

BY-LAWS
of
TIOGA COUNTY
INDUSTRIAL
DEVELOPMENT
AGENCY

Adopted 02/07/07

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Throughout these by-laws, words of the masculine gender include the feminine and the neuter, and, when the sense so indicates, words of the neuter gender refer to any gender.

ARTICLE I THE AGENCY

Section 1: Name.

The name of the agency shall be TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY. The Agency is a body corporate and politic constituting a public benefit corporation of the State of New York. The Agency was established pursuant to Title 1 of Article 18-A of the New York General Municipal Law, as amended (the "IDA Act") more specifically at General Municipal Law Section 912, by Chapter 534 of the laws of 1971, and as amended by Chapter 883 of the laws of 1974.

Section 2: Seal of the Agency.

The seal of the Agency shall be in the form of a circle and shall bear the name of the Agency.

Section 3: Office of Agency.

The principal office of the Agency shall be in the County of Tioga, State of New York. The Agency may have other offices at such other places within the County of Tioga as the Board of Directors may from time to time determine the Agency may require.

Section 4: Purposes.

The purposes of the Agency shall be the same as those purposes set forth in General Municipal Law Section 858, as amended from time to time.

ARTICLE II BOARD OF DIRECTORS

Section 1: Board of Directors.

The affairs, business and general management of the Agency shall be vested in a Board of Directors.

Section 2: Power of the Board and Qualification of Members.

The Agency shall be overseen and governed by its Board acting through its Members who shall exercise oversight and control over the officers and staff of the Agency. Each Member shall be at least eighteen years of age and each Board Member shall be appointed by the Tioga County Legislature. The Board and its Members shall have all powers conferred on Board members of public benefit corporations and local public authorities pursuant to New York State law, including, without limitation, the IDA Act, the Agency's Enabling Act, the Public Authorities Accountability Act of 2005 (the "PAAA"), the New York General Municipal Law (the "NYGML"), the New York Public Officers Law (the "NYPOL"), and any other New York State Law that is applicable to the Agency.

Section 3: Number of Members and Term of Office.

- (a) The number of directors constituting the entire Board of Directors shall be fixed from time to time by resolution of the directors, but shall in no event be less than three (3). The number of directors that shall constitute the Board of Directors at the time that these by-laws are adopted shall be seven (7), who shall be appointed by and serve at the pleasure of the Tioga County Legislature. As used in this Article, "entire Board" means the total number of Members who have been appointed by the Tioga County Legislature and entitled to vote which the Agency would have if there were no vacancies.
- (b) No Member of the Board, including the Chair, shall serve as an Agency Corporate Officer (Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or Comptroller), or hold any other equivalent executive position or office while also serving as a Member of the Board.
- (c) Corporate Officer positions (Chief Executive Officer, Chief Operating Officer, Chief Financial Officer or Comptroller) may or may not be filled at the discretion of the Board.

- (d) In compliance with Section 2825 of the Public Authorities Law, the majority of the Members of the Board shall be Independent Members; as such term is defined in paragraph (d) below.
- (e) Independence. For the purposes of these By-laws, an Independent Members is one who:
 - (i) is not, and in the past two (2) years has not been, employed by the Agency or another corporate body having the same ownership and control of the Agency in an executive capacity such as any member of the appointing body, the Tioga County Legislature;
 - (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 Agency or received any other form of financial assistance valued at more than fifteen thousand dollars (\$15,000.00) from the Agency;
 - (iii) is not a relative of an executive officer or employee in an executive position of the Agency or any other corporate body having the same ownership and control of the Agency; and
 - (iv) is not, and in the past two (2) years has not been, a lobbyist registered under a state of local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Agency of another corporate body having the same ownership and control of the Agency.
- (f) At each Annual Meeting of the Board, the Members of the Board shall elect the officers of the Board, consisting of the Chair, the Vice-Chair, the Treasurer and the Secretary, each to hold office until the next Annual Meeting and until their successors have been elected and qualified. Each officer of the Board shall also be a Board Member.
- (g) Each Member shall have one vote.

Section 4: Organization.

At each meeting of the Board, the Chair, or, in the absence of the Chair, the Vice-Chair shall preside, or in the absence of either of such officers, a chair chosen by a majority of the Members present shall preside.

Section 5: Annual Meeting of the Board.

The annual meeting of the Agency shall be held at the office of the Agency, Tioga County, New York, during the month of January on the first Wednesday. If this falls on a holiday then the second Wednesday or such other date as may be determined by the Board at a time set by the officers at a meeting held at least two (2) weeks prior to the scheduled annual meeting.

Section 6: Meetings of the Board.

Regular meetings of the Agency may be held without notice at such times and places as from time to time may be determined by resolution of the Agency at the annual meeting.

Section 7: Special Meetings of the Board.

The Chair of the Agency may, when he deems it desirable, and shall, upon the written request of two (2) members of the Agency call a special meeting of the Agency for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Agency or may be mailed or emailed to the business or home address of each member of the Agency at least three business days prior to the date of such special meeting. Waivers of notice may be signed by any members failing to receive a proper notice. At such special meeting no business shall be considered other than as designated in the call, but if all the members of the Agency are present at a special meeting, with or without notice thereof, any and all business may be transacted at such special meeting.

Section 8: Notice.

Written notice of the time and place of each annual and regular meeting of the members of the Agency shall be given by mailing or emailing the notice thereof to each of the members of the Agency at least ten (10) but no more than thirty (30) days before the meeting.

Section 9: Waiver of Notice.

Notice of any meeting of the Board need not be given to any director who submits a waiver of notice before the meeting, or who attends the meeting without protesting prior thereto or at its commencement the lack of notice to him.

Section 10: Place and Time of Board Meetings.

The Board may hold its meetings at the County Office Building, 56 Main Street, Owego, New York in the Legislative Conference room or at such other places within the County of Tioga, State of New York as it may from time to time determine.

Section 11: Quorum.

- (a) At all meetings of the Agency, a majority of the members of the Agency shall constitute a quorum for the purpose of transacting business.
- (b) A majority of the Members present, whether or not a quorum is present, may adjourn any meeting to another time and place without notice to any Member.

Section 12: Action by the Board.

- (a) Each voting member shall be entitled to one vote on each matter properly submitted to the directors for action at all meetings of the Board.
- (b) Except as otherwise provided by law, the act of the Board means action taken at a meeting of the Board by vote of a majority of the Members of the Board.
- (c) Any action required or permitted to be taken by the board or any committee thereof may be taken without a meeting if all members of the Board or the committee thereof consent in writing to the adoption of a resolution authorizing the action. The resolution and written consent thereto by the members of the Board or committee shall be filed with the minutes of the proceedings of the Board or committee.
- (d) The voting on all questions coming to the Agency shall be by general call, and the number of yeas, nays and abstentions shall be entered on the minutes of such meeting; except in the case of appointments when the vote may be by ballot and except when the Chair or any Member asks for a roll call vote in which case the yeas, nays and abstentions by each Member shall be individually noted on the minutes.
- (e) Any one or more members of the Board, or of any committee thereof, may participate in a meeting of such Board or committee by means of a conference telephone or similar equipment that allows all persons

participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at such meeting.

Section 13: Newly Created Directorships and Vacancies.

Newly created directorships resulting from an increase in the number of directors and/or vacancies occurring in the at large positions of the Board for any reason shall be filled by the Tioga County Legislature. A director appointed by the Legislature to fill a vacancy caused by resignation, death, disability or removal shall be selected and will serve at the pleasure of the Tioga County Legislature.

Section 14: Removal.

A director may be removed from office with or without cause by the Tioga County Legislature.

Section 15: Resignation.

A director may resign at any time by giving written notice to the Board, the Chair or Secretary of the Agency. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by Board or such officer, and the acceptance of the resignation shall not be necessary to make it effective. Copies of the notice should also be sent to the Clerk of the Tioga County Legislature.

Section 16: Attendance at Meetings.

The Business Administrator shall record attendance at each meeting of the Board in the minutes thereof. Absence from a meeting may be excused.

Section 17: Annual Independent Audit.

- (a) Annual Independent Audit: The Audit Committee shall present to the Board upon its completion, the annual independent audit report performed in accordance with the requirements of the IDA Act, the PAAA, the NYGML and generally accepted government auditing standards certified by a firm of independent public accountants selected by the Board. The certified independent public accounting firm that performs the annual independent audit shall timely report to the Audit Committee the following:

- (i) the assets and liabilities, including the status of reserve, depreciation, special or other funds including the receipts and payments of such funds, of the Agency as of the end of the fiscal year;
- (ii) the principal changes in assets and liabilities, including trust funds, during said fiscal year;
- (iii) the revenue or receipts of the Agency, both unrestricted and restricted to particular purposes during said fiscal year;
- (iv) the expenses or disbursements of the Agency for both general and restricted purposes, during said fiscal year; and
- (v) a schedule of the bonds and notes of the Agency outstanding during said fiscal year, including all refinancings, calls, refundings, defeasements, and interest rate exchange or other such agreements, and for any debt issued during the fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of the schedule of debt issuance that include the date of issuance, term, amount, interest rate, means of repayment and cost of issuance.

Furthermore, the certified public accounting firm that performs the annual independent audit shall timely report to the Audit Committee the following:

- (i) all critical accounting policies and practices to be used;
- (ii) all alternative treatments of financial information within generally accepted accounting principals that have been discussed with the management of the Agency, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm;
- (iii) other material written communications between the certified independent public accounting firm and the management of the Agency, such as the management letter along with management's response or plan of corrective action, material

corrections identified or schedule of unadjusted differences, where applicable.

ARTICLE III BOARD OFFICERS

Section 1: Election of Board Officers.

The officers of the Agency shall consist of a Chair, a Vice-Chair, a Secretary and a Treasurer and /or such other officers as the Board may in its discretion determine. The Governance Committee shall nominate candidates for officers and shall be elected and shall serve at the pleasure of the Board at its annual meeting. Officers shall hold office for a period of one year or until a successor shall have been duly elected. The same person may hold any two (2) or more offices, 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 III 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. The Chair shall be elected from among the Members.

Section 3: Additional Board 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 Board Officers.

Any officer may be removed by the Board with or without cause at any time.

Section 5: Resignation.

Any officer may resign his 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: Chair.

The Chair shall preside at all meetings of the Board at which he is present. At each meeting the Chair shall submit such recommendations and information as he may consider proper concerning the business, affairs, the bonds, the projects and facilities of the Agency, the economic benefits to be conferred on project applicants and occupants, and policies of the Agency. Nothing in the provision shall be construed as granting the Chair the exclusive right to bring matters before the Agency for consideration. Except as otherwise authorized by resolution of the Agency, the Chair shall sign all agreements, contracts, deeds, and any other instruments of the Agency.

Section 7: Vice-Chair.

The Vice-Chair shall perform the duties of the Chair in the absence or incapacity of the Chair; and in the case of the resignation or death of the Chair; the Vice-Chair shall perform such duties as are imposed on the Chair until such time as the Agency shall appoint a new Chair.

Section 8: Secretary.

The Secretary is responsible for the records of the Agency, shall act as Secretary of the meetings of the Agency and shall oversee the recording of all votes, and record keeping of the proceedings of the Agency in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to his office; the Secretary shall keep a current list of the Members and officers of the Agency's Board and their residence addresses. He shall see to the safe custody of the seal of the Agency and shall have the power to affix such seal to all contracts and other instruments authorized to be executed by the Agency.

Section 9: Treasurer.

The Treasurer shall have the care and custody of all funds of the Agency and shall oversee the deposit of the same in the name of the Agency in such bank or banks as the Agency may select. He shall give such bond for the faithful performance of his duties as the Agency may determine. The Treasurer shall oversee the Business Administrator of the Agency and shall review all the books and accounts of the Agency and shall advise the Business Administrator of the Agency with respect to the charge, custody and investment of all funds and

securities of the Agency, and the Treasurer shall ensure the proper deposit by the Business Administrator of the Agency 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 assigned by the Board.

Section 10: Additional Duties.

The officers of the Agency shall perform such other duties and functions as may from time to time be required by the Agency, by the by-laws of the Agency, or by the rules and regulations of the Agency.

Section 11: Board Officer Vacancies.

Should any office of the Board become vacant, the Agency shall appoint a successor from among its membership at the next regular meeting, and such appointment shall be for the unexpired term of said office.

Section 12: Business Administrator.

A Business Administrator may be appointed by the Agency, and on such appointment shall have the general supervision over the administration of the business and affairs of the Agency, subject to the direction of the Agency. He shall be charged with the management of all projects of the Agency. The annual compensation of the Business Administrator shall be set by resolution of the Board. The Business Administrator shall assist the Chair with such matters as the Chair or the Board may request in furtherance of the Agency's public purposes. The Business Administrator shall be charged with leading the Agency in carrying out its Mission Statement and fulfilling its public purposes under the IDA Act and the PAAA.

Section 13: Compliance Officer.

The Agency shall appoint a Compliance Officer by resolution, who may be the Business Administrator, or any other employee of the Agency. The Compliance Officer shall be responsible for insuring that the Agency complies with all financial and other reporting requirements imposed by structure, 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.)

Section 14: Additional Personnel.

The Agency may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act, as amended and all other laws of the State of New York applicable thereto. The selection and compensation of all personnel including the Business Administrator shall be determined by the Agency subject to the laws of the State of New York.

**ARTICLE IV
COMMITTEES OF THE BOARD OF DIRECTORS**

Section 1: Standing Committees.

The Board of Directors shall have the following standing committees, each of which shall include at least three (3) directors:

- Executive Committee**
- Audit Committee**
- Governance Committee**
- Railroad Committee**
- Public Relations Committee**

At each annual meeting of the Board of Directors the Chair shall nominate standing committee members, as provided in Sections 2 through 8 of this Article. The nominations shall be subject to confirmation by majority vote of the entire Board. In the event that the Board does not so approve the nominated committee members, the Chair shall propose alternative nominations for approval by the Board.

Section 2: Special Committees.

In addition to the standing committees, the Board of Directors may establish by resolution such special committees, as it deems necessary or advisable for the proper functioning of the Agency. The Chair and members of such special committees shall be nominated by the Chair and confirmed by the Board. Special committees shall be formed for special tasks as circumstances warrant. Each special committee shall limit its activities to the accomplishment of the task for which it is formed and shall have no power to act except as specifically conferred by action of the board. Upon completion of the task for which it is appointed, such special committee shall stand discharged.

Section 3: Committee 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 upon the advice and consent of all the Members of the Board or the Members of such committee. Unless otherwise provided in these by-laws, at any meeting of a standing or special committee, a quorum shall be a majority of the number of members of the committee. A vote by a majority of the members of the committee at a duly organized committee meeting shall constitute the action of the committee. The rules governing attendance by directors at Board meetings shall also apply to attendance by committee members at committee meetings. A committee may act by unanimous written consent in lieu of majority vote at a duly convened meeting.

Section 4: Minutes.

Each committee meeting shall have an agenda, and minutes of each meeting shall be prepared by the Business Administrator and submitted to the Board of Directors at the Board's next regularly scheduled meeting.

Section 5: 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 6: Alternate Committee 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.

Section 7: Executive Committee.

The Executive Committee shall consist of the Chair, who shall be the chair of the Committee, the Vice-Chair, the Treasurer and the Secretary.

The Executive Committee shall represent the Board of Directors, and shall have power to transact all regular business of the Agency during the period between meetings of the Board, except that the Executive Committee shall not have authority:

1. to fill vacancies on, or remove directors from, the Board or any committee;
2. to fix the compensation of officers, directors or committee members;
3. to amend, repeal or adopt by-laws;
4. to amend or repeal any resolution of the Board which by its terms is not so amendable or repealable;
5. to make capital or operating expenditures above limits established by the Board;
6. to change the number of directors; or
7. to authorize indemnification under Article V of these by-laws.

In addition, the Executive Committee shall make recommendations to the Board with respect to managing and conducting the affairs of the Agency, and shall meet and act as otherwise instructed by the Board.

The Executive Committee shall keep minutes of each of its meetings, which shall include a record of its activities and business transactions. Said minutes and records shall be presented to the Board at its next regularly scheduled meeting. The activities of the Executive Committee shall be deemed to have been ratified by the Board following presentation of the Committee's minutes and records, unless the Board adopts a resolution over-ruling the Committee.

Section 8: Audit Committee.

The Audit Committee shall be a committee consisting entirely of Independent members, who shall be elected by plurality of the votes cast by the members of the Agency at each Annual Meeting and shall serve until the next Annual Meeting. The Audit Committee shall consist of the Treasurer, as Chair, and two (2) other directors nominated by the Chair and confirmed by the Board. The Audit Committee shall meet at least quarterly and more often if deemed necessary or advisable by the Treasurer, the Chair, the Committees or the Board.

The Committee shall be responsible for the general supervision of the financial operations of the Agency and for supervising the management of all funds of the Agency. Funds shall be invested with one or more of the financial institutions duly authorized to conduct such business in this state. It shall have authority to make investment changes recommended by such financial institutions and shall

report such changes at the next regular meeting of the Board of Directors. The Committee shall recommend the hiring of a certified independent accounting firm, establish compensation to the firm and provide direct oversight of the performance of the independent audit. To the extent practicable, Committee members should be familiar with financial and accounting practices.

Section 9: Governance Committee.

There shall be a Governance Committee consisting entirely of Independent members, who shall be elected by plurality of the votes cast by the members of the Agency at each Annual Meeting and shall serve until the next Annual Meeting. The Governance Committee shall consist of three (3) directors nominated by the Chair and confirmed by the Board. The Chair shall also nominate the Committee Chair. The Governance Committee shall meet at least quarterly and more often if deemed necessary or advisable by the Chair or the Board.

The Committee responsibilities shall be:

1. to keep the Board informed of current best governance practices;
2. to review corporate governance trends;
3. to update the Agency's governance corporate governance principles;
4. to advise the Tioga County Legislature on the skills and experience required of potential board members.

Section 10: Railroad Committee.

The Railroad Committee shall consist of three (3) directors nominated by the Chair and confirmed by the Board. The Chair shall also nominate the Committee Chair. The Committee shall be responsible for the general supervision of the operations of the Agency related to the railroad and for supervision and recommendations for the management of all funds of the Agency related to railroad activity.

Section 11: Public Relations Committee.

The Public Relations Committee shall consist of three (3) directors as well as any other at large members as deemed necessary, nominated by the Chair and confirmed by the Board.

The Chair shall also nominate the Committee Chair. The responsibilities of the Committee will be to develop and oversee a plan with the goal of:

1. establishing an atmosphere where the community generally supports planned economic development;
2. where the Tioga County Economic Development and Planning Department is recognized as the primary economic development agency in Tioga County and where the Tioga County Industrial Development Agency acts in support of said department; and
3. where an investment in the Tioga County Industrial Development Agency is clearly perceived as an investment in a healthy economy for all citizens.

The Committee shall meet at least annually and more often as deemed necessary by the Chair, the Committee or the Board. It shall report its activities regularly to the Board.

Section 12: Limitation of Authority.

Unless specifically authorized in these by-laws or by resolution of the Board, no committee other than the Executive Committee shall exercise any executive function, make expenditures, establish policies, or in any way obligate the Agency.

Those committee members nominated by the Chair and confirmed by the Board shall serve at the pleasure of the board, which shall have the power to remove and replace them at any time to fill any vacancies among such members.

**ARTICLE V
INDEMNIFICATION**

Section 1: Authorized Indemnification.

Unless clearly prohibited by law, the Agency shall indemnify any person ("Indemnified Person") made, or threatened to be made, a party in any action or

preceding whether civil, criminal, administrative, investigative or otherwise, including any action by or in the right of the Agency, by reason of the fact that he (or his testator or intestate), whether before or after adoption of this Section, (a) is or was a Member or officer of the Agency, or (b) in addition is serving or served, in any capacity, at the request of the Agency, as a Member or officer of any other Agency, 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 Agency 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. If authorized by resolution of the Board, the Agency may purchase officers and director's liability errors and omissions insurance to cover any indemnified member or officer of the Agency.

Section 2: Derivative Actions.

The Agency may, to the full extent permitted by law, indemnify any person made a party to an action by or in the right of the Agency to procure a judgment in its favor by reason of the fact that he, his testator or intestate, is or was a director or officer of the Agency, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, or in connection with an appeal therein, except in relation to matters as to which such director or officer is adjudged to have breached his duty to the Agency. Such indemnification shall in no case include amounts paid in settling or to otherwise disposing of a threatened action or a pending action with or without court approval, or expenses incurred in defending a threatened action or a pending action which is settled or otherwise disposed of without court approval.

Section 3: Third Party Actions.

The Agency may, to the full extent permitted by law, indemnify any person made, or threatened to be made, a party to an action or proceeding other than one by or in the right of the Agency to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan, or other enterprise, which any director or officer of the Agency served in any capacity at the request of the Agency, by reason of the fact that he, his testator or intestate, was a director or officer of the Agency, or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such director or officer acted in good faith for a purpose which he reasonably believed

to be in the best interests of the Agency and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his conduct was unlawful. The rumination of any such civil or criminal action or, proceeding by judgment, settlement, conviction or upon a pleas of nolo contendere, or its equivalent, shall not in itself create a presumption that any such director or officer did not act, in good faith, for a purpose which he reasonably believed to be in the best interests of the Agency or that he had reasonable cause to believe that his conduct was unlawful.

Section 4: Indemnification of Other Personnel.

Unless clearly prohibited by law of Section 2 of this Article V, the Board may approve Agency indemnification as set for the in Section 1 of this Article VII or advancement of expenses as set forth in Section 3 of this Article VII, to a person (or testator or intestate of a person) who is or was employed by the Agency or who is or was a volunteer for the Agency, 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 Agency in any capacity for any other Agency, partnership, joint venture, trust, employee benefit plan or other enterprise.

Section 5: Prohibited Indemnification.

The Agency 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 of 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 personally gained in fact a financial profit or other advantage to which he was not legally entitled.

Section 6: Advancement of Expenses.

The Agency shall, on request of any Indemnified Person who is or may be entitled to be indemnified by the Agency, 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 Agency, with interest, for any amount advanced for which it is ultimately determined that he is not entitled to be indemnified under the law or Section 2 of this Article VII. An Indemnified Person shall cooperate in good faith with any request by the Agency 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 7: Determination of Indemnification.

Indemnification mandated by a final order of 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 VII. No Member 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 Members 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 8: 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 9: Insurance.

The Agency is required to purchase Members' and officers' liability insurance. To the extent permitted by law, such insurance shall insure the Agency for any obligation it incurs as a result of this Article VII or operation of law and it shall insure directly the Members, officers employees or volunteers of the Agency for liabilities against which they are not entitled to indemnification under this Article VII as well as for liabilities against which they are entitled or permitted to be indemnified by the Agency.

Section 10: Nonexclusive Rights.

The provisions of the Article VII 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 Agency with any Member, officer, employee or volunteer providing those rights to indemnification or advancement

of expenses in connection with potential indemnification in addition to the provisions therefore in this Article V, subject in all cases to the limitations of Section 5 of this Article V.

ARTICLE VI CHECKS, NOTES, ETC.

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 Agency 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 resolution of the Board, or expressly authorized by these By-laws, no officers, agent or employee shall have any power or authority to bind the Agency by any contract or engagement or to pledge its credit or to render it liable pecuniary in any amount for any purpose.

Section 2: Loans.

No loans shall be contracted on behalf of the Agency 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 Agency, and all notes or other evidences of indebtedness of the Agency, shall be signed on behalf of the Agency 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 Agency not otherwise employed shall be deposited from time to time to the credit of the Agency in such banks, trust companies or other depositories as permitted by law as the Board may select.

ARTICLE VII 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 Agency policies or actions which involve or could ultimately harm or benefit financially: (a) the individual; (b) any Member of his immediate family (spouse, parents, children, brothers or sisters, and spouses of these individuals); or (c) any organization in which he, or an immediate family member is a member, trustee, officer, member, partner or more than 10% shareholder, Service on the board of another not-for-profit agency does not constitute a conflict of interest.

Section 2: Disclosure of Conflict of Interest.

A Member 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 Member or officer learns of the conflict; and (d) on the annual conflict of interest disclosure form. The Business Administrator of the agency shall distribute annually to all Members and officers, a form soliciting the disclosure of all conflicts of interest, including specific information concerning the terms of any contract or transaction with the Agency and whether the process for approval set forth in Section 3 of this Article VIII was used.

Section 3: Approval of Contracts and Transactions Involving Potential Conflicts of Interest.

A Member or officer who has or learns about a potential conflict of interest should disclose promptly to the Chair or the Secretary of the Agency the material facts surrounding any actual or potential conflict of interest including specific information concerning the terms of any contract or transaction with the Agency. 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 Agency and the arrangements are

consistent with the best interests of the Agency. Fairness includes, but is not limited to, the concepts that the Agency should pay no more than fair market value for any goods or services which the Agency receives and that the Agency should receive fair market value consideration for any goods or services that it furnishes to others. The Board shall set for 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 Agency.

Section 4: Validity of Actions.

No contract or other transaction between the Agency and one or more of its Members or officers, or between the Agency and any other company, corporation, firm, association or other entity in which one or more of its members or officers are Members or officers of the Agency, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such Member or Members or officer or officers of the Agency are present at the meeting of the Board, 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 Member's or officer's interest in such contract or transaction and as to any such common membership, officership or financial interest are disclosed in good faith or known to the Board or committee, and the Board or committee vote or votes to such interested Member or officers. Common or interested Members may be counted in determining the presence of a quorum at a meeting of the Board or committee which authorizes such contract or transaction. The interested Member or officer should not be present at the time of the discussion and decision concerning the authorization of such contract or transaction if said discussion or decision is made in an Executive Session.

Section 5: Employee Conflicts of Interest.

An employee of the Agency with a potential conflict of interest in a particular matter shall promptly and fully disclose the potential conflict to his supervisor or the Chair. 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 Agency decisions which are the subject of the conflict will be determined. The Chair shall be responsible for determining the proper way for the Agency to handle Agency decisions which involve unresolved employee conflicts of interest. In making such determinations, the Chair may consult with legal counsel.

The Chair 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 Chair approved.

Section 6: Code of Ethics.

The Agency shall adopt a Code of Ethics and the Business Administrator shall distribute copies of such Code of Ethics to all Board Members, officers, employees and agents of the Agency.

Section 7: Property Rights of Directors.

No director or member of the Agency shall have any rights or interest in or to the property or assets of the Agency. In the event that the Agency is liquidated or dissolved or ceases to actively carry on its business, all of the remaining property and assets of the Agency (net of necessary) expenses shall be distributed in accordance with Section 1411 of the Not-for-Profit Corporation Law of the State of New York and any subsequent amendments thereto.

**ARTICLE VIII
COMPENSATION**

Section 1. Reasonable Compensation.

It is the policy of the Agency to pay just and reasonable compensation for personal services rendered to the Agency by officers and employees. The Members of the Agency's Board shall not receive compensation for fulfilling their duties as Members, although Members may be reimbursed for actual out-of-pocket expenses which they incur in order to fulfill their duties as Members. Expenses of spouses will not be reimbursed by the Agency unless the expenses are necessary to achieve an Agency purpose.

Section 2: Approval of Compensation.

The Board must approve in advance the amount of all compensation for Corporate officers of the Agency's Board.

Before approving the compensation for an officer, the Board shall determine that the total compensation to be provided by the Agency 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 Agency, 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 Agency 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 the light of the evaluation and the comparability data.

ARTICLE IX GENERAL

Section 1. Books and Records.

There shall be kept at the office of the Agency: (1) correct and complete books and records of account, (2) minutes of the proceedings of the Board and the standing and special Committees of the Agency, (3) a current list of the Members of the Board and the officers of the Agency and their residence addresses, (4) a copy of these By-laws, (5) a copy of the Agency's application for recognition of exemption with the Internal Revenue Service, and (6) copies of the past three (3) years' information returns to the Internal Revenue Service.

Section 2. Loans to Members and Officers.

No loans shall be made by the Agency to its Members or officers, or to any other company, corporation, firm, association or other entity in which one or more of the Members or officers of the Agency 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 Agency shall begin on January 1 and end on December 31.

Section 4: Training.

All Members of the Board appointed after January 15, 2006 shall participate in training approved by the State of New York regarding their legal, fiduciary, financial and ethical responsibilities as Members within one (1) year of appointment to the Board. All other Members 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 Agency and adhere to the highest standards of responsible governance.

Section 5: Order of Business.

At the regular meetings of the Agency, the following shall be the order of business, unless an alternative order shall be approved by the Chair:

1. Roll call
2. Reading and approval of the minutes of the previous meeting
3. Bills and communications
4. Treasurer's Report
5. Reports of Committees
6. Unfinished business
7. New business
8. Adjournment

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Agency.

**ARTICLE X
PARLIAMENTARY AUTHORITY**

The most current edition of Robert's Rules of Order shall govern the meetings of the Agency in all cases in which they are applicable and in which they are not inconsistent with these by-laws.

**ARTICLE XI
AMENDMENTS**

The By-Laws of the Agency shall be amended only with the approval of at least a majority of all of the members of the Agency at a regular or special meeting, but no such amendment shall be adopted unless at least seven days written notice thereof has been previously given to all members of the Agency.