

## **FOR CONSIDERATION**

March 27, 2024

**TO:** The Governance, Planning, and Personnel Committee

**FROM:** Thomas Falcone

**SUBJECT:** Recommendation to Approve the Annual Review of the Property Disposition Policy and Amendments to the LIPA's Code of Ethics and Conduct

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### **Requested Action**

The Governance, Planning, and Personnel Committee (the "Committee") of the Board of Trustees (the "Board") of the Long Island Power Authority (the "LIPA") is requested to adopt a resolution recommending approval of the annual review of the Property Disposition Policy and Amendments to LIPA's Code of Ethics and Conduct (the "Code of Ethics").

### **Discussion**

In accordance with the New York State Public Authorities Law ("PAL") and governance best practices, the Board has adopted the Board Policy on Property Disposition. Section 2896(1) of the PAL requires that the property disposition guidelines be annually reviewed and approved by LIPA. The Board Policy on Property Disposition was last reviewed and approved by the Board in March 2023.

LIPA Staff recommends no changes to either the Board Policy on Property Disposition.

### **Amendments to LIPA's Code of Ethics and Conduct**

LIPA Staff has reviewed the Code of Ethics and recommends certain minor changes to the Policy to conform with updated law. The New York State Commission on Ethics and Lobbying in Government ("COELIG") was established by the Ethics Commission Reform Act of 2022. COELIG was created to replace what was known as the Joint Commission on Public Ethics ("JCOPE"). References to JCOPE have been removed and replaced with COELIG consistent with Ethics Commission Reform Act of 2022. Additionally, certain other changes have been made to better reflect the threshold related to gifts. Other minor formatting and clerical edits are also included. All amendments are more specifically shown on **Exhibit "C"**.

### **Recommendation**

Based upon the foregoing, I recommend approval of the above requested action by adoption of a resolution in the form attached hereto.

Attachments

**Exhibit "A"** Resolution

**Exhibit "B"** Board Policy on Property Disposition

**Exhibit "C"** LIPA Code of Ethics and Conduct (redline)

**RESOLUTION RECOMMENDING APPROVAL THE ANNUAL REVIEW OF  
PROPERTY DISPOSITION POLICY AND AMENDMENTS TO THE LIPA’S CODE OF  
ETHICS AND CONDUCT**

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**WHEREAS**, in accordance with the New York State Public Authorities Law (“PAL”) and governance best practices, the Board has adopted the Board Policy on Property Disposition; and

**WHEREAS**, Section 2896(1) of the Public Authorities Law requires that the property disposition guidelines be annually reviewed and approved LIPA; and

**WHEREAS**, additionally, LIPA Staff has reviewed LIPA’s Code of Ethics and Conduct and recommends certain minor changes to the Policy to conform with the Ethics Commission Reform Act of 2022, which created the New York State Commission on Ethics and Lobbying in Government (“COELIG”) as a replacement of the Joint Commission on Public Ethics (“JCOPE”).

**NOW, THEREFORE, BE IT RESOLVED**, that pursuant to the Public Authorities Law, the Governance, Planning, and Personnel Committee hereby recommends approval of the annual review of the Board Policy on Property Disposition; and

**BE IT FURTHER RESOLVED**, the Governance, Planning, and Personnel Committee hereby recommends approval of amendments to LIPA Code of Ethics and Conduct as provided in the attached memorandum.

Dated: March 27, 2024

**Board Policy:** Property Disposition  
**Policy Type:** Compliance Process  
**Monitored by:** Governance Committee  
**Board Resolution:** Resolution #1610, approved March 29, 2021

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Long Island Power Authority (referred to herein as the “Authority”) is required by Section 2896 of the Public Authorities Law to adopt by resolution comprehensive guidelines, to be annually reviewed and approved by the Trustees of the Authority, regarding the use, awarding, monitoring and reporting of contracts for the disposal of Property. The following Board Policy (the “Policy”) is adopted pursuant to such requirement and is applicable with respect to the use, awarding, monitoring and reporting of all Property Disposition Contracts which are (i) entered into by the Authority and (ii) solicited or awarded by the Authority on behalf of the Long Island Lighting Company d/b/a LIPA and d/b/a Power Supply Long Island or on behalf of the Utility Debt Securitization Authority (collectively, the “Authority”).

#### I. DEFINITIONS

1. “Contracting Officer” shall mean the General Counsel or his or her designee.
2. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with these guidelines.
3. “Fair Market Value” shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace
4. "Property" shall mean personal property, real property, and any inchoate or other interest in such property owned by the Authority, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. Neither electricity nor natural gas nor any attributes derived therefrom, shall be considered Property for purposes of this guideline.
5. "Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of Property.
6. "Real Property" shall mean real property and interests therein.

#### II. PRINCIPAL DUTIES OF CONTRACTING OFFICER

The Contracting Officer, as designated in Section I.1, is responsible for the supervision and direction over the custody, control and disposition of Property and responsible for the

Authority's compliance with, and enforcement of, these guidelines. The Contracting Officer shall: (a) maintain adequate inventory controls and accountability systems for all Property under the Authority's control; (b) periodically inventory such Property to determine which Property shall be disposed of; (c) transfer or dispose of such Property as promptly as possible in accordance with these guidelines; and (d) produce and submit reports pursuant to Section IV.B. of these guidelines.

### III. PROPERTY DISPOSITION CONTRACTS

#### A. Reason(s) for Use of Property Disposition Contracts

Property Disposition Contracts may be entered into for the purpose of disposing of Property which is no longer necessary or useful for the operations of the Authority or the Subsidiary to warrant retention, if the disposition of such Property will result in cost savings or other benefits to the Authority, the disposition thereof will result in the receipt of valuable consideration or other benefits by the Authority, or the disposition is of neutral or nominal value to the parties.

#### B. Method of Disposition

The Authority may dispose of Property for no less than the Fair Market Value by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, upon such terms and conditions as are determined by the Contracting Officer; except as otherwise permitted by this Section III.B. and Section III.C.4 (below). However, no disposition of Real Property, or any interest in Real Property shall be made unless an appraisal of such Property has been made by an independent appraiser and included in the record of the transaction. Further, no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.

In addition to the circumstances permitted by Section III.C.4 (below), the Authority may dispose of Property for less than Fair Market Value when the value of the transaction is nominal and the Property Disposition Contract is temporary and revocable. For such transactions, the requirements of Sections III.C.5, 6 and 7 (also below) do not apply.

#### C. Award of Property Disposition Contracts; Selection Criteria for Property Disposition Contracts

1. All sales or other dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer.
2. All Property Disposition Contracts shall be made after publicly advertising for bids unless the criteria set forth below in the Guidelines at Section III.C.3. have been met for such contracts to be made by negotiation or public auction. Whenever public advertising for bids is required, (i) the advertisement for bids 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; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) the award 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 state, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

3. Property Disposition Contracts may be negotiated or made by public auction without regard to the criteria set forth above in the Guidelines at Section III.C.2. but subject to obtaining such competition as the Contracting Officer determines is feasible under the circumstances, if (i) the personal property involved 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 to be sold in such quantity that, if it were disposed of by publicly advertising for bids, would adversely affect the state or local market for such property, and the estimated Fair Market Value of such property and other satisfactory terms of disposal can be obtained by negotiation; (ii) the Fair Market Value of the Property does not exceed fifteen thousand dollars; (iii) bid prices after advertising therefor are not reasonable, either as to all or some part of the Property, or have not been independently arrived at in open competition; (iv) the disposition of Property will be to the state or any political subdivision, and the estimated Fair Market Value of the Property and other satisfactory terms of disposal are obtained by negotiation; (v) under the circumstances permitted by Section III.C.4, or (vi) such action is otherwise authorized by law.
4. Property may not be disposed of for less than Fair Market Value unless the following criteria are met: (i) the property is transferred to a government or other public entity and the terms and conditions of the transfer require that the ownership and use of the property will remain with the government or any other public entity; (ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or (iii) if the transfer is other than to a governmental entity and would not be consistent with the Authority's mission, purpose or governing statute, the Authority shall provide written notification to the governor, speaker of the assembly and temporary president of the senate. The governor, senate or assembly may deny the transfer. The governor or either house of the legislature will take action within sixty days of receiving notification of the proposed transfer from January through June. If the notification is received by the legislature from July through December, the legislature may take any action within sixty days of January first of the following year. In the event that there is no denial within sixty days of the notification to the governor, senate and assembly, the Authority may effectuate the transfer.
5. In the event the Authority proposes that property be disposed of for less than Fair Market Value, the following information must be provided to the Authority Board of Trustees and the public prior to being approved by the Board of Trustees:

- (i) a full description of the property;
  - (ii) an appraisal of the Fair Market Value of the property and any other information establishing the Fair Market Value sought by the Board of Trustees;
  - (iii) a description of the purpose of the transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits to the communities in which the property is situated
  - (iv) a statement of the value to be received as compared to the Fair Market Value;
  - (v) the names of any private parties participating in the transfer and a statement of the value to the private party if different than the statement in (iv) above;
  - (vi) the names of other private parties who have made an offer for such an asset, the value offered, and the purpose for which the asset was sought to be used.
6. Before approving the disposition of property for less than Fair Market Value, the Board of Trustees must consider the information described in paragraph 5 above and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer. Such determination may be provided on a case-by-case basis or a blanket basis for all such dispositions that have substantially similar circumstances.
7. Except for dispositions where the purpose of the transfer is within the purpose, mission or governing statute of the Authority, the Contracting Officer shall transmit a statement explaining the circumstances of the negotiated disposition of Property by at least ninety days prior to such disposal to each of the State Comptroller, the Director of the Budget, the Commissioner of General Services, the State legislature, and the Authorities Budget Office, and a copy thereof shall be preserved in the files of the Authority. Such a statement shall be prepared in connection with a negotiated disposition of Property of any of the following: (i) any personal property which has an estimated Fair Market Value in excess of fifteen thousand dollars; (ii) any Real Property that has an estimated Fair Market Value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses iii and iv of this Section.; (iii) any Real Property disposed of by lease if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars; (iv) any Real Property or related personal property disposed of by exchange, regardless of value, or any Property any part of the consideration for which is Real Property.

To the extent that Property Disposition Contracts are competitively awarded, such awards shall be made upon receipt and evaluation of bids or proposals or other information obtained from persons/firms responding to a request for proposals or other form of solicitation on the basis of the criteria specified in the request for proposals or other solicitation. The Contracting Officer shall document the processes by which Property is sold or otherwise disposed of, by making a record summarizing the nature and scope of the Property disposed, the name of each person or organization submitting, or requested to submit, a bid or proposal, the

price or other consideration bid and received, and the basis for selection of both the purchaser and method of disposition of the Property.

8. All dispositions of Property also shall be subject to compliance with Section 6.15 of the Financing Agreement, dated as of May 1, 1998, between the Authority and the Subsidiary (the "Financing Agreement") and Section 714 of the Electric System General Revenue Bond Resolution adopted by the Authority on May 13, 1998, as supplemented (the "General Resolution"). In furtherance thereof, no Property of the Authority or the Subsidiary shall be sold or otherwise disposed of unless the Chief Financial Officer has determined that such disposition (i) is desirable in the conduct of the business of the Authority or the Subsidiary, (ii) is not disadvantageous in any material respect to the holders of the Authority's Obligations (as defined in the General Resolution), (iii) does not materially impair the ability of the Authority and the Subsidiary to comply with their respective obligations to comply with the rate covenants contained in Section 6.1 of the Financing Agreement and Section 701 of the General Resolution, and (iv) does not breach any covenants of the Authority or the Subsidiary relating to the exclusion of interest on the Authority's Obligations, which determinations shall be evidenced in writing and maintained with the records of the Authority relating to the disposition of such Property.

D. Approval Process for Property Disposition Contracts

In addition to any other approvals required by law, the award of Property Disposition Contracts and any related determinations made in connection therewith shall be approved as follows:

1. Property Disposition Contracts in amounts equal to or less than \$1,000,000 and related determinations shall be approved by the Contracting Officer and the Chief Financial Officer or the Chief Executive Officer.
2. Property Disposition Contracts in amounts greater than \$1,000,000 and related determinations shall be approved by the Trustees of the Authority.

IV. GENERAL

A. Implementation of Guidelines

The Contracting Officer is empowered to prepare such supplemental procedures as may be required to effectively implement these Guidelines, copies of which shall be provided to the Trustees.



B. Reports

1. Property Disposition Guidelines approved by Authority shall be annually reviewed and approved by the Trustees of the Authority. On or before the thirty-first day of March in each year, the Authority shall file with the State Comptroller a copy of the most recently reviewed and adopted guidelines, including the name of the Contracting Officer, and must post such guidelines on the Authority's website. Guidelines posted on the Authority's website shall be maintained at least until the disposition guidelines for the following year are posted on the website.
2. Within ninety days of the end of the fiscal year, the Contracting Officer shall prepare and submit to the Trustees, the Governor, the Chairman and ranking minority member of the Senate Finance Committee, the Chairman and ranking minority member of the Assembly Ways and Means Committee, the State Comptroller, and the Authorities Budget Office, a report listing all Real Property of the Authority having an estimated Fair Market Value in excess of fifteen thousand dollars that the Authority disposed of during the previous fiscal year. The report shall contain the price received by the Authority and the name of the purchaser for all such property sold by the Authority during such period.

C. Effect of Awarded Contracts

These Guidelines are intended for the guidance of the officers and employees of the Authority and the Subsidiary only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. In accordance with Section 2897.5 of the Public Authorities Law, a deed, bill of sale, lease, or other instruments executed by or on behalf of the Authority or the Subsidiary, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these guidelines insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of compliance with these guidelines prior to the closing

**CODE OF ETHICS AND CONDUCT OF THE  
LONG ISLAND POWER AUTHORITY**

~~February 17~~ March 27, 2024

Long Island Power Authority  
333 Earle Ovington Boulevard  
Uniondale, New York 11553

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## **LONG ISLAND POWER AUTHORITY CODE OF ETHICS AND CONDUCT**

### **I. Introduction**

The Long Island Power Authority (“LIPA”), as a public entity, has a responsibility for maintaining the highest level of honesty, ethical conduct, and public trust in all its activities. To meet this responsibility, LIPA adopted codes of ethics and conduct for its Trustees and Employees. This Code of Ethics and Conduct (the “Code”) addresses the ethical and professional standards of conduct expected of both LIPA’s Board of Trustees and its Employees.

The Code applies to LIPA's current Trustees and Former Trustees and current and Former Employees (hereafter Trustees and Employees) and states in specific form LIPA's position on Conflicts of Interest. Personal integrity is the cornerstone of the Code. Each Trustee and Employee has the primary responsibility for avoiding Financial Interests and Other Interests which might create a conflict with his or her position as a fiduciary of LIPA and LIPA property. As LIPA is a public entity, Trustees and Employees are responsible for conducting Authority business solely in the public interest.

The Code is not intended to address all situations or answer all questions related to daily ethical conduct. Trustees and Employees should inquire of LIPA’s General Counsel if they have questions as to any provision of the Code. In addition, Trustees and Employees who have questions as to whether a prospective personal or business Transaction or assumption of a position of responsibility or trust would violate the Code, may request in writing an advance determination on the matter from LIPA’s General Counsel pursuant to Section VIII of the Code.

Violations of the Code or applicable statutory provisions may subject a Trustee or Employee to discipline up to and including removal from the board by the appointing authority, termination of employment at LIPA and/or expose the Trustee or Employee to civil and/or criminal penalties.

The Code will be reviewed and updated by the Governance, Planning and Personnel Committee as necessary with a copy distributed to each Trustee and Employee.

### **II. Definitions**

The following definitions apply to the Code.

A. “Benefit” means any gain or advantage to, or reduction in the liabilities of, the beneficiary and includes any gain or advantage to, or reduction in the liabilities of, a third person pursuant to the desire or consent of the beneficiary.

B. “Confidential Information” means information which is available to a Trustee only because of his or her status as a Trustee and is not a matter of public knowledge.

C. “Conflict of Interest” means a situation in which the financial, familial, or personal interests of a Trustee or Employee conflict, may conflict or could be perceived as conflicting with

their responsibilities to LIPA.

D. “Dependent Child” means any son, daughter, stepson or stepdaughter of a Trustee or Employee who is under age eighteen, unmarried and living in the household of the Trustee; or a “dependent” of the Trustee or Employee within the meaning of section 152 of the Internal Revenue Code.<sup>1</sup>

E. “Employee” means any person employed by or officer of LIPA.

F. “Financial Interest” means any of the following:

1. Ownership or control of 10 percent or more of the stock of any entity (or 1 percent in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity;

2. Ownership of an interest in a business or real property which interest (a) reflects a 10 percent or more ownership of the business, or (b) in the case of a Spouse or Dependent Child, constitutes 10 percent or more of the net worth of the person owning such interest, or the combined net worth of the Trustee and his or her Spouse and Dependent Child. In determining net worth, the value of any interest in the Trustee or Employee’s personal residence(s) shall be excluded. In determining the value of an interest, debts, mortgages, liens or other encumbrances thereon are to be disregarded; or

3. Liability or indebtedness to a person or business in excess of \$5,000, excluding liabilities owed to Relative(s) and excluding mortgages, liens or other encumbrances on or secured by real property which constitutes the Trustee or Employee’s personal residence(s) or furniture or appliances therein.

G. “Former Trustee” and “Former Employee” mean persons who are no longer Trustees or Employees of LIPA but were at any time following LIPA’s adoption of this Code or any predecessor code of ethics and conduct.

H. “Gift” means a payment, advance, forbearance, rendering, or deposit of money, or anything of more than nominal value, unless the donor receives consideration of equal or greater value. Nominal value means an item or service with a fair market value of \$15 or less. The gift threshold applies to the total value of all gifts received from a gift giver during a calendar year.

I. Trustee’s or Employee’s “Independent Business” means, for the purposes of Section IV (B) (11) of the Code: (1) any entity, including but not limited to a firm, partnership or association of which a Trustee or Employee, or a Trustee’s or Employee’s Spouse or Dependent Child serves as an employee, consultant or contractor, or is entitled to receive income,

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<sup>1</sup> The definition of “Dependent Child” includes adopted children, who under New York State law have the same rights and privileges of biological children. See, *New York Estates, Powers and Trusts Law Section 2-1.3(a)*

dividends or anything of value; or (2) a corporation, 10% or more of the stock of which is owned or controlled directly or indirectly by a Trustee or Employee or a Trustee or Employee's Spouse or Dependent Child.

J. "LIPA" means the Long Island Power Authority and its wholly owned subsidiary, the Long Island Lighting Company d/b/a LIPA and d/b/a Power Supply Long Island, as well as any other subsidiaries created by the Long Island Power Authority.

K. "Operations Services" means the management of the daily operation of LIPA's electric transmission and distribution system and the management of LIPA's power supply resources.

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

M. "Policy-Making Position" means Trustees and Employees in management and non-management positions designated as Policy-Making positions by LIPA, because the individual holding the position exercises responsibilities of a broad scope in the formulation of plans for the implementation of goals or policy for LIPA or acts as an advisor to an individual in such a position.

N. "Relative" shall mean a Trustee or Employee's Spouse, domestic partner as defined by N.Y. Public Health Law § 2961(6-a), child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the Trustee or Employee, or of the Trustee or Employee's Spouse.

O. "Spouse" shall mean the husband or wife of the Trustee or Employee unless living separate and apart from the Trustee with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement. Spouse also includes persons in legally recognized marriages as provided in New York's Marriage Equality Act of 2011.

P. "Trading" means, in reference to securities, the buying and selling of securities, or the buying and selling of options, calls, puts, or any other right relating to a security.

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

R. "Trustee" means the Trustees of LIPA appointed pursuant to Public Authorities Law §§ 1020-d.

### III. Standards and Principles of Conduct

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

#### A. General Standards

1. Trustees and Employees are subject to New York State ethics laws including Public Officers Law Sections 73-a, 74 and the rules and regulations promulgated thereunder. Employees are further subject to Public Officers Law Section 73, and the rules and regulations promulgated thereunder.

2. Trustees and Employees should endeavor to pursue a course of conduct that will not raise suspicion among the public that he or she is likely to engage in acts that are in violation of the public trust.

#### B. Specific Standards and Principles

##### *Personal or Financial Interests/Independence/Privileges*

1. Trustees and Employees shall not have any interest or incur any obligation, financial or otherwise, direct or indirect, or engage in any business or Transaction or professional activity, which conflicts with the proper discharge of their duties in the public interest.

2. Trustees shall recuse themselves from all deliberations and decisions involving an entity that has, within the past 24-months, paid remuneration to their employer valued at more than fifteen thousand dollars for goods and services or for which their employer has received any other form of financial assistance valued at more than fifteen thousand dollars.

3. Trustees and Employees shall avoid any action, whether or not specifically prohibited by the Code, which might result in or create the appearance of:

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

4. Trustees and Employees should abstain from making personal investments in enterprises that may require his or her direct involvement in decisions affecting LIPA

or that will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

5. (a) If any Trustee shall have a Financial Interest, either direct or indirect, in any Transaction to which LIPA is, or is to be, a party, such interest shall be promptly disclosed in writing to the Chair or Vice Chair of the Board of Trustees as well as the LIPA's General Counsel as provided in Section X of this Code.

(b) If any Employee shall have a Financial Interest, either direct or indirect, in any Transaction to which LIPA is, or is to be, a party, such interest shall be promptly disclosed in writing to LIPA's General Counsel.

6. No Trustee or Employee shall (1) accept other employment or engage in any business, professional or other activity which will impair his or her independence of judgment in the exercise of his or her official duties or which involves a matter in which LIPA has a substantial interest, or (2) receive or enter into any agreement for any compensation for the appearance or rendition of services against the interest of LIPA in relation to any case, proceeding, or matter.

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

#### *Improper Influence/Lobbying*

8. A Trustee or Employee shall not by his or her conduct give reasonable basis for the impression that any person may improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

9. A Trustee or Employee shall report to LIPA's General Counsel any communication directed to him or her where a reasonable person would infer that the communication was intended to influence the consideration or outcome of an active procurement being conducted by LIPA or its service provider. Attempts by third parties to influence procurements are required to be collected and reported by LIPA and may result in Trustee or Employee's recusal from actions related to the procurement and disqualification of bidders from the procurement.

#### *Transactions Involving a Trustee or Employee, Trustee's or Employee's Spouse, Dependent Child or Independent Business*

10. No Trustee or Employee shall be involved in any Transaction as representative or agent of LIPA with, or be involved in any evaluation of, any business entity in which the Trustee or Employee or the Trustee or Employee's, Spouse or Dependent Child has a direct or indirect Financial Interest. Prior to becoming involved in any Transaction as representative or agent of LIPA with, or becoming involved in any evaluation of, a business entity in which the Trustee or Employee or Trustee or Employee's Spouse or Dependent Child holds a Financial Interest, the Trustee, Employee, Spouse or Dependent Child must sell or transfer such Financial Interest.



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

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

13. (a) No Trustee or Employee or their Spouse or Dependent Child shall, directly or indirectly, solicit, accept or receive any Gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, hospitality, thing, discount, forbearance or promise, or in any other form, from an "interested source" defined as any person or entity which is (i) regulated by LIPA or (ii) does business or is seeking to do business with LIPA or (iii) a registered lobbyist who lobbies LIPA (or the spouse or emancipated child thereof), (iv) is involved in any ongoing official action or proceeding adverse to LIPA; or (v) has received or applied for funds from LIPA during the last 12 months. A gift from an interested source must be reported and is presumed to be impermissible unless it is unreasonable to infer that the item or service was intended to influence or reward the Trustee for performing one's job.

(b) No Trustee or Employee or their Spouse or Dependent Child shall, directly or indirectly, solicit, accept or receive any Gift or gratuity of more than nominal value where the circumstances would permit the inference that: (i) the Gift was intended to influence the Trustee or Employee in the performance of official business; or (ii) the Gift constituted a tip, reward, or sign of appreciation for any official act by the Trustee.

(c) No Trustee or Employee or Spouse or Dependent Child shall (i) solicit, accept, or receive any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to ~~section one-m of the legislative law~~ the legislative law unless under the circumstances it is not reasonable to infer that the gift was intended to influence him, or (ii) permit the solicitation, acceptance or receipt of any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to

section one-m of the legislative law to a third party including a charitable organization, on such official's designation or recommendation or on his or her behalf, under circumstances where it is reasonable to infer that the gift was intended to influence him. A list of exclusions from the definition of gift is located at this [link](#). ~~link~~. A Trustee or Employee may not solicit, accept or receive a Gift of any value if to do so would constitute a substantial conflict with the proper discharge of his or her duties in the public interest.

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

#### *Decisions Relating to a Relative*

14. (a) No Trustee or Employee may take part in any hiring or employment decision relating to a Relative including any decision to hire, promote, discipline or discharge a Relative, for any compensated position at, for or within LIPA. If such a Relative is hired, no Trustee or Employee shall be permitted to supervise such Relative. If a hiring or employment matter arises relating to a Relative, then the Trustee must advise the Chair of the Board of Trustee of the relationship and must be recused from all discussions or decisions relating to the matter. An Employee must advise LIPA's General Counsel and must be recused from all discussions or decisions relating to the matter.

(b) No Trustee or Employee may take part in any contracting decision: (i) relating to a Relative, (ii) relating to any entity in which a Relative is an officer, director or partner, or in which a Relative owns or controls 10% or more of the stock of such entity, (iii) involving the payment of more than \$1,000 dollars to the Trustee or Employee, any Relative of such persons, or any entity in which that Trustee, Employee or any Relative has a Financial Interest, or (iv) to invest public funds in any security of any entity in which that Trustee, Employee or any Relative thereof has a Financial Interest, is an underwriter, or receives any brokerage, origination or servicing fees. If a contracting matter arises relating to a Relative, then the Trustee must advise the Chair of the Board of Trustees of the relationship and must be recused from all discussions or decisions relating to the contracting matter. If a contracting matter arises relating to a Relative, then the Employee must advise LIPA's General Counsel and must be recused from all discussions or decisions relating to the contracting matter.

#### *Campaign Contributions and Political Activity and Affiliations*

15. Trustees and Employees are prohibited from using LIPA's supplies, equipment, computers, personnel and other resources for non-Authority purposes, including for personal purposes or for outside activities of any kind. In addition, no Trustee appointed by the Governor may make campaign contributions to the Governor. See Executive Order No. 7 "Prohibition of Personal Use of State Property and Campaign Contributions to the Governor" (issued by Governor Paterson and continued by Governor Andrew M. Cuomo), incorporated herein by reference.

16. (a) No Trustee or Employee involved in the awarding of grants or contracts may ask a current or prospective grantee or contractor, or any officer, director or employee thereof, to disclose (i) the party affiliation of such grantee or contractor, or any officer, director or employee thereof; (ii) whether such grantee or contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such grantee or contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party.

(b) No Trustee or Employee may award or decline to award any state grant or contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective grantee's or contractor's refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

17. (a) No Trustee or Employee may during the consideration of an employment decision ask any applicant for public employment to disclose: (i) the political party affiliation of the applicant; (ii) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether the applicant cast a vote for or against any elected official, candidate or political party.

(b) No Trustee or Employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any state official or employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or for giving or withholding or neglecting to make any contribution of money or service or other valuable thing for any political purpose.

(c) No Trustee or Employee shall, directly or indirectly, use his or her official authority to compel or induce any other Trustee or Employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.

18. No Trustee or Employee holding a Policy-Making Position within LIPA, shall serve as an officer of any Political Party or Political Organization; or as members of any Political Party Committee, as those terms are defined in 19 NYCRR §932.2, including Political Party district leaders or as members of a Political Party national committee.

19. An Employee interested in running for elective office shall give written notice of his or her intentions to the Chief Executive Officer and General Counsel, so that it may be determined whether, and upon what conditions, the Employee would be permitted to seek elective public office.

20. Employees shall not conduct political activities during work hours, whether for themselves or any other person or cause, or at any time from within the LIPA's headquarters or Authority-owned or leased locations.

21. Consistent with this Code, Trustees and Employees are otherwise free to participate in the political process on their own time, but there must be a clear separation between their political activities and the discharge of their duties as Trustees and Employees of LIPA.

#### *Outside Employment*

22. Trustees and Employees may not hold outside employment that is in conflict with their LIPA duties. See Section II(D) above.

23. Employees may hold outside employment as long as it is not in conflict with their LIPA duties, they meet the performance standards of their job with LIPA and have received prior, written approval from the Chief Executive Officer. An employee designated as a “Policy Maker” may also require approval from the New York State ~~Joint Commission on Public Ethics~~ Commission on Ethics and Lobbying in Government.

24. **Honoraria** - Employees must comply with the Commission’s regulations concerning limitations on the receipt of Honoraria from outside parties. A detailed statement of all of the circumstances under which an Employee may accept Honoraria from a third party are set forth in Title 19 NYCRR Part 930.001 Ethics. An Employee cannot accept an Honorarium for services related to his or her LIPA duties. The following is a summary of the rules relating to Honoraria:

**Permitted Honoraria.** An Employee may accept an Honorarium under certain circumstances, including where the individual or organization offering the Honorarium is not involved with LIPA in any context other than in ministerial matters.

**Prohibited Honoraria.** Honorarium is not to be received for services rendered for or on behalf of an individual who, or on behalf of an organization, or any of its officers or members of the board of directors, which: (i) is regulated by, or regular negotiates with, appears before in other than a ministerial manner, does business with or has contracts with either LIPA or the covered individual, or (ii) attempts to lobby or to influence action or positions on legislation or rules, regulation or rate making (iii) is involved in litigation adverse to LIPA; or (iv) has received or applied for funds from LIPA during the previous calendar year

**Payment in Lieu of Honoraria.** A payment in lieu of an Honorarium that is offered for services related to an Employee’s official duties cannot be accepted by the Employee and must be paid by the granting organization directly to the general fund of the State or to such fund as is appropriate for a public authority.

**Disclosure.** Each year LIPA is required to file a report with the Commission, which lists Honoraria received by its Employees. ~~Therefore,~~ <sup>every</sup> Therefore, every Employee who has received one or more Honoraria during the reporting period must file a report with LIPA’s Compliance Officer using the form provided by LIPA.

#### *Annual Financial Disclosure Filing*

25. Section §73-a of the Public Officers Law requires the filing of an annual statement of financial disclosure by Trustees and by Employees who hold Policy-Making Positions or who earn in excess of annual salary requirements set by the ~~Joint Commission on Public Ethics~~ Commission on Ethics and Lobbying in Government each year. The disclosure statement is an annual disclosure of the financial holdings and associations of filers and their Spouses. The purpose of the financial disclosure is to highlight potential conflicts of interest. The Commission can assess penalties for late and delinquent filings.

#### *Employee Post-Authority Employment*

26. (a) Employees may not solicit a post-government employment opportunity with any entity or individual that has a specific pending matter before the Employee; and only may, 30 days from the time a matter is closed or the Employee has no further involvement because of recusal or reassignment, solicit an employment opportunity.

(b) Employees who receive an unsolicited employment-related communication from such an entity or individual (i) cannot pursue employment with the entity or individual or (ii) must recuse themselves from the matter and any further official contact with the entity or individual and wait 30 days from such recusal before entering into post-government employment communications with the entity or individual.

(c) Employees must promptly notify their superiors and ethics officers of such employment-related communications whether or not they intend to pursue the employment opportunity.

#### **IV. Restrictions on Post-Employment Activities of Former Employees**

The post-employment activities of persons who are Former Employees are governed by the restrictions set forth in ~~Section 73(8) of the Public Officers Law~~. Section 73(8) of the Public Officers Law. **These restrictions consist of a two-year bar and a lifetime bar and apply to virtually all Employees.**

##### Two Year Bar

Former Employees may not, within a period of two years after leaving State service, appear or practice before their former agency or receive compensation for any services rendered in relation to any case, proceeding, application or other matter before their former agency. The ~~Joint Commission on Public Ethics~~ Commission on Ethics and Lobbying in Government defines “appear” to include making a telephone call, as well as sending a letter, fax or e-mail. For the two-year bar, the determining inquiry is whether the appearance is before the Former Employee’s former agency, regardless of the nature or subject of the appearance.

##### Lifetime Bar

Former Employees may not appear, practice, communicate or otherwise render services before any State agency, or receive compensation for such services in relation to any case, proceeding, application or transaction with which they were directly concerned and in which they personally participated while in public service, or which was under their active consideration.

#### Exceptions

1. The government-to-government exception: Allows someone who goes to work for another government entity, at any level, to appear before the former agency, regardless of how much time has elapsed since the individual left State service.
2. Exception for “ministerial matters”: i.e. matters that the agency handles by the thousands, if not millions of times a day. For example, a former employee of the Department of Motor Vehicles may still renew his or her driver’s license.

#### Penalties

Individuals who violate certain provisions of Public Officers Law §73 are subject to a civil penalty not to exceed \$40,000, for each appearance. In lieu of a civil penalty, the Commission may refer violations to an appropriate prosecutor for prosecution as a Class A misdemeanor.

#### A. Applicable New York Law

These standards do not replace and are in addition to the requirements of law, particularly Sections 73, 73-a and 74 of the New York Public Officers Law, which, among other things, govern the business activities of Trustees, Employees and Former Trustees or Former Employees and set forth the State Code of Ethics. Sections 73, 73-a and 74 of the Public Officers Law are made a part of this Code. The violation of any ethics laws or regulations may also constitute violations of civil or criminal state and federal law.

#### **V. Trading of Securities of Companies Providing Operations Services to LIPA and Certain Energy Companies**

The acquisition or trading of securities issued by companies that provide Operations Services to LIPA, the parent corporations of such companies and other subsidiaries or affiliates of such parent corporations, if any, presents a possible Conflict of Interest for all Trustees and Employees.

To protect against the potential of a Conflict of Interest with respect to Transactions involving companies that provide Operations Services to LIPA, it is LIPA’s policy that a Trustee or Employee, or a Trustee or Employee’s Spouse or Dependent Child may not Trade in or otherwise acquire securities in any companies, including parent corporations and other subsidiaries or affiliates of such parent corporations, if any, that provide Operations Services to LIPA. A Trustee or Employee,

or a Trustee or Employee's Spouse or Dependent Child who has acquired the securities, not including such securities that are included within a mutual fund or pension fund investment, of such companies must sell or transfer the securities within one year of (i) the Trustee or Employee's date of appointment with LIPA, or (ii) the date of such receipt, whichever is later.

No Trustee or Employee may Trade in or, except as permitted below, otherwise acquire securities in any company engaged in the generation, transmission or sale of electric energy or gas or the provision of fuel to generation facilities, if that Trustee or Employee's responsibilities include the (i) representing LIPA in Transactions involving such companies; (ii) participating in the evaluation of, or Authority decisions with respect to, Transactions with such companies, or (iii) representing LIPA before regulatory agencies or independent system operators (or their successors) on matters in which such companies have a potential financial interest. Excepted from this provision are those securities that are included within a mutual fund or pension fund investment.

There is no prohibition against the ownership or Trading of LIPA bonds and notes which are publicly held and traded subject to the limitations set forth below in Section V.

## **VI. Use of Material, Nonpublic and Confidential Information**

It is the policy of LIPA to prohibit all Trustees and Employees, and Former Trustees and Former Employees from (1) Trading in securities based on material, nonpublic information derived from or relating to Authority activities and (2) disclosing Confidential Information to unauthorized third parties.

### **A. Trading of Securities Based on Material, Nonpublic Information**

1. Trustees, Employees and Former Trustees and Former Employees shall not Trade in bonds or other securities issued by LIPA based on material, nonpublic information derived from any source and shall not disclose such information for the purpose of allowing third parties to profit from Trading in Authority securities.

2. Trustees, Employees and Former Trustees and Former Employees shall not Trade in stocks, bonds or other securities issued by other business entities based on material, nonpublic information obtained in the course of their duties for LIPA and shall not disclose such information for the purpose of allowing third parties to profit from Trading in securities issued by other business entities based on such information.

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

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

### **B. Disclosure or Use of Confidential Information**

Trustees, Employees and Former Trustees and Former Employees shall not disclose Confidential Information to any third party not authorized to receive such information and shall not profit from the use of such information or use such information to further his or her personal interests of the interests of any Relative.

If a Trustee, Employee or Former Trustee or Employee has a question concerning the confidential status of any information, he or she should consult with the LIPA's General Counsel of regarding such information prior to disclosing it to a third party.

Trustees, Employees, Former Trustees and Former Employees who violate the provisions of this section may be subject to civil and criminal penalties under Federal and State laws, including fines and/or imprisonment. In addition, Trustees and Employees who violate the provisions of this section may be subject to disciplinary action, including removal and/or termination of employment, as appropriate.

## **VII. Annual Certification of Absence of Conflict of Interest**

All Trustees and Employees are required to certify annually that they have read the Code, that they understand and agree to comply with the provisions thereof and that they have no known conflict of interest. LIPA shall supply the Annual Certification Form. These certifications shall be timely submitted to LIPA's General Counsel or Compliance Officer.

Any Trustee or Employee who knowingly fails to complete, sign and submit the required Annual Certification Form is in violation of the Code and may be subject to disciplinary action.

## **VIII. Requests for Interpretation, Clarification or Waiver of the Code**

### **(a) Interpretation and Clarification**

A Trustee or Former Trustee may submit a written request to LIPA's General Counsel of for an interpretation or clarification of one or more provisions of the Code.

### **(b) Waivers**

A Trustee or Former Trustee may submit a written request to the Chair of the Board of Trustees for a waiver of any restriction contained in the Code, provided that the restriction is not otherwise required by State or Federal law. All waiver requests shall include a description of the nature of the restriction or prohibition for which waiver is sought; the nature of the Trustee's or Former Trustee's interest involved; the effect on the Trustee or Former Trustee or LIPA of the restriction or prohibition for which the waiver is sought; and the reasons why the waiver should be granted. A copy of the written request shall be provided to LIPA's General Counsel.

## **IX. Remedies for Breaches of the Code**

In addition to any other remedies, civil or otherwise, which LIPA may have, a Trustee, Employee, Former Trustee or Former Employee who violates the Code may be disciplined under the Code. Remedies or disciplinary action may be imposed only upon the basis of a written



statement of findings and recommendations by LIPA's General Counsel, and may include one or more of the following:

1. issuance of written warnings;
2. direction of corrective action to eliminate and/or ameliorate the conflict of interest;
3. restitution; and
4. in the case of an Employee, changes in assigned duties, suspension or termination of employment; provided, however, that solely the Chief Executive Officer or the Trustees, as applicable, may impose the remedies specified in this subdivision.

A Former Trustee or Employee found to have violated the Code is subject to one or more of the following in addition to any other remedies, civil or otherwise, that LIPA may have: warnings; termination of existing Transactions involving the individual in question to the extent permitted by law; disqualification or suspension from future Transactions of the Former Trustee or Employee and/or the person on whose behalf he or she is participating in Transactions with LIPA; and notification to appropriate persons that a conflict exists.

#### **X. Reporting of Violations of the Code and Whistleblower Protection**

Trustees, Employees, Former Trustees, and Former Employees are encouraged to promptly report any violations of the Code to the Chair of the Board of Trustees or LIPA's General Counsel and shall cooperate in any official investigation of such violations. LIPA shall also maintain an ethics hotline. Ethics complaints may currently be filed by calling (844) 915-1626 or online at [lipower.ethicspoint.com](http://lipower.ethicspoint.com).

The identify of a Trustee, Employee, Former Trustee, or Former Trustee who reports a violation of the Code and the substance of his or her allegations shall be kept confidential to the extent possible.

Retaliation against Trustees, Employees, and Former Trustees, and Former Employees who in good faith report violations of the Code, other provisions of law or policies, or the public trust, is prohibited.

LIPA's General Counsel will inform LIPA's Governance, Planning and Personnel Committee of the Board of Trustees about the status and disposition of official investigations and issues thereof raised under the Code.

#### **XI. Recusal Procedure for LIPA Trustees**

If a Trustee has reason to believe he or she may have a Conflict of Interest, then the Trustee shall:

- (a) Promptly disclose the potential Conflict of Interest to the Chair of the Board of Trustees, or the Vice Chair if appropriate, and LIPA's General Counsel and describe all material

facts concerning the potential Conflict of Interest known to the Trustee. After such disclosure, the Chair of the Board of Trustees, in consultation with LIPA's General Counsel, shall make a record of such disclosure and advise appropriate staff that they are prohibited from communicating with such Trustee about such matter. Further, if after such disclosure such matter is on an agenda for, or is otherwise raised at a Board meeting, the Trustee shall recuse him/herself from all consideration and voting on such matter and such recusal and the reason therefore shall be recorded in the minutes of such Board meeting. As a best practice, the Trustee should leave the Board meeting while the other Trustees complete their discussion, consideration and vote.

- (b) After full disclosure to the Chair of the Board of Trustees and LIPA's General Counsel, nothing contained herein shall be construed or applied to prohibit any firm, association, corporation or entity, in which the Trustee is a member, associate, retired member, of counsel, shareholder or owner, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with LIPA or its service provider where such Trustee does not participate in any way on behalf of the party conducting such business, does not participate in the decision to award the contract, and does not share in the net revenues resulting therefrom, or, acting in good faith, it is reasonably believed that such Trustee would not share in the net revenues therefrom, and where such Trustee otherwise complies with all other directives provided by LIPA's General Counsel.