

SUSTAINABLE WESTCHESTER
CONFLICT OF INTEREST POLICY

I. Purpose

All Directors, Officers, Key Employees, Member Representatives and Volunteers (“Covered Persons”) owe a duty of loyalty to Sustainable Westchester, Inc. (“SW”) that requires them to exercise their powers in good faith and in the best interests of SW. A conflict of interest occurs whenever the Financial Interest of a Covered Person or any person related to a Covered Person by blood, marriage or domestic partnership (a “Relative”) competes with the interests of SW. The purpose of this Conflict of Interest Policy (the “Policy”) is to protect the interests of SW, a tax-exempt not-for-profit corporation, when it is contemplating entering into a transaction or arrangement that might benefit a Covered Person or Relative.

This Policy is intended to supplement, but not replace, any applicable state or federal laws regarding conflicts of interest applicable to SW and other not-for-profit and tax-exempt organizations.

II. Definitions

- a. **Affiliate:** Any entity controlled by, in control of, or under common control with SW.
- b. **Board of Directors:** The body responsible for the management of SW as defined by the bylaws of SW.
- c. **Director:** Any voting or non-voting member of the Board of Directors, whether designated as a director, trustee, manager, governor, or any other title.
- d. **Financial Interest:** A direct or indirect economic benefit from any transaction, agreement, or compensation arrangement involving SW, including, but not limited to, direct or indirect remuneration, or gifts or favors that are not insubstantial.
- e. **Independent Director:** A member of the Board of Directors who:
 1. Has not been an employee of SW or an Affiliate within the last three years;
 2. Does not have a Relative who is or has been a Key Employee of SW or an Affiliate within the last three years;
 3. Has not received, and does not have a Relative who has received, more than \$10,000 compensation from SW (other than reimbursement for reasonable expenses) within the last three years;
 4. Has neither been employed by, nor has had a substantial Financial Interest in, any entity that either made or received payments from SW exceeding the lesser of \$25,000 or 2% of the entity’s gross revenues within the past three years (payments do not include charitable donations);
 5. Does not have a relative who has a substantial Financial Interest or was an Officer of any entity that either made or received payments from SW exceeding the lesser of \$25,000 or 2% of the entity’s gross revenues within the past three years (payments do not include charitable donations); and

6. Is not in an employment relationship with, or under the control or direction of, any Related Party and does not receive payments subject to the approval of a Related Party.
- f. **Key Employee:** A person who is or within the past five years, has been in a position to exercise substantial influence over SW's affairs. This includes, but is not limited to:
 1. Presidents, Executive Directors, Chief Executive Officers, Chief Operating Officers, or any person holding similar responsibilities;
 2. Treasurers, Chief Financial Officers, or any person holding similar responsibilities;
 3. "Highly compensated" employees (within the meaning of Section 4958 of the Internal Revenue Code and related guidance) who are in a position to exercise substantial influence over SW's affairs;
 4. Founders of SW;
 5. Substantial contributors to SW;
 6. Persons owning a controlling interest (through votes or value) in SW; and
 7. A nonstock entity controlled by any of the persons described in this section d.
 - g. **Member:** A municipality that satisfies and complies with the criteria for membership established by the bylaws of SW.
 - h. **Member Representative:** The chief elected official of each Member municipality or his or her designated representative that serves as the official representative of the Member municipality for all business related to SW in accordance with the bylaws of SW.
 - i. **Officer:** A person who has the authority to bind SW as provided in the Bylaws of SW.
 - j. **Related Party:**
 - a. Any current or former (within the past five years) Director, Officer, Key Employee, Member Representative or Volunteer of SW;
 - b. Any Director, Officer, or Key Employee of an Affiliate;
 - c. Any Relative of a Director, Officer, Key Employee, Member Representative or Volunteer of SW; or
 - d. Any entity in which a Director, Officer, Key Employee, Member Representative or Volunteer or the Relative of a Director, Officer, Key Employee, Member Representative or Volunteer has a 35% or greater ownership or beneficial interest, or, in the case of a partnership or a professional corporation, a direct or indirect ownership interest in excess of 5%
 - k. **Related Party Transaction:** Any transaction, agreement, or compensation arrangement with SW or an Affiliate in which a Related Party has a Financial Interest.
 - l. **Relative:** A person's domestic partner, spouse, ancestors, siblings and their spouses, children and their spouses, grand children and their spouses, and great-grandchildren and their spouses
 - m. **Volunteer:** A Volunteer regularly provides services to SW without pay for such services.

III. Duty to Disclose

Prior to his/her election, employment and/or service as a SW Covered Person, and by January 15 of each year of service thereafter, each Covered Person must disclose in writing, using a form (a "Disclosure Form") that is substantively similar to the form attached hereto as Attachment "A":

- a. Any entity of which such Covered Person or a Relative is an officer, director, trustee, member, owner, or employee and with which SW has or may have a relationship;
- b. Any Financial Interest such Covered Person or a Relative may have in any corporation, organization, partnership, or other entity which provides or may provide goods or services to SW for a fee or other compensation;
- c. Any position or other material relationship such Covered Person or a Relative may have with any not-for-profit corporation with which SW has a business relationship;
- d. Any entity of which such Covered Person or a Relative is an officer, director, trustee, member, owner, or employee, if such entity directly or indirectly provides services related to coordinating and implementing energy efficiency, conservation or sustainability efforts or initiatives; and
- e. Any entity of which such Covered Person or a Relative is an officer, director, trustee, member, owner, or employee, if such entity has or may have any other conflict of interest with SW, including directorship positions of corporate entities pursuing or likely to pursue energy efficiency, conservation, or sustainability efforts.

Disclosure Forms shall be submitted to the Secretary of SW, who shall provide copies of all completed Disclosure Forms to the Chair of the Board or his or her designee for review. A copy of each Disclosure Form shall be maintained in SW's files for a period of at least 5 years after a Covered Person ceases to be a Covered Person, and made available to any Director, Officer, or currently employed Key Employee upon request.

If at any time during his or her term of service a Covered Person acquires any Financial Interest, or when any matter for decision or approval comes before the Board in which a Relative has or may have a Financial Interest, that Financial Interest or potential transaction involving the Relative (a "Related Party Transaction") and all material facts must be promptly disclosed in writing to the Secretary of SW. The Secretary of SW must inform all members of the Board of the actual or potential Financial Interest, Related Party Transaction or conflict of interest. Failure to disclose an actual or potential Financial Interest, Related Party Transaction, or a conflict of interest may be grounds for removal from the Board, employment termination, termination of appointment as a Member Representative, or termination of services as a Volunteer from SW.

IV. Review and Approval of Related Party Transactions

If SW is contemplating entering into a Related Party Transaction, the Independent Directors of the Board must determine if the transaction is fair, reasonable, and in SW's best interest and for its own benefit at the time of such determination before approving the transaction.

Only Independent Directors of the Board shall vote on Related Party Transactions. All Related Party Transactions shall be reviewed by the Directors of the Board who are not involved in any such conflict (each, an "Independent Director") in accordance with the following.

1. **Related Party's Involvement.** At the request of the Independent Directors, the Relative to whom the potential conflict of interest relates may present factual information regarding the conflict of interest and proposed mitigation of the potential conflict of interest. However, the Relative may not be present for, or participate in, the deliberation or vote on the matter giving rise to the conflict. The Relative to whom the potential conflict of interest relates shall leave the room prior to the conduct of any deliberations or vote on the matter giving rise to the conflict and shall not attempt to improperly influence the deliberation or voting on the matter giving rise to the conflict.

A voting member of the Board of Directors or an Officer who receives compensation directly or indirectly from SW for services, or a Director serving as a voting member of any committee whose jurisdiction includes compensation matters, is precluded from voting or acting on matters pertaining to that Director's or Officer's compensation. However, no voting member of the Board or any Committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from SW is prohibited from providing information to the Board or any Committee regarding compensation.

2. **Investigation of Alternative Transactions; Review of Comparability Data.** As part of their investigation, the Independent Directors shall consider alternative transactions to the extent practicable. If the contemplated transaction pertains to compensation for services or the transfer of property or other economic benefit to a Relative, the Independent Directors of the Board whether SW can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest. At the discretion of the Independent Directors, a third party may be engaged to determine and evaluate alternatives and propose a recommendation to the Independent Directors.
3. **Approval Requirements.** The Independent Directors may not approve any Related Party Transaction unless they determine that the transaction is fair, reasonable, and in SW's best interest and for its own benefit at the time of such determination. Approval requires the majority vote of the Independent Directors present at the meeting.
4. **Documentation.** The Board shall contemporaneously document in the minutes of their meeting:
 - a. The name(s) of the Relative(s) who disclosed or otherwise were determined to have a potential or actual conflict of interest;
 - b. The nature of the potential or actual conflict of interest;
 - c. Any actions taken to determine whether a conflict of interest existed;
 - d. The Board's decision as to whether a conflict of interest existed;
 - e. The names of the persons who were present for discussions and votes relating to any potential or actual conflict of interest or Related Party Transaction (including whether the Related Party or Parties and any voting members of the Board who are not considered Independent Directors left the room for all such discussions and vote);
 - f. The content of such discussions, including the discussion of alternative transactions; and

- g. The decision by the Independent Directors to approve or not approve the Related Party Transaction.

V. Use of Outside Advisors

When conducting the reviews as provided for in Article III, Sustainable Westchester may, but need not, use outside advisors. If outside advisors are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

VI. Annual Statements

Each Covered Person shall annually sign and submit to the Secretary a statement which affirms such person: (a) has received a copy of this Policy; (b) has read and understood this Policy; and (c) has agreed to comply with this Policy.

VII. Delegation to the Financial and Audit Committee

The Board may delegate to the Audit Committee, or any other authorized Committee composed solely of Independent Directors, the oversight of, implementation of, and compliance with this Policy, including the review and approval of any Related Party Transaction.

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Adopted by SW's Board of Directors on _____ (Date)

Secretary

ATTACHMENT A
Sustainable Westchester, Inc. Conflict of Interest Policy Certificate

This certificate must be signed and delivered to the Secretary pursuant to the Sustainable Westchester, Inc. Conflict of Interest Policy (the “Policy”) adopted by the Board of Directors on [date], at such times as specified in the Policy.

- (a) ____ (initial) I have received a copy of the Policy;
- (b) ____ (initial) I have read and understand the Policy; and
- (c) ____ (initial) I agree to comply with the Policy;

The undersigned, by his or her signature, certifies as indicated above and acknowledges his or her understanding of the implications of the Policy.

Signature

Printed Name

Position

Date

ATTACHMENT B
Sustainable Westchester, Inc. Potential Conflict of Interest Disclosure Form

Name: _____

Title/Position: _____

In responding to these questions, please note that a “yes” answer does not imply that the relationship or transaction is necessarily inappropriate or prohibited.

1. Are you an officer, director, trustee, member, owner, or employee of any entity with which SW has a relationship?

Yes _____ No _____

If the answer is “yes” please list the names of such entities, your affiliation with that entity, and the approximate dollar amount of business involved with SW in the past year:

2. Are any of your Relatives¹ an officer, director, trustee, member, owner, or employee of any entity with which SW has a relationship?

Yes _____ No _____

If the answer is “yes” please list the names of such entities, your Relative’s affiliation with that entity, and the approximate dollar amount of business involved with SW in the past year:

¹ “Relative” means your domestic partner, spouse, ancestors, siblings and their spouses, children and their spouses, grand children and their spouses, and great-grandchildren and their spouses.

3. Do you have a Financial Interest² in any corporation, organization, partnership, or other entity which provides goods or services to SW for a fee or other compensation?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your Financial Interest, and the approximate dollar amount of business involved with SW in the past year:

4. Do any of your Relatives have a Financial Interest in any corporation, organization, partnership, or other entity which provides goods or services to SW for a fee or other compensation?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your Relative's Financial Interest, and the approximate dollar amount of business involved with SW in the past year:

² "Financial Interest" means a direct or indirect economic benefit from any transaction, agreement, or compensation arrangement involving the Corporation, including, but not limited to, direct or indirect remuneration, or gifts or favors that are not insubstantial.

5. Do you hold a position or have some other material relationship with any not-for-profit corporation with which SW has a business relationship?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your relationship (e.g., employee, board member), and the approximate dollar amount of business involved with SW in the past year:

6. Do any of your Relatives hold a position or have some other material relationship with any not-for-profit corporation with which SW has a business relationship?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your Relative's relationship (e.g., employee, board member), and the approximate dollar amount of business involved with SW in the past year:

7. Except as otherwise provided above, are you an officer, director, trustee, member, owner or employee of any entity that directly or indirectly provides services related to coordinating and implementing energy efficiency, conservation or sustainability efforts or initiatives?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your relationship e.g., employee, board member) and a description of the services provided by each entity.

8. Except as otherwise provided above, are any of your Relatives an officer, director, trustee, member, owner or employee of any entity that directly or indirectly provides services related to coordinating and implementing energy efficiency, conservation or sustainability efforts or initiatives?

Yes _____ No _____

If the answer is "yes" please list the names of such entities, the nature of your Relative's relationship e.g., employee, board member) and a description of the services provided by each entity.

9. Are you aware of any other transaction in which SW is a participant and in which you or a Relative may have a conflicting interest?

Yes _____ No _____

If the answer is "yes", please identify the transaction and describe the potential conflict:

I affirm that the foregoing information is true and complete to the best of my knowledge and that should any of my responses to this questionnaire change at any time, I will immediately notify SW's Secretary.

Name: _____

Date: _____

Signature: _____

