

AMENDED AND RESTATED
BY-LAWS
OF
NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Adopted March 4, 2017

ARTICLE I
THE AGENCY

Section 1. Name. The name of the Agency shall be "Nassau County Industrial Development Agency." The Agency may do business under an assumed name to the extent permitted by applicable law upon authorization thereof by the members of the Agency.

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

Section 3. Office of Agency. The office of the Agency shall be located in the County of Nassau at such location or locations as the Agency may from time to time designate by resolution.

Section 4. Members of the Agency. (a) The membership of the Agency shall consist of not less than three (3) nor more than seven (7) members, each appointed by the County Executive of Nassau County (the "County Executive"), subject to confirmation by the County Legislature. Each member shall serve for a term determined by the County Executive upon the appointment of such member, or, if the appointment of a member shall not set forth a term, then at the pleasure of the County Executive; provided, however, at no time shall there be less than three (3) appointed members of the Agency. Upon appointment, each Member shall give all required oaths of office and the Agency shall file such oaths as required by applicable law.

(b) Any member of the Agency may resign at any time by giving written notice to the Chair of the Agency and to the County Executive; provided, however, that if a resignation of a member would cause the Agency to have less than the minimum number of members specified in Section 4(a) above, such resigning member shall be deemed to continue to hold office until his or her successor is appointed and has been qualified. Subject to the preceding sentence, such resignation shall take effect at the time specified therein or, if no time is specified therein, then on delivery of such resignation. Acceptance of a resignation shall not be necessary to make it effective. Any member of the Agency may be removed at any time by the County Executive; provided, however, that if the removal of a member would cause the Agency to have less than the minimum number of members specified in Section 4(a) above, such member shall be deemed to continue to hold office until his or her successor is appointed and has been qualified.

(c) No member of the Agency shall be an employee of or serve as an executive officer of the Agency while also serving as a member of the Agency.

(d) Except for members who serve as members by virtue of holding a civil office of the State of New York, the majority of the remaining members of the Agency shall be “Independent Members,” as such term is defined in subsection (e) below.

(e) For purposes of these by-laws, an “Independent Member” is a member of the Agency who: (i) is not, and in the two (2) years prior to appointment has not been, employed by the Agency or another corporate body having the same ownership and control as the Agency in an executive capacity; (ii) is not, and in the two (2) years prior to appointment has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars (\$15,000) 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) from the Agency; (iii) is not a relative of an executive officer or employee in an executive position of the Agency or another corporate body having the same ownership and control as the Agency; and (iv) is not, and for two (2) years prior to appointment was not, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Agency or another corporate body having the same ownership and control as the Agency.

(f) Members of the Agency shall receive no compensation for their services but may be reimbursed for the expenses reasonably incurred by them in the performance of their duties, subject to applicable law and the Agency’s policies and procedures.

Section 5. Responsibilities of Members. (a) The members of the Agency shall constitute the governing body of the Agency and shall have and exercise all of the powers prescribed by the New York State Industrial Development Agency Act, Article 18-A of the General Municipal Law of the State of New York (as amended from time to time, the “Act”) and all other laws applicable to public benefit corporations and local public authorities pursuant to New York State law, including, without limitation, the applicable provisions of Chapter 766 of the 2005 Laws of the State of New York (the “Accountability Act”), Chapter 506 of the 2009 Laws of the State of New York (the “Reform Act”), and the New York Public Officers Law (“NYPOL”).

(b) The members of the Agency shall appoint an Executive Director and a Chief Financial Officer of the Agency.

(c) The members of the Agency shall: (i) execute direct oversight of the Executive Director and other management of the Agency in the effective and ethical management of the Agency, and (ii) understand, review and monitor the implementation of fundamental financial and management controls and operations decisions of the Agency.

(d) Each member shall have one (1) vote.

(e) Members of the Agency shall annually certify to the Agency that, to the best of their knowledge, they are in compliance with, (i) the Agency’s by-laws, rules, regulations, policies and procedures in all material respects, (ii) the provisions of the Act, and (iii) all other laws, rules and regulations applicable to the performance of their duties and responsibilities on behalf of the Agency.

(f) All members of the Agency 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 of the Agency within one (1) year of appointment. All members of the Agency shall participate in such continuing training as may be required to remain informed of best practices and regulatory and statutory changes relating to the effective oversight of the management and financial activities of the Agency and to adhere to the highest standards of responsible governance.

Section 6. Execution of Instruments. Except as otherwise provided in these by-laws, contracts, agreements, instruments and documents of the Agency may be signed or countersigned, executed, verified or acknowledged by such officer or officers of the Agency or other person or persons as the members of the Agency may designate by resolution; provided, however, that unless so authorized by resolution of the members of the Agency, or as expressly authorized by these by-laws, no officer shall have any power or authority to bind the Agency or to pledge its credit or to render it liable in any amount for any purpose.

ARTICLE II BOARD OFFICERS AND EXECUTIVE OFFICERS

Section 1. Officers. The board officers of the Agency shall be a Chair, a Vice Chair, a Secretary, a Treasurer, an Assistant Secretary, an Assistant Treasurer, and/or such other officers and the members of the Agency may determine in their discretion. Except as otherwise provided in these by-laws, each board officer must be a member of the Agency. Any two (2) or more offices, except the office of Chair and Secretary, may be held by the same member.

Section 2. Chair. (a) The Chair shall preside at all meetings of the Agency, except as otherwise authorized by the members of the Agency, and shall perform all duties set forth in any resolution adopted by the members of the Agency. The Chair may sign all resolutions, agreements, contracts, deeds and other instruments and documents on behalf of the Agency, except as otherwise authorized by the members of the Agency. At each meeting, the Chair may submit such recommendations and information as he/she may consider proper concerning the business, affairs and policies of the Agency, but the foregoing shall not restrict or prohibit any other member from submitting such recommendations or information as such member may deem necessary or proper.

Section 3. Vice Chair. (a) The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In the event of the absence or incapacity 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. In the event of the absence or incapacity of both the Chair and the Vice Chair, a chair chosen by the members shall preside at meetings of the Agency until such time as the Agency shall appoint a new Chair and/or Vice Chair.

Section 4. Secretary. The Secretary shall keep, or cause to be kept, the records of the Agency, shall act as secretary at the meetings of the Agency, shall keep, or cause to be kept, a record of all votes, and shall record, or cause to be recorded, the minutes of all proceedings of the Agency in a journal of proceedings to be kept for such purpose. The Secretary shall cause

the minutes of all proceedings of the Agency to be made available to the public in accordance with applicable law. The Secretary shall keep, or cause to be kept, in safe custody the seal of the Agency and shall have the power to affix such seal to all agreements, contracts, deeds and other instruments and documents authorized to be executed by the members of the Agency that require such affixing of the seal.

Section 5. Assistant Secretary. The Assistant Secretary shall perform the duties of the Secretary in the absence or incapacity of the Secretary. In the event of the resignation or death of the Secretary, the Assistant Secretary shall perform such duties as are imposed on the Secretary until such time as the Agency shall appoint a new Secretary.

Section 6. Treasurer. (a) The Treasurer shall oversee the Chief Financial Officer with respect to the care and custody of all funds of the Agency and the deposit of all such funds in the name of the Agency in such bank(s) or financial institution(s) as the Agency may designate in compliance with applicable law. Except as otherwise authorized or directed by the members of the Agency, the Treasurer may sign all instruments of indebtedness, all orders and all checks for the payment of money, and shall pay out and disburse, or cause to be paid out and disbursed, such moneys under the direction of the members of the Agency. The Treasurer shall keep, or cause to be kept, regular books of accounts showing receipts and expenditures and shall render, or cause to be rendered, to the Agency at each regular meeting an account of the financial transactions and the financial condition of the Agency. The Treasurer shall give such bond for the faithful performance of his/her duties as the members of the Agency may determine. The Treasurer shall also perform such other duties as from time to time may be assigned by the members of the Agency.

Section 7. Assistant Treasurer. The Assistant Treasurer shall perform the duties of the Treasurer in the absence or incapacity of the Treasurer. In the event of the resignation or death of the Treasurer, the Assistant Treasurer shall perform the duties of the Treasurer until such time as the Agency shall appoint a new Treasurer. The Assistant Treasurer shall give such bond for the faithful performance of his/her duties as the members of the Agency may determine.

Section 8. Additional Duties. The officers of the Agency shall perform such other duties and functions as may from time to time be authorized or required by the members of the Agency, by the by-laws of the Agency, or by the Agency's duly adopted rules, regulations, policies and procedures.

Section 9. Appointment of Officers. All board officers of the Agency shall be appointed at the annual meeting of the Agency from among the members of the Agency. Unless a shorter term is provided in the resolution of the members of the Agency appointing such officer, board officers shall hold office until the next annual meeting and until their successors are appointed and qualified. If the term of an Agency member should terminate, such member's term of office as an officer shall also simultaneously terminate.

Section 10. Vacancies. Should any board office become vacant, the Agency shall appoint a successor from its membership at the next regular meeting or special meeting called for that purpose, and such appointment shall be for the unexpired term of said office.

Section 11. Executive Director. (a) An Executive Director shall be appointed by the members of the Agency. The Executive Director shall attend all meetings of the Agency. The Executive Director shall cause the Agency to carry out its Mission Statement, shall manage the business and affairs of the Agency, subject to the direction of the members of the Agency, and shall be charged with the management of all projects and staff of the Agency. Except as may otherwise be authorized by a resolution of the members of the Agency, the Executive Director may execute all agreements, contracts, deeds and other instruments and documents on behalf of the Agency. The Executive Director shall serve at the pleasure of the members of the Agency.

(b) The Executive Director shall also serve as the Contracting Officer of the Agency, and, as such, shall be responsible for (i) the disposition of property of the Agency, and (ii) the Agency's compliance with its property use, acquisition and disposition policies.

(c) The Executive Director shall also serve as the Chief Compliance Officer of the Agency and, as such, shall be responsible for ensuring that the Agency is in full compliance with the requirements of the Act, the Accountability Act, the Reform Act and all other applicable laws, rules and regulations.

(d) The Executive Director shall also serve as the Chief Executive Officer of the Agency. Every annual financial report of the Agency shall be certified in writing by the Chief Executive Officer that, based on the Chief Executive Officer's best knowledge, the information provided therein (i) is accurate and correct and does not contain any untrue statement of material fact, (ii) does not omit any material fact which, if omitted, would cause such report to be misleading in light of the circumstances under which such statements are made, and (iii) fairly presents in all material respect the financial condition and results of operations of the Agency as of, and for, the periods presented in such report.

Section 12. Administrative Director. An Administrative Director may be appointed by the members of the Agency. The Administrative Director shall perform the duties of the Executive Director in the absence or incapacity of the Executive Director and shall otherwise handle the day-to-day administrative affairs of the Agency. In the event of the resignation or death of the Executive Director, the Administrative Director shall perform such duties as are imposed on the Executive Director until such time as the members of the Agency shall appoint a new Executive Director. The Administrative Director shall serve at the pleasure of the members of the Agency.

Section 13. Chief Financial Officer. (a) A Chief Financial Officer shall be appointed by the members of the Agency and shall be the chief financial officer of the Agency. The Chief Financial Officer shall also be the freedom of information officer of the Agency in accordance with the provisions of the New York State Freedom of Information Law, Article 6 of the NYPOL. The Chief Financial Officer shall serve at the pleasure of the members of the Agency.

(b) The Chief Financial Officer, under the supervision of the Executive Director, shall have the care and custody of all funds of the Agency and shall deposit all such funds in the name of the Agency in such bank(s) or financial institution(s) as the members of the Agency may designate in compliance with applicable law.

(c) The Chief Financial Officer shall keep regular books of accounts showing receipts and expenditures, shall render to the Audit Committee at each regular meeting thereof an account of such transactions and also of the financial condition of the Agency and shall otherwise handle the day-to-day financial affairs of the Agency and shall ensure that all such transactions are in full compliance with the requirements of the Act, the Accountability Act, the Reform Act and all other applicable laws, rules and regulations.

(d) The Chief Financial Officer shall prepare the annual budget of the Agency in consultation and cooperation with the Audit Committee for submission to the members of the Agency for their review and approval.

(d) Every annual financial report of the Agency shall be certified in writing by the Chief Financial Officer that, based on the Chief Financial Officer's best knowledge, the information provided therein (i) is accurate and correct and does not contain any untrue statement of material fact, (ii) does not omit any material fact which, if omitted, would cause such report to be misleading in light of the circumstances under which such statements are made, and (iii) fairly presents in all material respect the financial condition and results of operations of the Agency as of, and for, the periods presented in such report.

Section 14. Chief Marketing Officer. (a) A Chief Marketing Officer may be appointed by the members of the Agency. The Chief Marketing Officer shall serve at the pleasure of the members of the Agency.

(b) The Chief Marketing Officer, under the supervision of the Executive Director, shall be responsible for the day-to-day marketing efforts of the Agency and shall ensure that such marketing efforts of the Agency are in full compliance with the requirements of the Act, the Accountability Act, the Reform Act and all other applicable laws, rules and regulations.

Section 15. Additional Personnel. (a) 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 Act and all other laws of the State of New York applicable thereto.

(b) The selection and compensation of all personnel, including the Executive Director, Administrative Director, Chief Financial Officer and Chief Marketing Officer, shall be determined by the members of the Agency, subject to applicable law and the policies and procedures of the Agency. The members of the Agency may delegate to any officer or committee the power to appoint and/or remove any subordinate officer or employee.

(c) Each officer and employee of the Agency shall annually certify to the Agency that, to the best of such officer's or employee's knowledge, such officer or employee is in compliance with (i) the Agency's rules, regulations, policies and procedures in all material respects, (ii) the provisions of the Act (as defined below), and (iii) all other laws, rules and regulations applicable to the performance of such officer's or employee's duties and responsibilities on behalf of the Agency.

Section 16. Removal of Officers and Employees. Any officer or employee may be removed by the members of the Agency with or without cause at any time.

Section 17. Resignation of Officers. Any officer may resign his or her position as an officer at any time by giving written notice to the Board, to the Chair or to the Secretary. Any such resignation shall take effect at the date and time specified therein or, if no date/time is specified therein, then upon delivery.

ARTICLE III MEETINGS

Section 1. Annual Meeting. The annual meeting of the Agency shall be held on any business day in the first quarter of each calendar year, at 6:00 o'clock P.M. at the regular meeting place of the Agency. Notice of such annual meeting shall be delivered to each member of the Agency or shall be mailed to the business or home address of each member of the Agency at least seven (7) days prior to the date of such annual meeting. The time and location of the annual meeting may be changed upon the giving of all requisite notices. Waivers of notice of the annual meeting may be signed by any member failing to receive a proper notice.

Section 2. Regular Meetings. Regular meetings of the Agency may be held at such times and places as the Agency may determine from time to time and may be changed upon the giving of all requisite notices. Waivers of notice of a regular meeting may be signed by any member failing to receive a proper notice.

Section 3. Special Meetings. The Chair of the Agency may, when he/she 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 shall be delivered to each member of the Agency or shall be mailed to the business or home address of each member of the Agency at least seven (7) days prior to the date of the special meeting. At such special meeting no business shall be considered other than as designated in the call, but if all members of the Agency are present at a special meeting, with or without notice thereof, and are all agreeable thereto, any and all business may be transacted at such special meeting.

Section 4. Executive Session. When a subject falls within one (1) or more of the enumerated purposes for an executive session pursuant to Section 105 of the New York State Open Meetings Law, the Agency may, upon its own motion, establish an executive session, to the extent permitted by applicable law.

Section 5. Quorum. At all meetings of the Agency, a majority of the members of the Agency shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn to some other time or until a quorum is obtained.

Section 6. Order of Business. At the regular meetings of the Agency, the following shall be the order of business.

1. Roll call.
2. Public Comment Period (if applicable).
3. New Business.
4. Reading and approval of the minutes of the previous meeting.

5. Bills and communications.
6. Report of the Treasurer.
7. Reports of Committees.
8. Unfinished business.
9. Adjournment.

Notwithstanding the foregoing, the member presiding at the meeting shall have the authority to vary the order of business, as the need arises. All resolutions shall be in writing and shall be recorded in, or attached to, the journal of proceedings of the Agency.

Section 7. Manner of Voting. The voting on all questions coming before the Agency shall be by roll call, and the yeas and nays shall be entered on the minutes of such meeting, except in the case of appointments when the vote may be by ballot.

Section 8. Rules of Order. The meetings and proceedings of the Agency shall be regulated and controlled according to Robert's Rules of Order for parliamentary procedure, except as may otherwise be provided by these by-laws, by applicable law or by any rule, regulation, policy or procedure of the Agency.

Section 9. Waivers of Notice. Notice of a meeting need not be given to any member who submits a signed waiver of notice, whether before or after a meeting, or who attends the meeting without protesting prior thereto or at its commencement the lack of notice to such member.

ARTICLE IV AMENDMENTS

Section 1. Amendments to By-laws. The by-laws of the Agency may be amended at a regular meeting or at a special meeting called for that purpose upon the approval of a majority of the members of the Agency; but no such amendment shall be adopted unless at least seven (7) days' advance written notice thereof has been given to the members of the Agency.

ARTICLE V POLICIES AND PROCEDURES

Section 1. Adoption of Policies and Procedures. The Agency by resolution may adopt such rules, regulations, policies and procedures as it may deem necessary and appropriate to the operation of the Agency; provided, however, that no rule, regulation, policy or procedure may be adopted by the Agency that is contrary to these by-laws, as amended from time to time.

Section 2. Financial Statements. The financial records, books and accounts of the Agency shall be audited annually by an independent firm of certified public accountants selected by the members of the Agency and in compliance with applicable law. Financial statements shall be made available to the members of the Agency promptly upon their completion and shall be completed to the extent possible within ninety (90) days after close of the Agency's fiscal year.

Section 3. Fiscal Year. The fiscal year of the Agency shall be the calendar year unless otherwise provided by the members of the Agency.

Section 4. Books and Records. There shall be kept at the office of the Agency: (a) correct and complete books and records of account, (b) minutes of the proceedings of the members and the standing and special committees of the Agency, (c) a current list of the members, officers and employees of the Agency and their residence addresses, and (d) a copy of these by-laws.

Section 5. Loans to Members/Officers/Employees. No loan or extension of credit shall be made by the Agency to or arranged by the Agency for any member, officer or employee, or to or for any other company, corporation, firm, association or other entity in which one (1) or more members, officers or employees of the Agency, are members, directors or officers or hold a substantial financial interest except as allowed by applicable law.

Section 6. Gifts. The members or any authorized officer, employee or agent of the Agency may accept on behalf of the Agency any contribution, gift, bequest or devise for any general or special purpose or purposes of the Agency.

Section 7. Financial Disclosure. In accordance with the Accountability Act, all members, officers and employees of the shall file annual financial disclosure statements with the Nassau County Board of Ethics (the "County Board").

Section 8. Agency Website. The Agency shall maintain a website in conformance with applicable law and the rules and regulations of all applicable regulatory authorities, including, without limitation, the Authorities Budget Office.

ARTICLE VI ETHICAL STANDARDS

Section 1. Disclosure and Abstention. The provisions of the Agency's Code of Ethics (as the same may be amended from time to time) are incorporated herein by reference in their entirety.

Section 2. Relationship to General Municipal Law. Nothing herein or in any Code of Ethics adopted by the Agency shall be deemed to amend, modify, limit or supersede the application of any provision of Article 18 of the General Municipal Law (the "Conflicts of Interest Law"), but in each instance shall be deemed to be in addition to the requirements of the Conflicts of Interest Law.

ARTICLE VII COMMITTEES

Section 1. Standing Committees. The Agency shall have the following standing committees: (a) an Audit Committee, (b) a Governance Committee, (c) a Finance Committee, and (d) a Transactions Committee.

Section 2. Audit Committee. (a) The members of the Agency shall appoint the members of the Audit Committee and the chair of the Audit Committee. The Audit Committee shall be comprised entirely of members who are Independent Members and who shall possess the necessary skills to understand and perform the duties and functions of the Audit Committee and who shall be familiar with corporate financial and accounting principles and practices.

(b) The Audit Committee shall recommend to the members of the Agency the hiring of an independent public accounting firm to conduct the Agency's annual independent audit, establish the compensation to be paid to such accounting firm and provide direct oversight of the performance of the independent annual audit, all in compliance with applicable law, including, without limitation, the Accountability Act and the Reform Act, and the rules and regulations of all applicable regulatory authorities, including, without limitation, the Authorities Budget Office. The Audit Committee shall ensure that the Agency timely prepares and files the annual budget, the annual financial statement, the annual financial reports, the annual measurement report and the annual financial audit required by the Act, the Accountability Act, the Reform Act and other applicable law.

(c) The Audit Committee shall have such other and further purposes and powers as determined by the members of the Agency from time to time, including, without limitation, pursuant to any Audit Committee Charter adopted by the members of the Agency from time to time.

Section 3. Governance Committee. (a) The members of the Agency shall appoint the members of the Governance Committee and the chair of the Governance Committee. The Governance Committee shall be comprised entirely of members who are Independent Members, who shall possess the necessary skills to understand and perform the duties and functions of the Governance Committee and who shall be familiar with corporate governance principles and practices.

(b) The Governance Committee shall keep the members of the Agency informed of current best governance practices, review corporate governance trends, recommend updates to the Agency's corporate governance principles, examine ethical and conflict of interest issues, coordinate and perform self-evaluations of the members, recommend by-laws which include rules and procedures for conduct of Agency business, and advise the County Executive on the skills and experience required of potential members.

(c) The Governance Committee shall have such other and further purposes and powers as determined by the members of the Agency from time to time, including, without limitation, pursuant to any Governance Committee Charter adopted by the members of the Agency from time to time.

Section 4. Finance Committee. (a) The members of the Agency shall appoint the members of the Finance Committee and the chair of the Finance Committee. The Finance Committee shall be comprised entirely of members who are Independent Members and who shall possess the necessary skills to understand and perform the duties and functions of the Finance Committee.

(b) The Finance Committee shall review proposals for the issuance of debt by the Agency (and any subsidiary thereof) and make recommendations with respect thereto.

(c) The Finance Committee shall have such other and further purposes and powers as determined by the members of the Agency from time to time, including, without limitation, pursuant to any Finance Committee Charter adopted by the members of the Agency from time to time.

Section 5. Transactions Committee. (a) The members of the Agency shall appoint the members of the Transactions Committee and the chair of the Transactions Committee. The Transactions Committee shall be comprised of not less than two (2) members of the Agency and may include such other persons as the members of the Agency shall determine, each of whom shall have the necessary skills to understand and perform the duties and functions of the Transactions Committee.

(b) The Transactions Committee shall be responsible for the review of materials submitted by potential project applicants, may conduct meetings with such potential project applicants, and shall make such recommendations to the members of the Agency as the Committee shall determine with respect to potential Agency projects and the financial assistance to be provided with respect to such Agency projects.

(c) The Transactions Committee shall have such other and further purposes and powers as determined by the members of the Agency from time to time, including, without limitation, pursuant to any Transactions Committee Charter adopted by the members of the Agency from time to time.

Section 6. Other Committees. The members of the Agency may from time to time create other committees as they deem necessary or desirable to assist the Agency in performing its duties pursuant to applicable law. Each such committee created by the members of the Agency shall consist of such persons and shall have such authority as is provided in the resolution creating such committee.

Section 7. Meetings of Committees. Meetings of committees shall be held at such times and places as shall be fixed by the respective chairs of said committees and the notice of such meetings shall specify. Meetings of committees shall be governed by the provisions of these by-laws governing meetings of the members of the Agency.

Section 8. Quorum and Manner of Acting. Unless otherwise provided by resolution of the members of the Agency, a majority of all members of a committee shall constitute a quorum for the transaction of business and the vote of a majority of all the members of the committee shall be the act of the committee. The procedures and manner of acting of the committees of the Agency shall be subject at all times to the directions of the members of the Agency.

Section 9. Tenure of Members of Committees. Unless otherwise provided by resolution of the members of the Agency, each committee shall exist and every member thereof shall serve at the pleasure of the members of the Agency.

Section 10. Alternate Members. The members may designate one (1) or more members as alternate members of any committee, who may replace any absent member or members at any meeting of such committee.

ARTICLE VIII INDEMNIFICATION

Section 1. Right of Indemnification. Each member, officer and employee of the Agency (each, an “Indemnitee”), whether or not then in office, and any person whose testator or intestate was such an Indemnitee, shall be indemnified by the Agency for the defense of, or in connection with, any threatened, pending or completed actions or proceedings and appeals therein, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a member, officer or employee of the Agency, in accordance with and to the fullest extent permitted by applicable law, as such law now exists or may hereafter be adopted or amended; provided, however, that the Agency shall provide indemnification in connection with an action or proceeding (or part thereof) initiated by such an Indemnitee only if such action or proceeding (or part thereof) was authorized by the members of the Agency.

Section 2. Advancement of Expenses. (a) Expenses incurred by an Indemnitee in connection with any action or proceeding as to which indemnification may be given under Section 1 of this Article VIII may be paid by the Agency in advance of the final disposition of such action or proceeding upon (i) the receipt of an undertaking by or on behalf of such Indemnitee to repay such advancement in case such Indemnitee is ultimately found not to be entitled to indemnification as authorized by this Article VIII and (ii) approval by the members of the Agency.

(b) To the extent permitted by law, the members of the Agency shall not be required to find that the Indemnitee has met the applicable standard of conduct provided by law for indemnification in connection with such action or proceeding before the Agency makes any advance payment of expenses hereunder.

Section 3. Availability and Interpretation. To the extent permitted under applicable law, the rights of indemnification and to the advancement of expenses provided in this Article VIII, (a) shall be available with respect to events occurring prior to the adoption of this Article VIII, (b) shall continue to exist after any rescission or restrictive amendment of this Article VIII with respect to events occurring prior to such rescission or amendment, (c) shall be interpreted on the basis of applicable law in effect at the time of the occurrence of the event or events giving rise to the action or proceeding or, at the sole discretion of the Indemnitee (or, if applicable, at the sole discretion of the testator or intestate of such Indemnitee seeking such rights), on the basis of applicable law in effect at the time such rights are claimed and (d) shall be in the nature of contract rights that may be enforced in any court of competent jurisdiction as if the Agency and the Indemnitee for whom such rights are sought were parties to a separate written agreement.

Section 4. Other Rights. The rights of indemnification and to the advancement of expenses provided in this Article VIII shall not be deemed exclusive of any other rights to which any Indemnitee or other person may now or hereafter be otherwise entitled, whether contained in

these by-laws, a resolution of the members or an agreement providing for such indemnification, the creation of such other rights being hereby expressly authorized. Without limiting the generality of the foregoing, the rights of indemnification and to the advancement of expenses provided in this Article VIII shall not be deemed exclusive of any rights, pursuant to statute or otherwise, of any Indemnitee or other person in any action or proceeding to have assessed or allowed in his or her favor, against the Agency or otherwise, his or her costs and expenses incurred therein or in connection therewith or any part thereof.

Section 5. Severability. If this Article VIII or any part hereof shall be held unenforceable in any respect by a court of competent jurisdiction, it shall be deemed modified to the minimum extent necessary to make it enforceable, and the remainder of this Article VIII shall remain fully enforceable. Any payments made pursuant to this Article VIII shall be made only out of funds legally available therefor.

Section 6. Binding Effect. Any person entitled to indemnification under these by-laws has a legally enforceable right to indemnification that cannot be abridged by amendment of these by-laws with respect to any event, act or omission that occurred prior to the date of such amendment.

Section 7. Insurance. The Agency is not required to purchase directors and officers liability insurance, but the Agency shall have the right to purchase such insurance if authorized by the members of the Agency. To the extent not prohibited by applicable law, such insurance may insure the Agency for any obligation it incurs as a result of this Article VIII or by operation of law and it may insure directly the members, officers, employees and agents of the Agency with respect to liabilities against which they are not entitled to indemnification under this Article VIII as well as such liabilities against which such persons are entitled to indemnification under this Article VIII.