Board, a majority of all of the members of a committee shall constitute a quorum for the transaction of business and the vote of a majority of all of the members of the committee shall be the act of the committee.

The procedures and manner of acting of the committees of the Board shall be subject at all times to the direction of the Board.

**Section 7. Tenure of Members of Committees of the Board.** Each committee of the Board and every member thereof shall serve at the pleasure of the Board.

**Section 8. Alternate Members.** The Board may designate one (1) or more members as alternate members of any standing committee of the Board, who may replace any absent member or members at any meeting of such committee.

## **Article V Board Officers**

**Section 1. Officers.** The Officers of the Corporation's Board shall be a Chair, a Vice Chair, a Treasurer, a Secretary and/or such other officers as the Board may in its discretion determine. Any two (2) or more offices may be held by the same person, except the offices of Chair and Secretary.

**Section 2. Term of Office and Qualifications.** Those officers whose titles are specifically mentioned in Section 1 of this Article V shall be elected by the Board at its Annual Meeting. Unless a shorter term is provided in the resolution of the Board electing such officer, the term of office of each officer shall extend to the next Annual Meeting and until the officer's successor is elected and qualified.

**Section 3. Additional Officers.** Additional officers may be elected for such period, have such authority and perform such duties, either in an administrative or subordinate capacity, as the



Board may from time to time determine.

**Section 4. Removal of Officers.** Any officer may be removed by the Board with or without cause at any time.

**Section 5. Resignation.** Any officer may resign his or her position as an officer at any time by giving written notice to the Board, to the Chair or to the Secretary. Any such resignation shall take effect at the time specified therein, or, if no time be specified, then upon delivery.

**Section 6. Vacancies.** A vacancy in any office shall be filled by the Board.

**Section 7. Chair.** The Chair shall preside at all meetings of the Board at which the Chair is present. In the absence or incapacity of the Chief Executive Officer of the Corporation or the Chief Financial Officer, and except as otherwise authorized by resolution of the Board, the Chair shall execute all agreements, contracts, deeds, and any other instruments of the Corporation. At each meeting, the Chair shall submit recommendations and information as he or she may consider proper concerning the business, affairs, the bonds, the notes, the loans, the projects and facilities of the Corporation, the economic benefits to be conferred on project applicants and occupants, and the policies of the Corporation. Nothing in this provision shall be construed as granting the Chair the exclusive right to bring matters before the Corporation for consideration.

**Section 8. Vice Chairs.** In the absence or incapacity to act of the Chair, or if the office of Chair be vacant, the Vice Chair shall preside at all meetings of the Board, and shall perform the duties and exercise the powers of the Chair, subject to the right of the Board from time to time to extend or confine such powers and duties or to assign them to others. The Vice Chair shall have such powers and shall perform such other duties as may be assigned by the Board or the Chair.

**Section 9. Treasurer.** The Treasurer shall, if required by the Board, obtain a bond for the faithful discharge of his or her duties, in such sum and with such sureties as the Board shall require. The Treasurer shall oversee the Chief Financial Officer of the Corporation and shall review all the books and accounts of the Corporation and shall advise the Chief Financial Officer of the Corporation with respect to the charge, custody and investment of all funds and securities of the Corporation, and the Treasurer shall ensure the proper deposit by the Chief Financial Officer of the Corporation all such funds in the name of and to the credit of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board. The Treasurer shall also perform all other duties customarily incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board.

**Section 10. Secretary.** It shall be the duty of the Secretary to act as secretary of all meetings of the Board, and to keep the minutes of all such meetings in a proper book or books to be provided for that purpose; the Secretary shall see that all notices required to be given by the Corporation are duly given and served; the Secretary shall keep a current list of the Directors

and officers of the Corporation's Board and their residence addresses; the Secretary shall be custodian of the seal of the Corporation and shall affix the seal, or cause it to be affixed, to all agreements, documents and other papers requiring the same. The Secretary shall have custody of the minute book containing the minutes of all meetings of Directors, the Audit Committee, the Governance Committee, the Finance Committee and any other committees which may keep minutes, and of all other contracts and documents which are not in the custody of the Treasurer of the Corporation, or in the custody of some other person authorized by the Board to have such custody.

**Section 11. Appointed Officers.** The Board may delegate to any officer or committee the power to appoint and to remove any subordinate officer, agent or employee.

## **Article VI Executive Officers and Other Personnel**

**Section 1. Chief Executive Officer.** The Corporation shall appoint a Chief Executive Officer by resolution, which resolution shall set the Chief Executive Officer's annual compensation. The Chief executive Officer shall not be a member of the Board of Directors of the Corporation.

**Section 2. Duties and Responsibilities of Chief Executive Officer.** The Chief Executive Officer shall report to the Chair of the Board of the Corporation and he or she shall have general supervision and management of the Corporation and all Corporation staff and employees shall report directly to the Chief Executive Officer. Except as may otherwise be authorized by a resolution adopted by the Board, the Chief Executive Officer shall:

- a. execute all agreements, bonds, notes, contracts, agreements, deeds, leases and any other instruments of the Corporation;
- b. sign all financial instruments and checks;
- c. cosign all purchase orders and instruments and checks over certain dollar thresholds as may be established from time to time by the Board (said instruments may be countersigned by the Chief Financial Officer, or other officer or Director as shall be designated by the Board);
- d. prepare the annual budget of the Corporation with the consultation and cooperation of the Audit Committee, the Chief Financial Officer and Deputy Financial Officer for submission to the Board for approval; and
- e. sign all purchase orders, under the direction of the board by resolution and the Chief Financial Officer.

Furthermore, the Chief Executive Officer shall assist the Chair with such matters as the Chair or the Board may request in furtherance of the Corporation's public purposes. The Chief Executive Officer shall be charged with leading the Corporation in carrying out its Mission Statement and fulfilling its public purposes. The Chief Executive Officer shall also perform all other duties customarily incident to the office of a Chief Executive Officer of a local

development corporation and local public authority of the State of New York and such other duties as from time to time may be assigned by the Board.

**Section 3. Chief Financial Officer.** The Corporation shall appoint a Chief Financial Officer by resolution, which resolution shall set the Chief Financial Officer’s annual compensation.

**Section 4. Duties and Responsibilities of Chief Financial Officer.** In the absence or incapacity of the Chief Executive Officer, the Chief Financial Officer shall exercise the duties and responsibilities of the Chief Executive Officer. Except as may otherwise be authorized by a resolution of the Board, if the office of the Chief Executive Officer shall be vacant the Chief Financial Officer of the Corporation shall be the Acting Chief Executive Officer of the Corporation until such time as the Board has appointed a replacement Chief Executive Officer. The Chief Financial Officer of the Corporation shall assist the Chief Executive Officer in the carrying out of the Corporation’s purposes and in fulfillment of the Corporation’s public purposes. The Chief Financial Officer shall oversee the maintenance of the books and accounts of the Corporation. The Chief Financial Officer shall also perform all other duties customarily incident to the office of a Chief Financial Officer of a public benefit corporation and public authority of the State of New York and such other duties as from time to time may be assigned by the Board. The Chief Financial Officer shall be the Chief Compliance Officer of the Corporation for purposes of ensuring that the Corporation is in full compliance with all provisions of the PAAA applicable to the Corporation. The Chief Financial Officer shall prepare and distribute all annual reports required by the PAAA and as may otherwise be required by the Office of the Comptroller of the State of New York. The Chief Financial Officer of the Corporation shall assist the Chief Executive Officer and Chair in preparing the annual budget of the Corporation for submission to the Board for approval and he or she shall distribute all copies of the annual budget of the Corporation to all persons required by the PAAA. The Chief Financial Officer shall assist the Audit Committee of the Board in carrying out their functions. The Chief Financial Officer of the Corporation shall be the Contracting Officer of the Corporation for the disposition of real and personal property in accordance with the provisions of the PAAA. The Chief Financial Officer shall be the Freedom of Information Officer of the Corporation in accordance with the provisions of the new York State Freedom of Information Law, Article 6 of the New York Public Officers Law.

**Section 5. Compliance Officer.** The Corporation shall appoint a Compliance Officer by resolution, who may be the Chief Financial Officer, or any other employee of the Corporation. The Compliance Officer shall be responsible for insuring that the Corporation complies with all financial and other reporting requirements imposed by law, including those requirements in the General Municipal Law and the Public Authorities Law of New York State. The Compliance Officer shall be the “Contracting Officer” (as such term is defined in Section 2895 of New York’s Public Authorities Law). Additional Personnel. The Corporation may from time to time employ such personnel as the Corporation, upon the recommendation of the Chief Executive Officer, deems necessary to exercise the Corporation’s powers, duties and functions as prescribed by the PAAA and all other laws of the State of New York applicable thereto. The selection and

compensation of all personnel shall be determined by the Corporation subject to the laws of the State of New York.

## **Article VII**

### **Contracts, Checks, Drafts and Bank Accounts**

**Section 1. Execution of Contracts.** The Board, except as in these By-Laws otherwise provided, may authorize any officer or officers, agent or agents, in the name of and on behalf of the Corporation to enter into any contract or execute and deliver any instrument, and such authority may be general or confined to specific instances; but, unless so authorized by the Board, or expressly authorized by these By-Laws, no officers, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable pecuniarily in any amount for any purpose.

**Section 2. Loans.** No loans shall be contracted on behalf of the Corporation unless specifically authorized by the Board.

**Section 3. Checks, Drafts, etc.** All checks, drafts and other orders for the payment of money out of the funds of the Corporation, and all notes or other evidences of indebtedness of the Corporation, shall be signed on behalf of the Corporation in such manner as shall from time to time be determined by these By-Laws or by resolution of the Board.

**Section 4. Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select or in the absence of such selection by the Board, as the Chief Executive Officer in consultation with the Chief Financial Officer.

## **Article VIII**

### **Indemnification and Insurance**

**Section 1. Authorized Indemnification.** Unless clearly prohibited by law or Section 2 of this Article VIII, the Corporation shall indemnify any person (“Indemnified Person”) made, or threatened to be made, a party in any action or proceeding, whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Corporation, by reason of the fact that he or she (or his or her testator or intestate), whether before or after adoption of this Section, (a) is or was a Director or officer of the Corporation, or (b) in addition is serving or served, in any capacity, at the request of the Corporation, as a Director or officer of any other corporation, or any partnership, joint venture, trust, employee benefit plan or other enterprise. The indemnification shall be against all judgments, fines, penalties, amounts paid in settlement (provided the Corporation shall have consented to such settlement) and reasonable expenses, including attorneys’ fees and costs of investigation, incurred by an Indemnified Person with respect to any such threatened or actual action or proceeding, and any appeal thereof.

**Section 2. Prohibited Indemnification.** The Corporation shall not indemnify any person if a judgment or other final adjudication adverse to the Indemnified Person (or to the person whose actions are the basis for the action or proceeding) establishes, or the Board in good faith determines, that such person's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

**Section 3. Advancement of Expenses.** The Corporation shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Corporation, pay or promptly reimburse the Indemnified Person's reasonably incurred expenses in connection with a threatened or actual action or proceeding prior to its final disposition. However, no such advancement of expenses shall be made unless the Indemnified Person makes a binding, written commitment to repay the Corporation, with interest, for any amount advanced for which it is ultimately determined that he or she is not entitled to be indemnified under the law or Section 2 of this Article VIII. An Indemnified Person shall cooperate in good faith with any request by the Corporation that common legal counsel be used by the parties to such action or proceeding who are similarly situated unless it would be inappropriate to do so because of actual or potential conflicts between the interests of the parties.

**Section 4. Indemnification of Others.** Unless clearly prohibited by law or Section 2 of this Article VIII, the Board may approve Corporation indemnification as set forth in Section 1 of this Article VIII or advancement of expenses as set forth in Section 3 of this Article VIII, to a person (or the testator or intestate of a person) who is or was employed by the Corporation or who is or was a volunteer for the Corporation, and who is made, or threatened to be made, a party in any action or proceeding, by reason of the fact of such employment or volunteer activity, including actions undertaken in connection with service at the request of the Corporation in any capacity for any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise.

**Section 5. Determination of Indemnification.** Indemnification mandated by a final order of a court of competent jurisdiction will be paid. After termination or disposition of any actual or threatened action or proceeding against an Indemnified Person, if indemnification has not been ordered by a court the Board shall, upon written request by the Indemnified Person, determine whether and to what extent indemnification is permitted pursuant to these By-Laws. Before indemnification can occur the Board must explicitly find that such indemnification will not violate the provisions of Section 2 of this Article VIII. No Director with a personal interest in the outcome, or who is a party to such actual or threatened action or proceeding concerning which indemnification is sought, shall participate in this determination. If a quorum of disinterested Directors is not obtainable, the Board shall act only after receiving the opinion in writing of independent legal counsel that indemnification is proper in the circumstances under then applicable law and these By-Laws.

**Section 6. Binding Effect.** Any person entitled to indemnification under these By-Laws has a legally enforceable right to indemnification, which cannot be abridged by amendment of these By-Laws with respect to any event, action or omission occurring prior to the date of such amendment.

**Section 7. Insurance.** The Corporation is not required to purchase Directors' and officers' liability insurance, but the Corporation may purchase such insurance if authorized and approved by the Board. To the extent permitted by law, such insurance may insure the Corporation for any obligation it incurs as a result of this Article VIII or operation of law and it may insure directly the Directors, officers, employees or volunteers of the Corporation for liabilities against which they are not entitled to indemnification under this Article VIII as well as for liabilities against which they are entitled or permitted to be indemnified by the Corporation.

**Section 8. Nonexclusive Rights.** The provisions of this Article VIII shall not limit or exclude any other rights to which any person may be entitled under law or contract. The Board is authorized to enter into agreements on behalf of the Corporation with any Director, officer, employee or volunteer providing them rights to indemnification or advancement of expenses in connection with potential indemnification in addition to the provisions therefore in this Article VIII, subject in all cases to the limitations of Section 2 of this Article VIII.

## **Article IX Conflicts of Interest**

**Section 1. Definition of Conflicts of Interest.** A conflict of interest will be deemed to exist whenever an individual is in the position to approve or influence Corporation policies or actions which involve or could ultimately harm or benefit financially: (a) the individual; (b) any family member (spouse, domestic partner, grandparents, parents, children, grandchildren, great grandchildren, brothers or sisters (whether whole or half-blood), and spouses of these individuals); or (c) any organization in which he or a family member is a director, trustee, officer, member, partner or more than 10% of the total (combined) voting power. Service on the board of another not-for-profit corporation or of a governmental entity does not constitute a conflict of interest.

**Section 2. Disclosure of Conflicts of Interest.** A Director or officer shall disclose a conflict of interest: (a) prior to voting on or otherwise discharging his duties with respect to any matter involving the conflict which comes before the Board or any committee; (b) prior to entering into any contract or transaction involving the conflict; (c) as soon as possible after the Director or officer learns of the conflict; and (d) on the annual conflict of interest disclosure form.

The Secretary of the Corporation shall distribute annually to all Directors, officers and key employees (as identified by the Corporation), a form soliciting the disclosure of all conflicts of interest, including specific information concerning the terms of any contract or transaction with the Corporation and whether the process for approval set forth in this policy was used. Such

disclosure form may require disclosure of other relationships that may not constitute an actual conflict of interest, but which are required to be disclosed in order for the Corporation to comply with its annual reporting requirements.

**Section 3. Approval of Contracts and Transactions Involving Potential Conflicts of Interest.** A Director or officer who has or learns about a potential conflict of interest should disclose promptly to the Secretary of the Corporation the material facts surrounding any potential conflict of interest, including specific information concerning the terms of any contract or transaction with the Corporation. All effort should be made to disclose any such contract or transaction and have it approved by the Board before the arrangement is entered into.

Following receipt of information concerning a contract or transaction involving a potential conflict of interest, the Board shall consider the material facts concerning the proposed contract or transaction, including the process by which the decision was made to recommend entering into the arrangement on the terms proposed. The Board shall approve only those contracts or transactions in which the terms are fair and reasonable to the Corporation and the arrangements are consistent with the best interests of the Corporation. Fairness includes, but is not limited to, the concepts that the Corporation should pay no more than fair market value for any goods or services which the Corporation receives and that the Corporation should receive fair market value consideration for any goods or services that it furnishes others. The Board shall set forth the basis for its decision with respect to approval of contracts or transactions involving conflicts of interest in the minutes of the meeting at which the decision is made, including the basis for determining that the consideration to be paid is fair to the Corporation.

**Section 4. Validity of Actions.** No contract or other transaction between the Corporation and one or more of its Directors or officers, or between the Corporation and any other corporation, firm, association or other entity in which one or more of its Directors or officers are directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such Director or Directors or officer or officers are present at the meeting of the Board of Directors, or of a committee thereof, which authorizes such contract or transaction, or that his or their votes are counted for such purpose, if the material facts as to such Director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the Board or committee, and the Board or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested Director or officers. Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee which authorizes such contract or transaction. At the time of the discussion and decision concerning the authorization of such contract or transaction, the interested Director or officer should not be present at the meeting.

**Section 5. Employee Conflicts of Interest.** An employee of the Corporation with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict

to his supervisor. The employee shall thereafter refrain from participating in deliberations and discussion, as well as any decisions, relating to the matter and follow the direction of the supervisor as to how the Corporation decisions which are the subject of the conflict will be determined. The Chief Executive Officer shall be responsible for determining the proper way for the Corporation to handle Corporation decisions which involve unresolved employee conflicts of interest. In making such determinations, the Chief Executive Officer may consult with legal counsel.

The Chief Executive Officer shall report to the Board at least annually concerning employee conflicts of interest which have been disclosed and contracts and transactions involving employee conflicts which the President has approved.

## **Article X Compensation**

**Section 1. Reasonable Compensation.** It is the policy of the Corporation to pay no more than reasonable compensation for personal services rendered to the Corporation by officers and employees. The Directors shall not receive compensation for fulfilling their duties as Directors, although Directors may be reimbursed for actual out-of-pocket expenses, which they incur in order to fulfill their duties as Directors. Expenses of spouses will not be reimbursed by the Corporation unless the expenses are necessary to achieve a Corporation purpose.

**Section 2. Approval of Compensation.** The Board must approve in advance the amount of all compensation for officers of the Corporation.

Before approving the compensation of an officer, the Board shall determine that the total compensation to be provided by the Corporation to the officer is reasonable in amount in light of the position, responsibility and qualification of the officer for the position held, including the result of an evaluation of the officer's prior performance for the Corporation, if applicable. In making the determination, the Board shall consider total compensation to include the salary and the value of all benefits provided by the Corporation to the individual in payment for services. At the time of the discussion and decision concerning an officer's compensation, the officer should not be present in the meeting. The Board shall obtain and consider appropriate data concerning comparable compensation paid to similar officers in like circumstances.

The Board shall set forth the basis for its decisions with respect to compensation in the minutes of the meeting at which the decisions are made, including the conclusions of the evaluation and the basis for determining that the individual's compensation was reasonable in light of the evaluation and the comparability data.

## **Article XI General**



**Section 1. Books and Records.** These shall be kept at the office of the Corporation: (1) correct and complete books and records of accounts; (2) minutes of the proceedings of the Board and the standing and special Committees of the Corporation; (3) a current list of the Directors and the officers of the Corporation and their residence addresses; (4) a copy of these By-Laws; (5) a copy of the Corporation's application for recognition of exemption with the Internal Revenue Service (if applicable); and (6) copies of the past three (3) years' information returns to the Internal Revenue Service (if applicable).

**Section 2. Loans to Directors and Officers.** No loans shall be made by the Corporation to its Directors or Officers, or to any other company, corporation, firm, association or other entity in which one or more of the Directors or Officers of the Corporation are members, director or officers or hold a substantial financial interest except as allowed by law.

**Section 3. Fiscal Year.** The fiscal year of the Corporation shall commence on January 1 in each calendar year and shall end on December 31 of each calendar year.

**Section 4. Training.** All Directors shall participate in training approved by the State of New York regarding their legal, fiduciary, financial and ethical responsibilities as Directors within one (1) year of appointment to the Board. All Directors of the Board shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of the Corporation and the adhere to the highest standards of responsible governance.

## **Article XII Amendments**

**Section 1. Amendments to By-Laws.** The By-Laws of the Corporation may be amended or repealed by the Member or a majority of all of the Directors at a regular meeting or special meeting. The Member must approve any changes to the By-Laws proposed by the Board. At least seven (7) days written notice thereof of the proposed amendments must be provided to the Member prior to adoption.

## **Livingston County Capital Resource Corporation Code of Ethics**

### **Section 1. Statement of Purpose**

The Code of Ethics is a public statement by the Corporation that sets clear expectations and principles to guide practice and inspire professional excellence. The Corporation believes a commonly held set of principles can assist in the individual exercise of professional judgment. This Code speaks to the core values of public accountability and transparency. The purpose of having a code of ethics and practices is to protect the credibility of the Corporation by ensuring high standards of honesty, integrity, and conduct of staff. To that end, this Code of Ethics attempts to accomplish this by articulating the ethical standards observed by the Corporation in pursuing and implementing economic development initiatives, and setting rules and policies that prevent conflicts of interest.

### **Section 2. Rules with Respect to Conflicts of Interest**

No officer, member of the board or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her or her duties in the public interest.

### **Section 3. Standards**

1. No officer, member of the board or employee should accept other employment which will impair his or her or her independence of judgment in the exercise of his or her or her official duties.
2. No officer, member of the board or employee should accept employment or engage in any business or professional activity 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.
3. No officer, member of the board or employee should 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.
4. No officer, member of the board or employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or others.
5. No officer, member of the board or employee should engage in any transaction as representative or agent of the Corporation with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.
6. An officer, member of the board or employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or

her, 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.

7. An officer or employee should abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her, or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.
8. An officer or employee should endeavor to pursue a course of conflict which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.
9. No officer or employee employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer, member of the board or employee, should sell goods or services to any person, firm, corporation or association which receive financial assistance from the Corporation.
10. If an officer or employee shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is the subject of a Corporation Project, he or she must file with the Corporation a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.
11. No officer, member of the board or employee of shall accept or arrange for any loan or extension of credit from the Corporation or any affiliate of the Corporation.

#### **Section 4. Violations**

In addition to any penalty contained in any other provision of law any such officer, member of the board or employee who shall knowingly and intentionally violate any of the provisions of this Code of Ethics may be fined, suspended or removed from officer or employment in the manner provided by law.



## **Livingston County Capital Resource Corporation Compensation, Reimbursement, and Attendance Policy**

Pursuant to and in accordance with the Corporation's By-Laws the members of the board of the Livingston County Capital Resource Corporation (the "Board") shall serve without salary at the pleasure of the Livingston County Board of Supervisors but may be reimbursed for reasonable expenses incurred in the performance of Corporation duties at the approval of the Board.

The officers, employees and agents of the Corporation shall serve at the pleasure of the Corporation at such compensation levels as may be approved by the Board from time to time and may be reimbursed for reasonable expenses incurred in the performance of Corporation duties at the approval of the Board.

The members of the Board and officers of the Corporation shall be available as required to perform the operations of the Corporation and as set forth within the By-Laws of the Corporation, as may be amended, restated or revised by the Board from time to time. Said members and officers of the Corporation shall put forth their best efforts to perform their respective duties as outlined in the By-Laws of the Corporation and any other directives of the Board relating to the same.



**Livingston County Capital Resource Corporation  
Defense and Indemnification Policy**

Pursuant to the Bylaws of the Livingston County Capital Resource Corporation (the “Corporation”), the Corporation shall indemnify all members of the Board of Directors of the Corporation and each officer and employees thereof, in the performance of their duties, and to the extent authorized by the Board, each other person authorized to act for the Corporation or on its behalf, to the full extent to which indemnification is permitted under the General Municipal law of the State of New York.

## Livingston County Capital Resource Corporation Fee Policy

### Section 1. Application Fee

At the time of application for approval by the Corporation of any transaction there shall be a non-refundable application fee of five hundred dollars (\$500.00).

The minimum application or request fee for actions that require Board approval shall be two hundred fifty dollars (\$250.00).

### Section 2. Corporation Administrative Fee

The minimum Corporation fee is three thousand dollars (\$3,000.00).

1. **Tax Exempt Industrial Revenue Bond:** The Corporation fee for a tax exempt industrial revenue bond is 1.25%.
2. **Bond Refunding:** The Corporation fee for a bond refunding is 0.5%.
3. **Additional Fees:** If the Project Application is withdrawn or does not close, the Applicant is responsible for any costs, including Corporation Counsel Fees, incurred by the Corporation on behalf of the Project.

The Executive Director on a case-by-case basis shall recommend other Corporation actions such as conduit financing, program administration and audit fees. The Corporation will make the final determination on these recommendations.

### Section 3. Exceptions

The Corporation may modify these fees on a case-by-case basis for incentive attraction projects or other reasons that impose a serious impediment to the viability of the project itself or very unique or unusual circumstances. With the exception of incentive attraction projects, any individual modification of fees shall be only undertaken through Corporation Board action showing cause for the record.

## **Livingston County Capital Resource Corporation Investment and Deposit Policy**

### **Section 1. Introduction**

1. Scope – This investment and deposit policy applies to all monies and other financial resources available for investment and deposit on its own behalf or on behalf of any other entity or individual.
2. Objectives – The primary objectives of the Corporation’s investment activities are, in priority order:
  - a. To conform with all applicable federal, state and other legal requirements (legal);
  - b. To adequately safeguard principal (safety);
  - c. To provide sufficient liquidity to meet all operating requirements (liquidity); and
  - d. To obtain a reasonable rate of return (yield).
3. Prudence – All participants in the investment process and all participants responsible for depositing the Corporation’s funds shall seek to act responsibly as custodians of the public trust and shall avoid any transaction that might impair confidence in the Corporation to govern effectively.

Investments and deposits shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of the principal as well as the probable income to be derived.

All participants involved in the investment process and all participants responsible for depositing the Corporation’s funds shall refrain from personal business activity that could conflict with proper execution of the investment program or the deposit of the Corporation’s funds or which could impair their ability to make impartial investment decisions.

4. Diversification – It is the policy of the Corporation to diversify its deposits and investments by financial institution, by investment instrument, and by maturity scheduling.
5. Internal Controls
  - a. All money’s collected by an officer or employee of the Corporation shall be immediately deposited in such depositories and designated by the Corporation for the receipt of such funds.
  - b. The Corporation shall maintain or cause to be maintained a proper record of all

book, notes, securities or other evidences of indebtedness held by the Corporation for investment and deposit purposes.

- c. The Corporation is responsible for establishing and maintaining an internal control structure to provide reasonable, but not absolute, assurance that deposits and investments are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorization and recorded properly, and are managed in compliance with applicable laws and regulations.

## **Section 2. Investment Policy**

1. Permitted Investments – Pursuant to GML Section 11, the Corporation may invest moneys not required for immediate expenditure for terms not to exceed its projected cash flow needs in the following types of investments:
  - a. Special time deposit accounts;\*
  - b. Certificates of deposit;\*
  - c. Obligations of the United States of America;\*\*
  - d. Obligations guaranteed by agencies of the United States of America where payment of principal and interest are guaranteed by the United States of America;\*\*
  - e. Obligations of the State of New York;\*

\* Special time deposit accounts and certificates of deposit are permitted investments provided that (1) they shall be payable within such time as the proceeds shall be needed to meet expenditures for which the moneys were obtained and (2) they are collateralized in the same manner as set forth in Section VII (C) below for deposits of public funds.

\*\* All investment obligations shall be payable or redeemable at the option of the Corporation within such times as the proceeds will be needed to meet expenditures for purposes for which the moneys were provided and, in the case of obligations purchased with the proceeds of bonds or notes, shall be payable or redeemable at the option of the Corporation within two years of the date of purchase.

2. Authorized Financial Institutions and Dealers – The Corporation shall maintain a list of financial institutions and dealers, approved for investment purposes and establish appropriate limits to the amount of investments which can be made with each financial institution or dealer. All financial institutions with which the local government conducts business must be credit worthy. Banks shall provide their most recent Consolidated Report of Condition (Call Report) at the request of the Corporation. Security dealers not affiliated with a bank shall be required to be classified as reporting dealers affiliated with the New York Federal Reserve Bank, as primary dealers. The Executive Director or



Chairman is responsible for evaluating the financial position and maintaining a listing of proposed depositories, trading partners and custodians. Such listing shall be evaluated at least annually.

3. Purchase of Investments – The Corporation may contract for the purchase of investments:
  - a. Directly, including through a repurchase agreement, from an authorized trading partner.
  - b. By utilizing an ongoing investment program with an authorized trading partner pursuant to a contract authorized by the governing board.

All purchased obligations, unless registered or inscribed in the name of the local government, shall be purchased through, delivered to and held in the custody of a bank or trust company. Such obligations shall be purchased, sold or presented for redemption or payment by such bank or trust company only in accordance with prior written authorization from the officer authorized to make the investment. All such transactions shall be confirmed in writing to the Corporation by the bank or trust company shall be held pursuant to a written custodial agreement as described in GML Section 10.

The custodial agreement shall provide that securities held by the bank or trust company, as agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of the backing for any other deposit or other liabilities. The agreement shall describe how the custodian shall confirm the receipt and release of the securities. Such agreement shall include all provisions necessary to provide the Corporation a perfected interest in the securities.

4. Repurchase Agreements – Repurchase agreements are authorized subject to the following restrictions:
  - a. All repurchase agreements must be entered into subject to a Master Repurchase Agreement.
  - b. Trading partners are limited to banks or trust companies authorized to do business in New York State and primary reporting dealers.
  - c. Obligations shall be limited to obligations of the United States of America and obligations guaranteed by agencies of the United States of America.
  - d. No substitution of securities will be allowed.
  - e. The custodian shall be a party other than the trading partner.

### **Section 3. Deposit Policy**

1. Collateralization of Deposits – In accordance with the provisions of GML Section 10, all

deposits of the Corporation, including certificates of deposit and special time deposits, in excess of the amount insured under the provisions of the Federal Deposit Insurance Act shall be secured:

- a. By pledge of “eligible securities” with an aggregate “market value” as provided by GML Section 10, equal to the aggregate amount of deposits from the categories designated in Exhibit A attached hereto.
  - b. By an eligible “irrevocable letter of credit” issued by a qualified bank other than the bank with the deposits in favor of the government for a term not to exceed 90 days with an aggregate value equal to 140% of the aggregate amount of deposits and the agreed upon interest, if any. A qualified bank is one whose commercial paper and other unsecured short-term debt obligations are rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization or by a bank that is in compliance with applicable federal minimum risk-based capital requirements.
  - c. By an eligible surety bond payable to the government for an amount at least equal to 100% of the aggregate amount of deposits and the agreed upon interest, if any, executed by an insurance company authorized to do business in New York State, whose claims-paying ability is rated in the highest rating category by at least two nationally recognized statistical rating organizations. The terms and conditions of any eligible surety shall be approved by the governing board.
2. Safekeeping and Collateralization – Eligible securities used for collateralizing deposits shall be held by the depository bank or trust company subject to security and custodial agreements.

The security agreement shall provide that eligible securities are being pledged to secure local government deposits together with agreed upon interest, if any and any costs or expenses arising out of the collection of such deposits upon default. It shall also provide the conditions under which the securities may be sold, presented for payment, substituted or released and the events, which will enable the local government to exercise its rights against the pledged securities. In the event that the securities are not registered or inscribed in the name of the local government, such securities shall be delivered in a form suitable for transfer or with an assignment in blank to the Corporation or its custodial bank.

The custodial agreement shall provide that securities held by the bank or trust company, or agent of and custodian for, the local government, will be kept separate and apart from the general assets of the custodial bank or trust company and will not, in any circumstances, be commingled with or become part of backing for any other deposit or other liabilities. The agreement should also describe that the custodian shall confirm the receipt, substitution or release of the securities. The agreement shall provide for the

frequency of revaluation of eligible securities and for the substitution of securities when a change in the rating of a security may cause ineligibility. Such agreement shall include all provisions necessary to provide the Corporation a perfected interest in the securities.

## Livingston County Capital Resource Corporation Investment and Deposit Policy

### Exhibit A: Schedule of Eligible Securities

1. Obligations issued, or fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation.
2. Obligations issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank and the African Development Bank.
3. Obligations partially insured or guaranteed by any Corporation of the United States of America, at a proportion of the Market Value of the obligation that represents the amount of the insurance or guaranty.
4. Obligations issued or fully insured or guaranteed by the State of New York, obligations issued by a municipal corporation, school district or district corporation or such State or obligations of any public benefit corporation which under a specific State statute may be accepted as security for deposit of public moneys.
5. Obligations issued by states (other than the State of New York) of the United States rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
6. Obligations of Puerto Rico rated in one of the three highest rating categories by at least one nationally recognized statistical rating organization.
7. Obligations of countries, cities and other governmental entities of a state other than the State of New York having the power to levy taxes that are backed by the full faith and credit of such governmental entity and rated in one of the three highest categories by at least one nationally recognized statistical rating organization.
8. Obligations of domestic corporations rated one of the two highest rating categories by at least one nationally recognized statistical rating organization.
9. Any mortgage related securities, as defined in the Securities Exchange Act of 1934, as amended, which may be purchased by banks under the limitations established by bank regulatory agencies.
10. Commercial paper and bankers' acceptances issued by a bank, other than the Bank, rated in the highest short term category by at least one nationally recognized statistical rating organization and having maturities of not longer than 60 days from the date they are pledged.
11. Zero Coupon obligations of the United States government marketed as "Treasury strips".

# Livingston County Capital Resource Corporation Procurement Policy

## Section 1. Introduction

The policies and procedures set forth herein have been developed by the Livingston County Capital Resource Corporation (the “Corporation”) pursuant to New York State General Municipal Law Section 104-b regarding the procurement of Goods and Services not required by law to be procured pursuant to competitive bidding.

These policies and procedures apply only to Goods and Services paid for by the Corporation for its own use and account. They do not apply to Goods or Services such as, but not limited to, Bond Counsel or construction Services for a project for which the Corporation will not be the project operator or occupant.

## Section 2. Declaration of Policy

Goods and Services which are not required by law to be procured pursuant to competitive bidding must: be procured in a manner so as to assure the prudent and economical use of public moneys is in the best interest of the tax payers of Livingston County, facilitate the acquisition of Goods and Services of maximum quality at the lowest possible cost under the circumstances (including emergencies), and guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the Members of the Livingston County Capital Resource Corporation have adopted the policies and procedures set forth herein governing all procurement of Goods and Services which are not required to be made pursuant to the competitive bidding requirements of Section 103 of the General Municipal Law, or of any other general, special or local law.

## Section 3. Definitions

The following terms shall have the following meanings:

1. “Corporation” shall mean the Livingston County Capital Resource Corporation.
2. “Competitive Quotations” means the procurement of Goods and/or Services, in accordance with the provisions of Section 6 herein.
3. “Contract” shall mean a public work contract, a purchase Contract, or, generally a Contract for Goods or Services in accordance with the provisions herein.
4. “County” shall mean the County of Livingston, New York.
5. “Goods” shall mean products, materials, supplies, equipment, apparatus and other like items, and the necessary Services related to these items.
6. “Members” shall mean the Members of the Corporation.
7. “Procurement” or “procure” shall mean the obtaining, through Contract or agreement of Goods and/or Services in accordance with these policies and procedures.

8. "Procurement Officer" shall mean the [Administrative/Executive] Director of the Corporation or such other officer or employee of the Corporation designated by the Members to carry out the general and specific provisions of the policies and procedures set forth herein.
9. "Professional Services" means Services requiring special or technical skills, training, expertise, licensing, or such Services which involve the use of professional judgment and/or a high degree of creativity, or which involve a relationship of personal trust or professional confidence including, but not limited to, engineering, architectural, medical, financial and legal Services.
10. "Services" shall mean, generally, labor and/or construction to be performed.
11. "Sole Source Goods or Services" shall mean Goods or Services for which the Procurement Officer has determined that there is only one possible source from which to procure the desired Goods or Services, including, but not limited to, certain patented Goods or Services, or public utilities; provided, however, the Procurement Officer must certify that such Goods or Services are available from only one source so that no possibility of competition exists, including a showing that, at least (a) there are unique benefits of the desired Goods or Services as compared to other such Goods or Services available in the marketplace, (b) no other Goods or Services provide substantially equivalent or similar benefits, and (c) considering the benefits received, the cost of the Goods or Services is reasonable, when compared to conventional methods.
12. "State" shall mean the State of New York.
13. "Vendor" shall mean a supplier or prospective supplier of Goods or Services.

#### **Section 4. Determination of Procurement**

The Procurement Officer is hereby designated to be responsible for determining whether a procurement of Goods or services is subject to Competitive Quotations, or is exempt from such procurement, and the Procurement Officer is authorized to determine if the nature of a particular project or class of projects is exempt from the procurement policies described herein. The Procurement Officer shall cause to be made, in writing, the basis and other facts and circumstances relevant to making such a determination. The Corporation hereby finds and determines that Professional Services are, in all cases, exempt from these procurement policies and procedures, as solicitation of alternate proposals and quotations is not in the best interest of the Corporation in situations in which special skills and expertise are required.

#### **Section 5. No Competitive Bidding**

As of the date of adoption of these policies and procedures, the Corporation is not subject to the competitive bidding requirements of Section 103 of the General Municipal Law.

#### **Section 6. Competitive Quotations**

1. Written Descriptions Required – Upon a determination by the Procurement Officer that

Goods or Services are to be procured through competitive or verbal quotations, the Procurement Officer shall cause to be made a written description for each such Goods or Services to be procured. Such description need not necessarily include detailed specifications, but may be generic or in outline form or describe the result sought by the Corporation. Such written description shall contain that information deemed necessary for the procurement of the desired Goods or Services in accordance with the policies of the Corporation, including a statement that the requested bid or quotation price shall include a statement whether cost of delivery is included, a statement that the Corporation reserves the right to reject all bids or quotations, waive minor deviations, consider alternative bids or quotations, negotiate price and terms with those making a bid or quotation (provided that negotiations with all those making a bid or quotation will be on substantially the same basis and regarding substantially the same matters), subject to the same terms and conditions of the written descriptions being sought by the Corporation and a statement regarding security and/or insurance, if required.

## 2. Soliciting Written Competitive Quotations

- a. If the cost of Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will require an expenditure of more than \$1,000, but less than \$10,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than two Vendors.
- b. If the cost of Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will involve an expenditure of more than \$10,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than three Vendors.
- c. If, following reasonable efforts, insufficient numbers of Vendors exist for the solicitation of the requisite number of Competitive Quotations, then the Procurement Officer shall cause to be solicited Competitive Quotations from less than the requisite number of Vendors; provided, however, that the basis and other facts and circumstances or such efforts and/or findings relating to this provision shall be placed in writing.
- d. The Procurement Officer shall cause to be made a record of the written description, the solicitation of the Competitive Quotations, the Competitive Quotations received and any other documents or materials prepared or received in connection with the procurement of Goods and Services of the Corporation.
- e. Competitive Quotations need not be sealed and need not be opened and read at a stated time.
- f. The procurement Officer need not recommend the procurement of goods and services from the Vendor offering the lowest dollar quotation, but may recommend to the Members determinations of which quotations will fulfill or meet the best interests or needs of the Corporation, and each recommended

determinations may be based on factors such as, without limitation, quality, features or options, reliability or reputation of the Vendor, availability of service, delivery time and location of the Vendor (local vis-a-vis non-local, in-state vis-a-vis out-of-state or country). The Procurement Officer may negotiate terms and price with all Vendors submitting quotations (provided that all such negotiations will be on substantially the same basis and regarding substantially the same matters), and the determination of the Members pursuant to the Procurement Officer's recommendations made in good faith shall be final.

### 3. Exceptions

- a. General Exceptions – The following Goods and Services may be procured by the Corporation without soliciting competitive quotations:
  - i. Services performed by inmates, or Goods manufactured in correctional facilities operated by the New York State Department of Correctional Services or in local correctional facilities of this State; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 186 of the Correction Law;
  - ii. Goods and Services produced or assembled by the blind or other severely handicapped; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 175-B of the State Finance Law.
  - iii. Goods procured by the County in accordance with subdivision (2) of Section 408-a of the County Law; provided, however that no such procurement shall be made from the County when Competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications of a lower price through the County;
  - iv. Goods in excess of \$500.00 procured by the State through the New York State Office of General Services, subject to rules established by such Office, in accordance with Section 163 of the State Finance Law; provided, however, that no such procurement shall be made from such Office when Competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications at a lower price thorough such Office;
  - v. surplus and/or second hand Goods which are being offered for purchase from the federal or State governments or any other political subdivision or public benefit corporation within the State of New York.
- b. Special Exceptions – Upon a determination that Goods or Services are (a) Professional Services, (b) Sole Source Goods or Services or (c) Goods or Services deemed by the Procurement Officer in his or her sole discretion, not in the best interest of the Corporation to be procured in accordance with the Competitive Quotation requirements set forth herein, the Procurement Officer may procure such Goods or Services in such manner as the Procurement Officer determines to



be in the best interest of the Corporation and which otherwise is in accordance with the policies of the Corporation, as set forth in Section 2 herein.

#### 4. Entering Into the Contract

- a. Except as provided in Section 6.4(b) herein, upon receipt of the requisite number of Competitive Quotations, the procurement Officer shall recommend to the Members that the Corporation enter into a Contract, or enter into an agreement, for such Goods or Services to the Vendor that submitted the Competitive Quotation with the lowest dollar offer for such Goods or Services, but subject to the provisions of Section 6.2(f) hereof.
- b. If the Procurement Officer shall recommend to the Members that the Corporation enter into a Contract for Goods or Services to a Vendor that did not submit the Competitive Quotation with the lowest dollar offer, the Procurement Officer shall state the reasons such an award furthers the policy set forth in Section 2 herein and in accordance with Section 6.2(f) hereof.
- c. Upon the procurement of Goods or Services in accordance with the provisions of Section 6.3 herein, the Procurement Officer shall recommend to the Members that the Corporation award a Contract, or enter into an agreement, for such Goods or Services to the Vendor identified by the Procurement Officer.
- d. Upon receipt of the recommendation by the Procurement Officer regarding the entering into a Contract, the Members shall authorize the Procurement Officer to cause to be procured such Goods or Services with the recommended Vendor.; provided, however, that the Members reserve the right to reject all bids or quotations, waive minor deviations, consider alternative bids or quotations, subject to the same terms and conditions of the written descriptions being sought by the Corporation.

#### 5. Small Purchases (\$1,000 or less)

- a. Notwithstanding the provisions set forth herein, the procurement of Goods or Services involving an expenditure of up to five hundred dollars (\$500) may be made without seeking Competitive Quotations; provided, however, that any Corporation employee authorized to make such a procurement shall use his or her best efforts to obtain the lowest cost for such Goods or Services, but taking into consideration the terms of Section 6.2(f) hereof.
- b. Notwithstanding the provisions set forth herein, the procurement of Goods or Services involving an expenditure of more than five hundred dollars (\$500) but not more than one thousand dollars (\$1,000) may be made using verbal Competitive Quotations. The Corporation employee authorized to make such procurement shall solicit not less than two verbal Competitive Quotations.
- c. Upon the determination that the procurement of Goods or Services involving an expenditure of not more than one thousand (\$1,000) is such that competition is

not likely, including, but not limited to, periodicals, subscriptions, books, specialty training materials, Memberships, and computer software upgrades from the manufacturer, the procurement of such Goods or Services may be made without Competitive Quotations.

6. Policy for Corporation's Benefit – These policies and procedures are intended solely for the benefit of the Corporation, and are not intended for the economic or other benefit of any particular Vendor making a quotation; and accordingly, no Vendor shall have the right to challenge the determination of the Corporation to enter into Contracts for Goods and Services in accordance with the policies and procedures herein set forth.

**Livingston County Capital Resource Corporation  
Procurement Policy**

**Determination of Procurement Form**

**Section 1. Goods/Services Needed**

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**Section 2. Exceptions**

If any of the following general exceptions apply, the procurement of the desired Goods or Services do not have to be procured through Competitive Quotation requirements:

1. Goods or Services available from state prices or local correctional facilities
2. Goods or Services available from the blind or other severely handicapped
3. Goods available from a state or county Contract
4. Goods being process are second hand or surplus Goods from a public entity

If any of the following special exceptions apply, the Procurement Officer must provide, in the space provided below, written justification for each special exception and such Goods or Services do not have to be procured through Competitive Quotation requirements:

1. Professional Services; or
2. Sole Source Goods or Services; or
3. It would not be in the best interest of the Corporation to procure such Goods or Services through competitive bidding or Competitive Quotation requirements

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If no general or special exception applies, the Goods or Services must be procured through the Competitive Quotation requirements (see competitive quotation form).

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Prepared by \_\_\_\_\_

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Date \_\_\_\_\_

**Livingston County Capital Resource Corporation  
Procurement Policy**

**Verbal Quotation Form**

Date: \_\_\_\_\_

Procurement Officer/Corporation  
Employee: \_\_\_\_\_

Goods/Services Needed:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Delivery Needed By: \_\_\_\_\_

**Quotations:**

Vendor	Telephone Number	Vendor Rep.	Questions

**Livingston County Capital Resource Corporation  
Procurement Policy**

**Competitive Quotation Form**

Date: \_\_\_\_\_

Vendor: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ Fax: \_\_\_\_\_

**Section 1. Request for Quotation (to be complete by Corporation)**

Goods/Services Needed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Delivery Needed By: \_\_\_\_\_

- Insurance is required       Insurance is not required
- The operation should include charges, if any, for delivery
- The Corporation encourages charges or suggestions offering cost savings
- The Corporation reserves the right to reject all questions, waive minor deviations or consider alternative questions, subject to the terms/conditions or negotiations with Vendors as to price, specifications or terms
- If your goods or services deviate from the descriptions listed, please note such deviation
- Please include any additional information that is pertinent to your questions

**Section 2. Quotation**

The Corporation is receiving your competitive question of the Goods or Services described above. Please complete this quotation, sign, and return not later than 4:00 p.m. on \_\_\_\_\_. Unsigned quotations will not be considered.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, act as officer or employee or agent of \_\_\_\_\_, and am duly authorized to submit this quotation.

\_\_\_\_\_  
Signature, Title

\_\_\_\_\_  
Date

## **Livingston County Capital Resource Corporation Property Disposition Policy**

### **Section 1. Purpose**

This document is designed to ensure that the Corporation and its officers and employees dispose of (or transfer) Corporation property properly and in accordance with New York State (“State”) standards and regulations. The purpose of the policy is to define the standards for transferring or disposing of property.

### **Section 2. Scope**

This policy applies to the transfer of title or any other beneficial interest in personal property, in excess of \$5,000 in value, or real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

For personal property with a value of \$5,000 or less the Corporation shall have the final authority for disposition.

### **Section 3. Guidelines/Policy**

These guidelines cover the policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposition of property and designate a contracting officer to be responsible for the Corporation’s compliance with these guidelines.

### **Section 4. Use**

The Corporation shall use property in accordance with its purposes as set forth under New York General Municipal Law, which shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities and continuing care retirement communities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living.

### **Section 5. Awarding**

The Executive Director is responsible for supervision and direction of the sale and other disposition of Corporation property. The Corporation must maintain custody and control of such property pending its disposition. Additionally, the Corporation is required to perform the disposition of the property.

## **Section 6. Bids**

For all disposals or contracts for disposal of property, the Corporation shall publicly advertise for bids as follows;

1. bid advertisement shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property;
2. all bids shall be publicly disclosed at the time and place stated in the advertisement;
3. the award of bids shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Corporation; and
4. all bids shall include an expiration date.

All property considered for disposition shall be reviewed by the Corporation prior to advertising for bids. All written offers on real property under consideration for disposition shall be presented as an item on the agenda of an Corporation meeting. A preliminary review of offers to purchase or lease shall include: source of offer, date of offer, expiration date of offer, and intended use of property. The Corporation shall give final approval of all contracts.

The Corporation shall sell property for not less than fair market value (“FMV”), unless otherwise provided herein. No disposition of real property, or any interest in real property, shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

In consideration of public interest, the Corporation reserves the right to reject any and all offers at its sole discretion, regardless of price and terms.

## **Section 7. Negotiated Sale or Public Auction**

The Corporation will allow the disposition of property by negotiated sale or public auction if:

1. the property is personal property and has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is sold in such quantity that, if it were disposed as a sale by public bidding, would adversely affect the state or local market for such property and the estimated FMV of such property and other satisfactory terms of disposal can be obtained by negotiation;
2. the property’s value does not exceed \$15,000;
3. the bid prices after advertising are not reasonable or were not independently arrived at in open competition;
4. the property is sold to the State, any political subdivision or public benefit corporation

- and the estimated FMV is obtained by negotiation;
- 5. those circumstances permitted for FMV exception below are satisfied; or
- 6. the action is otherwise permitted by law.

### **Section 8. Exceptions to Obtaining FMV:**

No property owned, leased or otherwise in the control of the Corporation may be sold, leased, or otherwise alienated for less than its FMV except if:

1. Transferee is a government or public entity and terms of disposition require ownership and use to remain with the government or public entity; or
2. Purpose of disposition is within purpose, mission or statute of the Corporation; or
3. Corporation seeks to dispose of the property to a non-governmental entity and the disposition is not consistent with the Corporation's purpose, mission or statute, and the Corporation either:
  - a. provides written notification to the Governor and the State Legislature (via distribution to the Assembly's Speaker and the Senate's Temporary President), and all such recipients fail to deny the proposed disposition within the applicable time period as set forth in Section 2897 of the Public Authorities Law; or
  - b. the disposition is of property obtained by the Corporation from a political subdivision where the Corporation resides and is approved in accordance with Section 2897(7) of the Public Authorities Law.

If below FMV disposition is proposed, the following information is required to be provided to the Corporation's Board and the public:

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

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

### **Section 9. Explanatory Statement**

Explanatory statement needs to be prepared and transmitted to State Authorities Budget Office, State Comptroller, State Director of the Budget, the State Commissioner of General



Service and the State Legislature (via the Senate’s Majority Leader and the Assembly’s Speaker) at least 90 days in advance of such disposal in instances of disposal by negotiation where:

1. any personal property has an estimated FMV in excess of \$15,000;
2. any real property has an estimated FMV in excess of \$100,000;
3. any real property disposed of by lease if the estimated fair annual rent is in excess of \$15,000;
4. any real property or real and related personal property disposed of by exchange, regardless of value, or
5. any part of the consideration for the property disposed consists of real property.

Such explanatory statement must be preserved by the Corporation in its records.

Potential purchases or lessees shall demonstrate financial capacity to meet the terms and conditions of their purchase or lease offer.

Potential purchasers shall demonstrate reasonable likelihood of obtaining necessary city/township approval and/or compliance with city/township zoning ordinances.

### **Section 10. Monitoring**

The Corporation shall direct the Executive Director to conduct the periodic review of all Corporation property, and to identify obsolete property. The Corporation shall authorize the disposition by sale, donation, trade, or discard of any property no longer required for Corporation purposes.

The Corporation’s Executive Director will keep the records of all inventory and will update records biennially noting disposition when appropriate pursuant to the reporting requirements listed herein.

### **Section 11. Reporting**

The Corporation will file with State Comptroller, State Director of the Budget, the State Commissioner of General Service and the State Legislature (via the Senate’s Majority Leader and the Assembly’s Speaker) a report on the Corporation’s property listing the following:

1. all real property of the Corporation having an estimated FMV in excess of \$15,000 that the Corporation intends to dispose of;
2. all such property held by the Corporation at the end of the period covered by the report with an estimate of FMV for all such property; and
3. all such property disposed of during such period with the price received by the Corporation and the name of the purchaser for all such property.



## **Section 12. Contracting Officer**

The Contracting Officer of the Corporation shall be the Executive Director, who will be responsible for the Corporation's compliance with these guidelines. These guidelines will be reviewed and approved by the Corporation each fiscal year.

## **Livingston County Capital Resource Corporation Travel Policy**

### **Section 1. Applicability**

This policy shall apply to every member of the board (the “Board”) of the Livingston County Capital Resource Corporation (the “Corporation”) and all officers and employees thereof.

### **Section 2. Approval of Travel**

All official travel for which a reimbursement will be sought for registration, lodging, and/or meal expenses must be requested by filling out the attached "Travel Request and Authorization" form, and approved by the Executive Director prior to such travel. Provided, however, in the instance where the Executive Director will seek reimbursement for official travel, such travel must be pre-authorized by the Chairman of the Corporation.

### **Section 3. Payment of Travel**

The Corporation will reimburse all reasonable expenses related to meals, travel and lodging that were incurred by any director, officer or employee as a result of the performance of their official duties. All official travel shall be properly authorized, reported and reimbursed. Under no circumstances shall expenses for personal travel be charged to, or temporarily funded by the Corporation. It is the traveler’s responsibility to report his or her travel expenses in a responsible and ethical manner, in accordance with this policy.

### **Section 4. Travel Expenses**

Travelers may use their private vehicle for business purposes if it is less expensive than renting a car, taking a taxi, or using alternative transportation, or if it saves time. The traveler will be reimbursed at a standard mileage reimbursement rate.

Meals will be reimbursed at actual expense or a per diem rate, whichever is less. Lodging will be reimbursed at actual expense up to certain daily rate caps established for various locations. The applicability of such caps shall be determined on a case by case basis taking into consideration availability of lodging and other extenuating circumstances.

Reimbursement for miscellaneous expenses shall be determined on a case by case basis.

Reimbursement for miscellaneous expenses shall be determined on a case by case basis. Mileage rates, per diem allowances and lodging caps will be established and from time to time amended by the Treasurer. All determinations made pursuant to this section shall be made by the Treasurer. In the instance where such determinations regard the travel of the Treasurer, the Chairman shall make such determinations.

**Livingston County Capital Resource Corporation  
Travel Policy**

**Exhibit A: Travel Request and Authorization**

Travelers Name: \_\_\_\_\_  
 Purpose for Travel: \_\_\_\_\_  
 Destination: \_\_\_\_\_  
 Departure Date: \_\_\_\_\_ Return Date: \_\_\_\_\_

Expense	Description	Estimated Cost
Transportation:	_____	\$ _____
Lodging:	_____	\$ _____
Meals:	_____	\$ _____
Registration:	_____	\$ _____
	Total:	\$ _____

Funds in budget for balance of the year? Yes  No

Percentage reimbursable (state or federal)? \_\_\_\_\_

\_\_\_\_\_  
 Executive Director Approval Date

\_\_\_\_\_  
 Chairman Approval (required for Executive Director travel only) Date

**Directions:**

1. Per the travel policy, this form is required for official travel for which a reimbursement will be sought for registration, lodging, and/or meal expenses.
2. Permission must be obtained prior to attendance.
3. Submit request to Executive Director at least three (3) weeks in advance.
4. Submit relevant supporting material, i.e. conference program.
5. An approved copy will be forwarded to the attendee.
6. Be sure to use a tax exemption certificate for travel and/or lodging.
7. Attach a copy of the approved authorization form to the voucher for payment.

## **Livingston County Capital Resource Corporation Whistleblower Policy (Policy Prohibiting Retaliation)**


It is the policy of the Livingston County Capital Resource Corporation (herein “IDA” or “the Corporation”) that no employee of the Corporation shall be subjected to any discrimination, retaliation or adverse employment action because of said employee’s disclosure of any Improper Corporation Action pursuant to the terms of this policy.

Prior to the disclosure of any Improper Corporation Action by any employee of the Corporation (herein “Disclosing Employee”), the Disclosing Employee must first disclose the purportedly Improper Corporation Action to the Corporation’s Chief Executive Officer or any member of the Corporation’s governing board. Thereafter, the employee must allow the Corporation’s Chief Executive Officer or the Corporation’s governing board at least five (5) business days after receipt of the aforementioned notice to take appropriate action regarding the purported Improper Corporation Action and to notify the Disclosing Employee of said action in writing, unless that appropriate action and notification would pose an imminent and serious danger to the safety and health to the public. Any disclosure of Improper Corporation Action to any person or entity prior to disclosure to the Corporation’s Chief Executive Officer or any member of the Corporation’s governing board, or prior to expiration of the five business day period, is in direct contravention of this policy and may subject an employee to disciplinary action, including but not limited to commencement of the necessary proceeding to terminate the Disclosing Employee’s employment.

If a Disclosing Employee discloses Improper Corporation Action to the Corporation’s Chief Executive Officer or any member of the Corporation’s governing board, waits the requisite five business days, and is not informed of any appropriate action with regard to the purportedly Improper Corporation Action, the Disclosing Employee may thereafter disclose the purported Improper Corporation Action to any person or entity without fear of discrimination, retaliation or adverse employment action for said disclosure, provided that such disclosure is made in good faith and without malice.

For purposes of this policy, “Improper Corporation Action” is defined as the following conduct:

1. Any act of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or member of the governing board of the Corporation relative to investments, travel, the acquisition of real property, the disposition of real or personal property, the procurement of goods and services, or any action performed on behalf of the Corporation;
2. Any action by an employee or member of the governing board of the Corporation that is a violation of a law, rule or regulation that creates a substantial and specific danger to the public’s safety and/or health; or
3. Any action by an employee or member of the governing board of the Corporation which is undertaken in the performance of such individual’s official duties and which the



Disclosing Employee reasonably believes was taken in violation of any Federal, New York State or local law, rule or regulation.