

# City of Albany Capital Resource Corporation

21 Lodge Street  
Albany, New York 12207  
Telephone: (518) 434-2532  
Fax: (518) 434-9846

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To: Tracy Metzger  
Anthony Owens  
Robert Schofield

Cc: Susan Pedo  
Darius Shahinfar  
Lee Eck  
Dominick Calsolaro

Sarah Reginelli  
Mark Opalka  
William Kelly  
Joe Scott  
Joe Landy  
Andy Corcione  
Chantel Burnash

Date: October 13, 2017

## GOVERNANCE COMMITTEE AGENDA

A meeting of the Governance Committee of the City of Albany Capital Resource Corporation will be held on **Thursday, October 19th at 11:45 AM** or directly following the IDA Governance Committee meeting at 21 Lodge Street, Albany, New York 12207 (Lg. Conf. Room).

### Roll Call

**Reading of Minutes of the Governance Committee Meeting of November 3, 2016**

**Approval of Minutes of the Governance Committee Meeting of November 3, 2016**

### New Business

#### **A. Annual Review of PAAA Requirements**

1. Code of Ethics
2. Compensation Policy
3. Retaliatory Action Policy
4. Policy for Travel
5. Real Property Acquisition Policy
6. Real Property Disposition Policy
7. Defense and Indemnification Policy

#### **B. Annual Review of Agency Policies**

1. Corporation Mission Statement
2. Corporation Bylaws

### Other Business

1. Board Makeup

### Adjournment

# City of Albany Capital Resource Corporation

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Telephone: (518) 434-2532  
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Tracy Metzger, *Chair*  
Susan Pedo, *Vice Chair*  
Darius Shahinfar, *Treasurer*  
C. Anthony Owens, *Secretary*  
Lee Eck  
Dominick Calsolaro  
Robert Schofield

Sarah Reginelli, *Chief Executive Officer*  
Mark Opalka, *Chief Financial Officer*  
John Reilly, *Agency Counsel*

## CRC MINUTES OF GOVERNANCE COMMITTEE MEETING Thursday, November 3, 2016

Attending: Tracy Metzger, Robert Schofield, and C. Anthony Owens

Also Present: Dominick Calsolaro, Lee Eck, Susan Pedo, Joseph Scott, Sarah Reginelli, Brad Chevalier, Mark Opalka, Andy Corcione, Chantel Burnash, and Mike Bohne

Chair Tracy Metzger called the Governance Committee meeting of the CRC to order at 2:13 PM.

### Roll Call

Chair Tracy Metzger reported that all Committee members were present.

### Reading of the Minutes of the Governance Committee Meeting of December 16, 2015

Since the minutes of the previous meeting had been distributed to Committee members in advance for review, Chair Tracy Metzger made a proposal to dispense with the reading of the minutes.

### Approval of the Minutes of the Governance Committee Meeting of December 16, 2015

Chair Tracy Metzger made a proposal to approve the minutes of the Governance Committee Meeting of December 16, 2015 as presented. A motion to accept the minutes, as presented, was made by C. Anthony Owens and seconded by Robert Schofield. A vote being taken, the minutes were accepted unanimously.

### New Business

#### Annual Review of PAAA Requirements

Staff reviewed the following with the Committee: *Code of Ethics Policy, Compensation Policy, Retaliatory Action Policy, Policy for Travel, Real Property Acquisition Policy, Real Property Disposition Policy, and Defense and Indemnification Policy*. Staff explained that this is an administrative matter and a best practice that the Committee reviews the policies annually. The Committee proposed some grammatical edits. Staff will make the revisions.

#### Annual Review of Agency Policies

Staff reviewed the following Agencies Policies with the Committee: *Corporation Mission Statement and Corporation Bylaws*. Staff explained that this is an administrative matter and a best practice that the Committee reviews the policies annually. The Committee proposed some grammatical edits. Staff will make the revisions.

### Other Business

None.

There being no further business, Chair Tracy Metzger adjourned the meeting at 2:14 PM.

Respectfully submitted,

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C. Anthony Owens, Secretary

# **MEMO**

**TO:** City of Albany Capital Resource Corporation - Governance Committee

**FROM:** City of Albany Capital Resource Corporation Staff

**RE:** Annual Review of Policies

**DATE:** October 13, 2017

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It is best practice to review the Corporation's Public Authority Accountability Act Policies annually.

Please find the following attached for your review:

- A. Code of Ethics
- B. Compensation Policy
- C. Retaliatory Action Policy
- D. Policy for Travel
- E. Real Property Acquisition Policy
- F. Real Property Disposition Policy
- G. Defense and Indemnification Policy

## CITY OF ALBANY CAPITAL RESOURCE CORPORATION

### PAAA OF 2005 POLICIES

#### A. CODE OF ETHICS

1. Generally. This Code of Ethics applies to both the Directors and the employees of City of Albany Capital Resource Corporation (the "Corporation"). The purpose of this Code of Ethics is to promote honest and ethical conduct and compliance with the law.

2. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

(a) "Corporation" shall mean the City of Albany Capital Resource Corporation.

(b) "employee" shall mean any employee of the City of Albany Capital Resource Corporation.

3. Rule With Respect to Conflicts of Interest. No Director or employee of the Corporation should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

4. Standards.

(a) No member or employee of the Corporation should accept other employment which will impair his independence of judgment in the exercise of his official duties.

(b) No Director or employee of the Corporation should accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

(c) No Director or employee of the Corporation should disclose confidential information acquired by him in the course of his official duties nor use such information to further his personal interests.

(d) No Director or employee of the Corporation should use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

(e) No Director or employee of the Corporation should engage in any transaction as representative or agent of the Corporation with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

(f) A Director or employee of the Corporation should not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is affected by the kinship, rank, position or influence of any party or person.

(g) A Director or employee of the Corporation should abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

(h) A Director or employee of the Corporation should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

(i) No Director or employee of the Corporation, employed on a full-time basis, nor any firm or association of which such an officer or employee is a member, nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Corporation.

(j) If any officer or employee of the Corporation shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to receiving benefits from the Corporation, he should file with the Directors of the Corporation a written statement that he has such a financial interest in such activity which statement shall be open to public inspection.

5. Violations. In addition to any penalty contained in any other provision of law any such Director or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law.

## **B. COMPENSATION POLICY**

1. Generally. Directors of the City of Albany Capital Resource Corporation shall serve without compensation.

2. Reimbursement. Directors may be allowed reasonable advancement or reimbursement of expenses incurred in the performance of their regular duties. Directors may not be compensated for rendering services to the Corporation in any capacity other than Director unless such other compensation is reasonable and otherwise permitted by the Corporation's By-Laws.

## C. RETALIATORY ACTION POLICY

1. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

(a) “Employee” means an individual who performs services for and under the control and direction of an employer for wages or other remuneration.

(b) “Employer” means any person, firm, partnership, institution, corporation, or association that employs one or more employees.

(c) “Law, rule or regulation” includes any duly enacted statute or ordinance or any rule or regulation promulgated pursuant to any federal, state or local statute or ordinance.

(d) “Public body” includes the following:

(i) the United States Congress, any state legislature, or any popularly-elected local governmental body, or any member or employee thereof;

(ii) any federal, state, or local judiciary, or any member or employee thereof; or any grand or petit jury;

(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;

or

(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer.

(e) “Retaliatory personnel action” means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

(f) “Supervisor” means any individual with an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.

2. Prohibitions. An employer shall not take any retaliatory personnel action against an employee because such employee does any of the following:

(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety;

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or



(c) objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

3. Application. The protection against retaliatory personnel action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has brought the activity, policy or practice in violation of law, rule or regulation to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.

4. Violation; Remedy.

(a) An employee who has been the subject of a retaliatory personnel action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within one year after the alleged retaliatory personnel action was taken.

(b) Any action authorized by this section may be brought in the city in which the alleged retaliatory personnel action occurred, in the city in which the complainant resides, or in the city in which the employer has its principal place of business.

(c) It shall be a defense to any action brought pursuant to this section that the personnel action was predicated upon grounds other than the employee's exercise of any rights protected by this section. It shall also be a defense that the individual was an independent contractor.

(d) Notwithstanding the provisions of paragraphs (a) and (c) of this subdivision, a health care employee who has been the subject of a retaliatory action by a health care employer in violation of section seven hundred forty-one of this article may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory personnel action was taken. In addition to the relief set forth in that subdivision, the court, in its discretion, based upon a finding that the employer acted in bad faith in the retaliatory action, may assess the employer a civil penalty of an amount not to exceed ten thousand dollars, to be paid to the improving quality of patient care fund established pursuant to section ninety-seven-aaaa of the state finance law.

5. Relief in any action brought pursuant to subdivision four of this section, the court may order relief as follows:

- (a) an injunction to restrain continued violation of this section;
- (b) the reinstatement of the employee to the same position held before the retaliatory personnel action, or to an equivalent position;
- (c) the reinstatement of full fringe benefits and seniority rights;
- (d) the compensation for lost wages, benefits and other remuneration; and
- (e) the payment by the employer of reasonable costs, disbursements, and attorney's fees.

6. Employer Relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.

7. Existing Rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract; except that the institution of an action in accordance with this section shall be deemed a waiver of the rights and remedies available under any other contract, collective bargaining agreement, law, rule or regulation or under the common law.

#### **D. POLICY FOR TRAVEL OF AGENCY DIRECTORS**

1. Generally. It is the policy of the Corporation that uniform procedures will be followed for the authorization and expenditure of funds for travel associated with Corporation's business.

(a) Expenses incurred by the Corporation's Directors, to be reimbursed from the Corporation's funds, must be approved in advance by the Board Chairman. The Chairman will advise the Chief Executive Officer of all requests received.

(b) All requests for reimbursement of expenses incurred by the Chairman must be approved by the Directors of the Corporation.

(c) The Chairman will inform the Chief Executive Officer or his/her designee of all pre-approved expenses of the Directors.

(d) The Chief Executive Officer or his/her designee will assist a Director, if desired, with arrangements for travel and the accompanying reimbursement procedures.

## E. REAL PROPERTY ACQUISITION POLICY

### SECTION 1. DEFINITIONS.

(A) “Acquire” or “acquisition” shall mean acquisition of title or any other beneficial interest in personal or real property in accordance with the applicable provisions of Article 18-A of the New York State General Municipal Law.

(B) “Contracting officer” shall mean the officer or employee of the City of Albany Capital Resource Corporation (hereinafter, the “Corporation”) who shall be appointed by resolution to be responsible for the acquisition of property.

(C) “Property” shall mean personal property in excess of five thousand dollars (\$5,000.00) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

### SECTION 2. DUTIES.

(A) The Corporation shall maintain adequate inventory controls and accountability systems for all property owned by the Corporation and under its control

(B) The Corporation shall prepare, not less frequently than annually, a report listing all real property owned in fee by the Corporation. Such report shall consist of a list and full description of all real and personal property acquired of during such period. The report shall contain the price paid by the Corporation and the name of the seller for all such property acquired by the Corporation during such period

### SECTION 3. ACQUISITION OF PROPERTY.

(A) Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the “Contracting Officer”) shall have supervision and direction over the acquisition of property of the Corporation. The Corporation shall have the right to acquire its property for any valid corporate purpose.

(B) Appraisal Report. An independent appraiser shall be hired to provide an opinion of fair market value before the Corporation shall make an offer with respect to the acquisition of the property. The appraiser should have a professional affiliation with a national appraisal organization and must not have an interest in the property (or be retained as an agent to sell the property). The appraisal report shall be in form and substance satisfactory to the Corporation and shall be included in the record of the transaction.

Notwithstanding the foregoing, the preparation of an appraisal report shall not be required where the Corporation is acquiring the property pursuant to a donation, or if the valuation of the property is uncomplicated and the fair market value is determined to be less than \$10,000.

(C) Method of Acquisition. Unless otherwise permitted by applicable law, the Corporation shall acquire property for not more than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Corporation and/or contracting officer deems proper. The Corporation may execute such documents for

the acquisition of title or other interest in property and take such other action as it deems necessary or proper to acquire such property under the provisions of this section. Provided, however, the Corporation may acquire property for more than its fair market value, as described in an appraisal report reviewed by the Corporation, upon a finding by the Corporation pursuant to resolution of the Corporation that the acquisition of such property at such price is necessary for the Corporation to further its corporate purpose.

(D) Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the seller of the property and accepted by the Corporation, purporting to transfer title or any other interest in property of the seller to the Corporation in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantor or transferor who has received valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

(E) Insurance. The must ensure that all insurable real and personal property under its control is insured against physical loss or damage.

The designated Contracting Officer for the Agency is the Chief Executive Officer of the Agency.

## F. PROPERTY DISPOSITION POLICY

### SECTION 1. DEFINITIONS.

(A) “Contracting officer” shall mean the officer or employee of the City of Albany Capital Resource Corporation (hereinafter, the “Corporation”) who shall be appointed by resolution to be responsible for the disposition of property.

(B) “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the New York State Public Authorities Law.

(C) “Property” shall mean personal property in excess of five thousand dollars (\$5,000.00) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

### SECTION 2. DUTIES.

(A) The Corporation shall:

(i) maintain adequate inventory controls and accountability systems for all property owned by the Corporation and under its control;

(ii) periodically inventory such property to determine which property shall be disposed of;

(iii) produce a written report of such property in accordance with subsection B herewith; and

(iv) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 3 below.

(B) The Corporation shall:

(i) publish, not less frequently than annually, a report listing all real property owned in fee by the Corporation. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Corporation and the name of the purchaser for all such property sold by the Corporation during such period; and

(ii) shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature (via distribution to the Majority Leader of the Senate and the Speaker of the Assembly).

### SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY.

(A) Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the “Contracting Officer”) shall have supervision and direction over the disposition and sale of property of the Corporation. The Corporation shall have the right to dispose of its property for any valid corporate purpose.

(B) Custody and Control. The custody and control of Corporation property, pending its disposition, and the disposal of such property, shall be performed by the Corporation or by the Commissioner of General Services when so authorized under this section.

(C) Method of Disposition. Unless otherwise permitted, the Corporation shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Corporation and/or contracting officer deems proper. The Corporation may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, or any other property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

(D) Sales by the Commissioner of General Services (the “Commissioner”). When the Corporation shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Corporation may enter into an agreement with the Commissioner pursuant to which the Commissioner may dispose of property of the Corporation under terms and conditions agreed to by the Corporation and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the contracting officer shall be deemed to refer to such Commissioner.

(E) Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Corporation, purporting to transfer title or any other interest in property of the Corporation in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to closing.

(F) Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

(i) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Corporation shall be made after publicly advertising for bids except as provided in subsection (iii) of this Section F.

(ii) Whenever public advertising for bids is required under subsection (i) of this Section F:

(A) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall

permit full and free competition consistent with the value and nature of the property proposed for disposition;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(C) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Corporation, price and other factors considered; provided, that all bids may be rejected at the Corporation's discretion.

(iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section F but subject to obtaining such competition as is feasible under the circumstances, if:

(D) the personal property involved is of a nature and quantity which, if disposed of under subsections (i) and (ii) of this Section F, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(E) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000.00);

(F) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(G) the disposal will be to the state or any political subdivision or public benefit corporation, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

(H) the disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the Corporation, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Corporation; or

(I) such action is otherwise authorized by law.

(iv)(A) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(1) any personal property which has an estimated fair market value in excess of fifteen thousand dollars (\$15,000.00);



(2) any real property that has an estimated fair market value in excess of one hundred thousand dollars (\$100,000.00), except that any real property disposed of by lease or exchange shall only be subject to clauses (3) through (5) of this subparagraph;

(3) any real property disposed of by lease for a term of five (5) years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars (\$100,000.00) for any of such years.

(4) any real property disposed of by lease for a term of more than five (5) years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars (\$100,000.00); or

(5) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(J) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal and a copy thereof shall be preserved in the files of the Corporation making such disposal.

This Policy is subject to modification and amendment at the discretion of the Corporation and shall be filed annually with all local and state agencies as required under all applicable law.

## **G. DEFENSE AND INDEMNIFICATION POLICY**

### **SECTION 1. DEFINITIONS.**

1. As used in this section, unless the context otherwise requires:

(a) The term “public entity” shall mean (i) a county, city, town, village or any other political subdivision or civil division of the state, (ii) a school district, board of cooperative educational services, or any other governmental entity or combination or association of governmental entities operating a public school, college, community college or university, (iii) a public improvement or special district, (iv) a public authority, commission, agency or public benefit corporation, or (v) any other separate corporate instrumentality or unit of government; but shall not include the state of New York or any other public entity the officers and employees of which are covered by section seventeen of this chapter or by defense and indemnification provisions of any other state statute taking effect after January first, nineteen hundred seventy-nine.

(b) The term “employee” shall mean any commissioner, member of a public board or commission, trustee, director, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program, or any other person holding a position by election, appointment or employment in the service of a public entity, whether or not compensated, but shall not include the sheriff of any county or an independent contractor. The term “employee” shall include a former employee, his estate or judicially appointed personal representative.

(c) The term “governing body” shall mean the board or body in which the general legislative, governmental or public powers of the public entity are vested and by authority of which the business of the public entity is conducted.

### **SECTION 2. APPLICATION OF POLICY**

2. The provisions of this section shall apply to any public entity:

(a) whose governing body has agreed by the adoption of local law, by-law, resolution, rule or regulation (i) to confer the benefits of this section upon its employees, and (ii) to be held liable for the costs incurred under these provisions; or

(b) where the governing body of a municipality, for whose benefit the public entity has been established, has agreed by the adoption of local law or resolution (i) to confer the benefits of this section upon the employees of such public entity, and (ii) to be held liable for the costs incurred under these provisions.

### **SECTION 3. COVERAGE**

3. (a) Upon compliance by the employee with the provisions of subdivision five of this section, the public entity shall provide for the defense of the employee in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the employee was acting within the scope of his public employment or duties. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the public entity employing such employee.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the employee shall be entitled to be represented by private counsel of his choice in any civil action or proceeding whenever the chief legal officer of the public entity or other counsel designated by the public entity determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the employee is entitled to be represented by counsel of his choice, provided, however, that the chief legal officer or other counsel designated by the public entity may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such employees be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the public entity to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of the governing body of the public entity.

(c) Any dispute with respect to representation of multiple employees by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the employee delivers process and a written request for a defense to the public entity under subdivision five of this section, the public entity shall take the necessary steps on behalf of the employee to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

#### SECTION 4. INDEMNIFICATION

4. (a) The public entity shall indemnify and save harmless its employees in the amount of any judgment obtained against such employees in a state or federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the employee was acting within the scope of his public employment or duties; provided further that in the case of a settlement the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by the governing body of the public entity.

(b) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this subdivision shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the employee.

(c) Nothing in this subdivision shall authorize a public entity to indemnify or save harmless an employee with respect to punitive or exemplary damages, fines or penalties, or money recovered from an employee pursuant to section fifty-one of the general municipal law; provided, however, that the public entity shall indemnify and save harmless its employees in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that an employee, acting within the scope of his public employment or duties, has, without willfulness or intent on his part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of this state or of the United States.

(d) Upon entry of a final judgment against the employee, or upon the settlement of the claim, the employee shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty days of the date of entry or settlement, upon the chief administrative officer of the public entity; and if not inconsistent with the provisions of this section, the amount of such judgment or settlement shall be paid by the public entity.

5. The duty to defend or indemnify and save harmless prescribed by this section shall be conditioned upon: (i) delivery by the employee to the chief legal officer of the public entity or to its chief administrative officer of a written request to provide for his defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten days after he is served with such document, and (ii) the full cooperation of the employee in the defense of such action or proceeding and in defense of any action or proceeding against the public entity based upon the same act or omission, and in the prosecution of any appeal.

6. The benefits of this section shall inure only to employees as defined herein and shall not enlarge or diminish the rights of any other party nor shall any provision of this section be construed to affect, alter or repeal any provision of the workers' compensation law.

7. This section shall not in any way affect the obligation of any claimant to give notice to the public entity under section ten of the court of claims act, section fifty-e of the general municipal law, or any other provision of law.

8. Any public entity is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of this state, or authorized by law to transact business in this state, against any liability imposed by the provisions of this section, or to act as a self-insurer with respect thereto.

9. All payments made under the terms of this section, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

10. The provisions of this section shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

11. Except as otherwise specifically provided in this section, the provisions of this section shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any unit, entity, officer or employee of any public entity by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

12. Except as otherwise provided in this section, benefits accorded to employees under this section shall be in lieu of and take the place of defense or indemnification protections accorded the same employees by another enactment; unless the governing body of the public entity shall have provided that these benefits shall supplement, and be available in addition to, defense or indemnification protection conferred by another enactment.

13. The provisions of this section shall also be applicable to any public library supported in whole or in part by a public entity whose governing body has determined by adoption of a local law, ordinance, bylaw, resolution, rule or regulation to confer the benefits of this section upon the employees of such public library and to be held liable for the costs incurred under these provisions.

14. If any provision of this section or the application thereof to any person or circumstance be held unconstitutional or invalid in whole or in part by any court, such holding of unconstitutionality or invalidity shall in no way affect or impair any other provision of this section or the application of any such provision to any other person or circumstance.

## **MEMO**

**TO:** City of Albany Capital Resource Corporation - Governance Committee  
**FROM:** City of Albany Capital Resource Corporation Staff  
**RE:** Review of Corporation Mission and Bylaws  
**DATE:** October 13, 2017

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It is best practice for the Governance Committee to annually review the Corporation's mission statement and bylaws.

Please find the following for your review:

- A. Agency Mission Statement
- B. Agency Bylaws

### **City of Albany Capital Resource Corporation Mission Statement:**

Date Adopted: December 16, 2010

Assist in the enhancement and diversity of the economy of the City of Albany (the "City") by acting in support of projects in the City that create and/or retain jobs and/or promote private sector investment utilizing the statutory powers of the Corporation as set forth under the provisions of the laws of the State of New York.

- No changes to the mission statement are proposed at this time.

**BY LAWS**  
**OF**  
**CITY OF ALBANY CAPITAL RESOURCE CORPORATION**

ARTICLE I

THE CORPORATION

Section 1. Name. The name of the Corporation shall be: "City of Albany Capital Resource Corporation".

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

Section 3a. Office of Corporation. The office of the Corporation shall be in the City of Albany, New York, but the Corporation may have other offices at such other places as the Corporation may from time to time designate by resolution.

Section 3b. Address of the Corporation. The address shall be 21 Lodge Street, Albany, New York 12207. All correspondence regarding Corporation business should be directed to and from this address, except in the cases of emergency.

ARTICLE II

OBJECTIVES

Section 1. Purpose. The Corporation was created to lessen the burdens of government by fulfilling the purposes now or hereafter referred to in Section 1411(a) of the New York State Not For Profit Corporation Law including, without limitation, by means of engaging in the following activities:

(A) promoting community and economic development and the creation of jobs in the non-profit and for profit sectors for the citizens of the City by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access low interest tax-exempt and non-tax-exempt financing for their eligible projects;

(B) issuing and selling one or more series or classes of bonds, notes and other obligations (the "Obligations") through public letting, private placement, or negotiated underwriting to finance activities referred to in subparagraph (a) above, on a secured or unsecured basis;

(C) engaging the services of one or more underwriters, placement agents, consultants, attorneys, financial advisors and other persons whose services may be appropriate or desirable in connection with the acquisition and financing referred to above;

(D) undertaking projects within the City that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by

encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

(E) in general, performing any and all acts and things, and exercise and any and all powers which may now or hereafter be lawful for the Corporation to do or exercise under and pursuant to the laws of the State of New York for the purpose of accomplishing any of the foregoing purposes of the Corporation.

Section 2. Interaction with other Agencies. The Corporation may, by resolution, agree to cooperate in joint ventures with agencies of similar nature in other governmental jurisdictions.

### ARTICLE III

#### MEMBERS, DIRECTORS, AND OFFICERS

Section 1. Sole Member. City of Albany (the “City”) shall be the sole member of the Corporation.

Section 2. Board of Directors. (A) The Corporation shall consist of not less than three nor more than seven Directors. The Directors will be appointed by the governing body of the City and shall include (a) the Chairman of City of Albany Industrial Development Agency, (b) the Vice-Chairman of City of Albany Industrial Development Agency, (c) the Treasurer of City of Albany Industrial Development Agency, (d) the Secretary of City of Albany Industrial Development Agency, and (e) any additional members of City of Albany Industrial Development Agency so appointed.

(B) Each Director shall continue to hold office as a Director until his successor is appointed or elected and qualifies in his stead.

(C) Except for Directors who serve as Directors by virtue of holding a civil office of the State, the majority of the remaining Directors shall be “Independent Directors”.

(D) For purposes of these bylaws, the term “Independent Director” means a Director who: (1) is not, and in the past two years has not been, employed by the Corporation (or an “Affiliate” of the Corporation) in an executive capacity; (2) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than \$15,000 for goods and services provided to the Corporation or received any other form of financial assistance valued at more than \$15,000 from the Corporation; (3) is not a relative of an executive officer or employee in an executive position of the Corporation (or an “Affiliate” of the Corporation); and (4) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the Corporation (or an “Affiliate” of the Corporation).

(E) For purposes of these bylaws, the term “Affiliate” means a corporate body having substantially the same ownership or control as the Corporation.

(F) For purposes of these by-laws, the term “relative” means an individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the individual or of the individual's spouse.

Section 3. Responsibilities of Directors; Training Requirement. (A) The Directors of the Corporation constitute the governing body of the Corporation (the “Board”), and shall have and shall

responsibly exercise all of the powers provided under applicable law, including but not limited to Chapter 766 of the 2005 Laws of the State of New York (the “PAAA”).

(B) The Board shall appoint a Chief Executive Officer and a Chief Financial Officer of the Corporation.

(C) Every annual financial report of the Corporation must be approved by the Board.

(D) The Directors of the Corporation shall: (1) execute direct oversight of the Chief Executive Officer of the Corporation and other senior management of the Corporation in the effective and ethical management of the Corporation; and (2) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the Corporation.

(E) The Board shall not, directly or indirectly, including through a subsidiary, extend or maintain credit or arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, Director or employee (or equivalent thereof) of the Corporation.

(F) Directors of the Corporation shall file annual financial disclosure statements in the same manner as required of members of the City of Albany Industrial Development Agency.

(G) Individuals newly appointed to the Board must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities within one year of appointment to such Board. Directors who have completed state approved training 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 public authorities and to adhere to the highest standards of responsible governance.

Section 4. Officers. The officers of the Corporation shall be Chairman, Vice Chairman, Secretary, Treasurer, Assistant Secretary, and Assistant Treasurer.

Section 5. Chairman. The Chairman shall preside at all meetings of the Corporation. Except as otherwise designated herein or as otherwise provided by resolution, the Chairman is authorized to sign all agreements, contracts, deeds, bonds, notes, trust indentures or other instruments which have been approved by resolution. At each meeting the Chairman shall submit such recommendations and information as he may consider proper concerning the business, affairs and policies of the Corporation.

Section 6. Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in case of the resignation or death of the Chairman, the Vice Chairman shall act in the full capacity of the Chairman until such time as the Corporation elects a new Chairman.

Section 7. Secretary. The Secretary shall review the records of the Corporation and shall approve all which he believes to be correct and complete. The Secretary shall insure that the seal of the Corporation and the records of the Corporation are kept in safe custody, are made accessible to any and all Directors of the Corporation during normal business hours, and shall perform all other duties incident to his office. The Secretary shall have the power to affix the seal of the Corporation to all contracts and other instruments which have been authorized by resolution to be executed by the Corporation.

Section 8. Treasurer. The Treasurer, in coordination with the Chief Financial Officer, shall have the care and custody of all funds and securities of the Corporation and shall deposit the same



forthwith in the name of the Corporation in such bank or banks in the State of New York as the Corporation may designate.

Except at otherwise provided by resolution of the Corporation, the Treasurer, shall: (i) have charge of the treasury and custody of receipts, deposits and disbursements of all Corporation moneys, (ii) keep full and accurate and separate accounts of the various funds and moneys in his custody, (iii), in coordination with the Corporation's chief financial officer, shall render to the Corporation at each regular meeting an account of the financial transactions and the current financial condition of the Corporation, and (iv) at a reasonable time exhibit his books and accounts to any Director of the Corporation upon application at the office of the Corporation during business hours and render a full financial report at the annual meeting of the Corporation if so required. He shall have such other powers and duties as are conferred upon him by any special or general law. The Treasurer shall give such bond for the faithful performance of duties as the Corporation may, by resolution, determine.

Section 9. Assistant Secretary and Assistant Treasurer. The Assistant Secretary and the Assistant Treasurer shall perform the duties of the Secretary and or Treasurer, as the case may be, in the absence or incapacity of the Secretary or Treasurer; and in case of the resignation or death of the Secretary or Treasurer, the Assistant Secretary and the Assistant Treasurer shall act in the full capacity of the Secretary or Treasurer until such time as the Corporation elects a new Secretary or Treasurer.

Section 10. Election of Officers. All officers of the Corporation shall be elected from among the Directors of the Corporation at a meeting preceding the annual meeting of the Corporation; provided, however, that the Assistant Secretary and the Assistant Treasurer of the Corporation may be persons who are not Directors of the Corporation.

Section 11. Term of Officers. The term of office for all officers shall be one year or until successors are elected. If the term of a Corporation Director should terminate, his term of office as an officer shall also terminate and at the regular meeting next succeeding such termination the Directors of the Corporation shall elect from among their number a successor who shall serve until the next annual meeting of the Corporation.

Section 12. Filling of Vacancies. Should any Director position become vacant, the Corporation will recommend to the Common Council of the City of Albany one or more nominees to fill the unexpired term of the vacant membership. The decision to appoint a particular individual as a Director rests solely with the Common Council of the City of Albany. Should any office become vacant, the Corporation shall elect a successor from among its existing Directors at a regular or special meeting no later than two months from when the vacancy was created. The election shall be for the unexpired term of the vacant office.

Section 13. Chief Executive Officer. (A) The Chief Executive Officer shall be appointed by the Board, and shall be the chief executive officer of the Corporation.

(B) The Chief Executive Officer shall have general supervision over the administration of the business and affairs of the Corporation, subject to the direction of the Board. Whenever possible, the Chief Executive Officer shall attend each meeting of the Board, and shall submit such recommendations and information to the Board as the Chief Executive Officer may consider proper concerning the business, affairs and policies of the Corporation.

(C) The Chief Executive Officer shall be charged with the management of all projects of the Corporation.

(D) The Chief Executive Officer shall receive compensation for such services in a manner to be set by resolution of the Corporation.

(E) The Chief Executive Officer shall also act as the Assistant Secretary of the Corporation.

(F) The Chief Executive Officer shall also serve as the Contracting Officer of the Corporation, and, as such, be responsible for (1) the disposition of property of the Corporation, and (2) the Corporation's compliance with the Corporation's property use and disposition guidelines.

(G) Every annual financial report of the Corporation must be certified in writing by the Chief Executive Officer that based on the Chief Executive Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Corporation as of, and for, the periods presented in the financial statements.

Section 14. Chief Financial Officer. (A) The Chief Financial Officer shall be appointed by the Board, and shall be the chief financial officer of the Corporation.

(B) The Chief Financial Officer, in coordination with the Treasurer, shall have the care and custody of all funds of the Corporation and shall deposit the same in the name of the Corporation in such bank or banks as the Board may select or, if the Board has not so selected a bank or banks, which the Chief Financial Officer selects.

(C) The Chief Financial Officer shall keep regular books of accounts showing receipts and expenditures, and shall render to the Audit Committee at each regular meeting thereof an account of such transactions and also of the financial condition of the Corporation.

(D) The Chief Financial Officer shall give such bond for the faithful performance of his duties as the Corporation may determine.

(E) The Chief Financial Officer shall also act as the Assistant Treasurer of the Corporation.

(F) The Chief Financial Officer shall also serve as an Investment Officer of the Corporation under the Corporation's Investment Policy.

(G) Every annual financial report of the Corporation must be certified in writing by the Chief Financial Officer that based on the Chief Financial Officer's knowledge (1) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (2) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (3) fairly presents in all material respects the financial condition and results of operations of the Corporation as of, and for, the periods presented in the financial statements.

Section 15. Administrative Assistant. An Administrative Assistant may be appointed by and serve at the pleasure of the Corporation. The Administrative Assistant shall work under the general supervision of the Chief Executive Officer and shall be responsible for accomplishing such tasks as he may assign. These tasks include, but are not limited to: (i) taking and preparing for approval the minutes of each meeting, (ii) having the minutes of the previous meeting in the hands of the Directors of the Corporation no later than five working days prior to the meeting at which they will be submitted for

approval, (iii) acting as a focal point for establishing and maintaining good copies of documents for timely distribution to the Directors of the Corporation that are pertinent to their deliberations, (iv) receiving and making payments, (v) maintaining journals and ledgers, and (vi) preparing monthly and quarterly financial reports.

Section 16. Committees. There will be standing committees on Audit, Governance, and Finance. The members of each committee will be appointed by the Chairman at the organizational meeting prior to the annual meeting and will be chaired by one of the Directors. Each committee may have as a member at least one person who is not a Director. Each committee will meet on as needed basis. The Chairman of the Corporation may establish special committees for the purpose of obtaining special expertise, insight and/or recommendations regarding specific topics. Committee responsibilities are set forth below.

I.) Audit Committee. (A) The Chairman shall appoint an Audit Committee, to be comprised of Independent Directors.

(B) To the extent practicable, Directors appointed to the Audit Committee should be familiar with corporate financial and accounting practices.

(C) The Audit Committee shall ensure that the Corporation arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, and the annual financial reports required by and the annual financial audit required by the PAAA.

(D) The Audit Committee shall recommend to the Board the hiring of a certified independent public accounting firm for the Corporation, establish the compensation to be paid to the accounting firm, and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purpose. The Audit Committee shall not recommend the hiring of a certified independent public accounting firm to provide audit services to the Corporation if the Chief Executive Officer, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Corporation was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Corporation during the one year period preceding the date of the initiation of the audit.

(E) If the lead (or coordinating) audit partner (having primary responsibility for the audit) of the certified independent public accounting firm proposing to provide an annual independent audit for the Corporation, or the audit partner responsible for reviewing the audit, has performed audit services for the Corporation in each of the five previous fiscal years of the Corporation, the Audit Committee shall prohibit such certified independent public accounting firm from providing an annual independent audit for the Corporation.

(F) The Audit Committee shall require that each certified independent public accounting firm that performs for the Corporation an audit required by law shall timely report to the Audit Committee: (1) all critical accounting policies and practices to be used; (2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the Corporation, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (3) other material written communications between the certified independent public accounting firm and the management of the Corporation, 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.

(G) The Audit Committee shall prohibit the certified independent public accounting firm providing an annual independent audit for the Corporation from performing any non-audit services to the Corporation contemporaneously with the audit, unless receiving previous written approval by the Audit Committee, including: (1) bookkeeping or other services related to the accounting records or financial statements of the Corporation; (2) financial information systems design and implementation; (3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (4) actuarial services; (5) internal audit outsourcing services; (6) management functions, (7) broker or dealer, investment advisor, or investment banking services; and (8) legal services and expert services unrelated to the audit.

II.) Governance Committee. (A) The Chairman shall appoint a Governance Committee, to be comprised of Independent Directors.

(B) The Governance Committee shall: (1) keep the Board informed of current best governance practices; (2) review corporate governance trends; (3) update the Corporation's corporate governance principles; and (4) advise the Board and the Common Council of the City of Albany on the skills and experiences required of potential Directors of the Corporation.

III.) Finance Committee. (A) The Chairman shall appoint a Finance Committee, to be comprised of Independent Directors.

(B) The Finance Committee shall review proposals for the issuance of debt by the Corporation and any subsidiaries and make recommendations on the issuance of such debt.

IV.) Appointment to Committees. Appointments to committees may be made at any time. The committee chairman shall bring nominations for committee membership to the Board which may act immediately on the proposed appointment.

Section 17. Legal Counsel. The Corporation will appoint a Legal Counsel who will serve at the pleasure of the Corporation and will, upon request of the Corporation, provide legal advice. The appointment shall be made annually at the organizational meeting.

Section 18. Auditor. The Corporation will appoint, subject to review and recommendation by the Audit Committee, an Auditor who will serve at the pleasure of the Corporation and will, as a minimum, make an annual independent review of the financial records of the Corporation.

Section 19. Additional Personnel. The Corporation may from time to time appoint and/or employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by Section 1411 of the New York State Not for Profit Corporation Law and the Corporation's certificate of incorporation. The Directors shall not receive any compensation for their service to the Corporation and the compensation of all personnel shall be determined by the Corporation subject to the laws of the State of New York.

Section 20. Conflict of Interest and Liability. Each Director of the Corporation will certify annually that he is not involved in any activities which constitute conflict of interest, illegalities, or are contrary to high ethical behavior. In return the Chairman, in cooperation with the Legal Counsel, will annually certify that there is in full force and effect insurance to protect the Corporation and individual members thereof, from legal action which might be brought against them because of their activities related to the Corporation.

Section 21. Defense and Indemnification of Officers and Employees. The benefits of Section 18 of the Public Officers Law of the State of New York relating to the defense and indemnification of

officers and employees of public entities are conferred on all persons who are employees of the Corporation, and the Corporation shall be liable for the costs incurred under the provisions of such Section 18.

Section 22. Financial Disclosure. Officers and employees of the Corporation shall file annual financial disclosure statements in the same manner as required of members of the City of Albany Industrial Development Agency.

#### ARTICLE IV

##### MEETINGS

Section 1. Conduct. Meetings of the Corporation shall be conducted by the Chairman and may be Regular, Annual or Special in nature.

Section 2. Annual. The annual meeting of the Corporation shall be held within the first 60 days of the fiscal year at a place designated by resolution. Notice shall be mailed to each Director at least 3 calendar days prior to the meeting and shall be made public in the same manner as required under New York State law with respect to meetings of the City of Albany Industrial Development Agency.

Section 3. Regular. Regular meetings of the Corporation will be held at such times and places as are determined by resolution and notice of such meetings shall be made public in the same manner as required under New York State law with respect to meetings of the City of Albany Industrial Development Agency.

Section 4. Special. The Chairman of the Corporation may, when he deems it desirable, and shall, upon written request of at least two Directors of the Corporation call a special meeting of the Corporation for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each Director of the Corporation or may be mailed to the business or home address of each Director of the Corporation at least five working days prior to the date of such special meeting. Waivers of notice may be signed by any Directors failing to receive proper notice. At special meeting only business designated in the call shall be considered, but if all Directors of the Corporation are present at a special meeting, with or without notice thereof, any and all business may be transacted in the normal manner.

Section 5. Quorum. At all meetings of the Corporation four Directors of the Corporation shall constitute a quorum for the purpose of transacting business; provided that a smaller number may meet and adjourn at some other time or place in an effort to obtain a quorum.

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

- (a) Roll call. Determination of quorum.
- (b) Reading of minutes of previous meeting.
- (c) Approval of minutes of previous meeting.
- (d) Reports of Committees.
- (e) Report of Chief Executive Officer.
- (f) Communications.
- (g) Unfinished business.
- (h) New business.
- (i) Adjournment.

All resolutions shall be in writing and shall be copied in or attached to a journal of the proceedings of the Corporation by the Administrative Assistant.

Section 7. Executive Sessions. When determined by the Corporation that any matter pending before it is confidential in nature, and also being consistent with the statues governing freedom of information and open meetings laws, it may upon its own motion, establish an executive session, exclude non-Directors from such a session, and maintain the confidential nature of the material discussed.

Section 8. Manner of Voting. The voting on all questions coming before the Corporation shall be by roll call, and the yeas and nays shall be entered in the minutes of such meeting, except in the cases of appointments and elections when the voting may be by ballot. Approval shall require four affirmative votes by the Directors.

Section 9. Minutes. The Administrative Assistant shall keep the minutes of each meeting, shall put them in a signed draft form, and shall distribute them to the Directors of the Corporation in a timely manner as elsewhere specified.

## ARTICLE V

### AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws of the Corporation shall be amended only with the consent of the Common Council of the City and the approval of a majority of all of the Directors of the Corporation at a regular or special meeting, but no such amendment shall be voted upon nor adopted unless copies of the proposed amendment(s) and written notice of the meeting have been provided to the City and all Directors of the Corporation at least seven working days prior to the meeting.

ARTICLE VI

REPORTS

Section 1. Periodic. Periodic reports shall include, but not be limited to, the following: (i) The minutes of each meeting, (ii) The Treasurer's report, and (iii) The Auditor's Report. The need for additional periodic reports may be established and/or canceled by resolution of the Corporation.

Section 2. Special. The need for special reports may be established by resolution of the Corporation or of the Common Council of the City of Albany.

**Approved by the Corporation on April 15, 2010**