

## PART 3

### BY-LAWS OF AGENCY

SECTION 301. PURPOSE AND AUTHORITY. The purpose of this Part is to establish such procedures relating to the making of By-Laws of the City of Albany Industrial Development Agency (the “Agency”) as necessary for the implementation of Section 858(5) of Title One of Article 18-A of the General Municipal Law (the “Act”). Section 858(5) of the Act provides as follows:

“(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.”

SECTION 302. BY-LAWS. A copy of the By-Laws of the Agency is attached hereto as Appendix 3A.

SECTION 303. AMENDMENT OF BY-LAWS. The By-Laws of the Agency may be amended only with the approval of at least a majority of all of the members of the Agency at a regular or a special meeting, but no such amendment shall be adopted unless at least seven (7) days written notice thereof has been previously given to all members of the Agency.

APPENDIX 3A

BY-LAWS

OF

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

Approved March 17, 2016

Pursuant to the authority contained in Section 858, Title 1 of Article 18-A of the General Municipal Law, as set out in Chapter 1030 of the Laws of 1969, and Section 903-a of the General Municipal Law, as set out in Chapter 325 of the Laws of 1974 of the State of New York, the City of Albany Industrial Development Agency hereby approves the following by-laws for the regulation of its activities:

ARTICLE I

NAME SEAL

Section 1. Name. The name of the Agency shall be “City of Albany Industrial Development Agency”.

Section 2. Seal. The seal of the Agency shall be in a design circular in form bearing the words and dates as follows:

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, NEW YORK

CORPORATE SEAL

1974

Section 3. Office of Agency. The office of the Agency shall be in the City of Albany, New York.

Section 4. Execution of Instruments. Except as otherwise provided in these bylaws, instruments and documents of the Agency may be signed or countersigned, executed, verified or acknowledged by such officer or officers or other person or persons as the Agency may designate by resolution.

ARTICLE II

MEMBERS OF THE BOARD; OFFICERS  
AND BOARD COMMITTEES

Section 1. Appointment Of Members; Qualifications Thereof. (A) Pursuant to Article 18-a of the General Municipal Law of the State of New York (the “Act”), the members of the Agency

(each, a “Member”) are appointed by, and serve at the pleasure of the Common Council. Each Member must be a resident of the City of Albany. A public officer or employee may be appointed as a Member of the Agency without forfeiture of any other public office or employment. The Agency shall consist of seven (7) Members.

(B) Except for Members who serve as Members by virtue of holding a civil office of the State, the majority of the remaining Members appointed after January 13, 2006 shall be “Independent Members”.

(C) For purposes of these bylaws, the term “Independent Member” means a Member who: (1) is not, and in the past two (2) years has not been, employed by the Agency (or an “Affiliate” of the Agency) in an executive capacity; (2) is not, and in the past two (2) years has not been, employed by an entity that received remuneration valued at more than fifteen thousand (\$15,000) for goods and services provided to the Agency or received any other form of financial assistance valued at more than fifteen thousand (\$15,000) from the Agency; (3) is not a relative of an executive officer or employee in an executive position of the Agency (or an “Affiliate” of the Agency); and (4) is not, and in the past two (2) 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 Agency (or an “Affiliate” of the Agency).

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

(E) For purposes of these bylaws, 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 2. Responsibilities of Members; Training Requirement. (A) The Members of the Agency constitute the governing body of the Agency (the “Board”), and shall have and shall responsibly exercise all of the powers prescribed by the Act and other 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 Agency, neither of whom shall be a Member of the Agency.

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

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

(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, Member or employee (or equivalent thereof) of the Agency.

(F) Members of the Agency shall file annual financial disclosure statements with the Albany County Board of Ethics.

(G) Individuals newly appointed to the Board of the Agency must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities within one (1) year of appointment to such Board. Existing Members 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 3. Officers of the Board. (A) The officers of the Agency shall be a Chair, Vice Chair, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer and such other officers as it may determine who shall have such duties, powers and functions as hereinafter provided, all of whom shall be elected by the Members of the Agency, except the original Chair, who shall be appointed by the Common Council. Such officers shall be elected at the annual meeting of the Agency in each fiscal year.

(B) Each officer of the Agency shall hold office for one (1) year and each Member shall continue to hold office until his/her successor is appointed or elected and qualifies in his/her stead. If the term of an Agency Member should terminate, his/her term of office as an officer shall also terminate and at the regular meeting next succeeding such termination the Members of the Agency shall elect from among their number a successor who shall serve until the next annual meeting of the Agency.

(C) Each Member shall continue to hold office as a Member until his/her successor is appointed or elected and qualifies in his/her stead.

Section 4. Chair. The Chair shall be a Member of the Agency and preside at all meetings of the Agency. He/she shall sign and execute on behalf of the Agency all contracts, notes, bonds, trust indentures or other evidences of indebtedness when so authorized by the Agency, and shall perform such other duties as may be prescribed for him by law or by the Agency. The Chair shall submit to the Agency such recommendations and information as he/she may consider proper concerning the business, affairs and policies of the Agency.

Section 5. Secretary. The Secretary shall be a Member of the Agency and, in coordination with the Chief Executive Officer, shall record all the votes and record the minutes of the Agency in a journal to be kept for such purpose; attend to the serving of notices of all meetings when required; keep in safe custody the seal of the Agency and shall have power to affix such seal to all papers or other documents as may be required; attend to such correspondence as may be assigned; and perform all the duties as the Agency may designate.

Section 6. Treasurer. The Treasurer shall be a Member of the Agency and, in coordination with the Chief Financial Officer, shall have the care and custody of all funds and securities of the

Agency and shall deposit the same forthwith in the name of the Agency in such bank or banks in the State of New York as the Agency may designate.

The Treasurer shall have charge of the treasury and custody of receipts, deposits and disbursements of all Agency moneys. He/she shall keep full and accurate and separate accounts of the various funds and moneys in his/her custody. The Treasurer, in coordination with the Agency's chief financial officer, shall render to the Agency at each regular meeting an account of the financial transactions and the current financial condition of the Agency. The Treasurer shall at a reasonable time exhibit his/her books and accounts to any Member of the Agency upon application at the office of the Agency during business hours and render a full financial report at the annual meeting of the Agency if so required. He/she shall have such other powers and duties as are conferred upon him by any special or general law.

Section 7. Vice Chair, Assistant Secretary, Assistant Treasurer. The Vice Chair shall be a Member of the Agency and perform all duties of the Chair in the absence of the Chair. The Assistant Secretary shall perform all duties of the Secretary in the absence of the Secretary. The Assistant Treasurer shall perform all duties of the Treasurer in the absence of the Treasurer. The Assistant Secretary and the Assistant Treasurer need not be Members of the Agency.

Section 8. Additional Duties. The officers of the Agency shall perform such other duties and functions as may from time to time be required by the Agency, by the by-laws of the Agency, or by the rules and regulations of the Agency.

Section 9. Removal, Resignation, Salary, etc. Any officer elected or appointed by the Agency may be removed by the Agency with or without cause. In the event of the death, resignation or removal of an officer, the Agency in its discretion may elect a successor to fill the unexpired term at the next regular meeting of the Agency. All officers who are Members of the Agency shall serve without compensation.

Section 10. Governance Committee. (A) The Chair shall appoint a Governance Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Governance Committee; provided, however, that in the event that a board has less than three (3) Independent Members, the board may appoint non-Independent Members to the Governance Committee, provided that the Independent Members must constitute a majority of the Members of the Governance Committee.

(B) The Governance Committee shall: (1) keep the board informed of current best governance practices; (2) review corporate governance trends; (3) recommend updates to the Agency's corporate governance principles; (4) advise appointing authorities on the skills and experiences required of potential board Members, (5) examine ethical and conflict of interest issues, (6) perform board self-evaluations and (7) recommend by-laws which include rules and procedures for conduct of board business, and (8) advise the Board on the skills and experiences required of potential Members of the Board.

Section 11. Audit Committee. (A) The Chair shall appoint an Audit Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Audit Committee; provided, however, that in the event that a board has less than three (3) Independent Members, the board may appoint non-Independent Members to the Audit Committee, provided that the Independent Members must constitute a majority of the Members of the Audit Committee.

(B) Members of the Audit Committee shall be familiar with corporate financial and accounting practices.

(C) The Audit Committee shall ensure that the Agency arranges for the timely preparation and appropriate filing of the annual budget, the annual financial statements, the annual financial reports and the annual financial audit required by Article 18-A of the General Municipal Law.

(D) The Audit Committee shall recommend to the Board the hiring of a certified independent public accounting firm for the Agency, 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 Agency if the Chief Executive Officer, comptroller, Chief Financial Officer, chief accounting officer, or any other person serving in an equivalent position for the Agency was employed by that certified independent public accounting firm and participated in any capacity in the audit of the Agency 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 Agency, or the audit partner responsible for reviewing the audit, has performed audit services for the Agency in each of the five (5) previous fiscal years of the Agency, the Audit Committee shall prohibit such certified independent public accounting firm from providing an annual independent audit for the Agency.

(F) The Audit Committee shall require that each certified independent public accounting firm that performs for the Agency 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 Agency, 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 Agency, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

(G) The Audit Committee shall prohibit the certified independent public accounting firm providing an annual independent audit for the Agency from performing any non-audit services

to the Agency 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 Agency; (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.

Section 11A. Finance Committee. (A) The Chair shall appoint a Finance Committee, to be comprised of not less than three (3) Independent Members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Finance Committee; provided, however, that in the event that a board has less than three (3) Independent Members, the board may appoint non-Independent Members to the Finance Committee, provided that the Independent Members must constitute a majority of the Members of the Finance Committee.

(B) The Finance Committee shall be responsible for the following:

(i) Reviewing proposals for the issuance of debt by the Agency and its subsidiaries and to make recommendations concerning those proposals to the Members;

(ii) Making recommendations to the Members concerning the level of debt and nature of debt issued by the Agency;

(iii) Making recommendations concerning the appointment and compensation of bond counsel, investment advisors and underwriting firms used by the Agency, and to oversee the work performed by these individuals and firms on behalf of the Agency;

(iv) Meeting with and requesting information from Agency staff, independent auditors and advisors or outside counsel, as necessary to perform the duties of the committee.

(v) Annually reviewing the Agency's financing guidelines and making recommendations to the Members concerning criteria that should govern its financings;

(vi) Reporting annually to the Members how it has discharged its duties and met its responsibilities as outlined in the charter adopted by the committee; and

(vii) Conducting an annual self-evaluation of its performance, including its effectiveness and compliance with the charter and request the Member's approval for proposed changes.

(viii) Reviewing and filing the annual budget of the Agency.

Section 12. Additional Personnel. The Agency may appoint such other officers and employees as the Agency may require for the performance of its duties, and fix and determine their

qualifications, duties and compensation. The Agency may also appoint Counsel, and may retain and employ private consultants for professional and technical assistance and advice.

Section 13. Bonding of Officers. The Chair, the Treasurer, and such other officers as the Agency may require, shall execute bonds conditioned upon the faithful performance of the duties of their offices, the amount and sufficiency of which shall be specified by the Agency and the premiums thereof shall be paid by the Agency.

### ARTICLE III

#### GENERAL PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Agency shall begin on the 1st day of January.

Section 2. Annual Meetings. The annual meeting of the Agency shall be held on the third Thursday at 12:15 P.M. in January at the regular meeting place of the Agency. In the event such day shall fall on a legal holiday, the annual meeting may be scheduled to any other time or place at the will of a majority of the Members of the Agency.

Section 3. Regular Meetings. Regular meetings of the Agency shall take place monthly, on the third Thursday at 12:15 P.M. Regular meetings may be adjourned to any other time or place at the will of a majority of the Members of the Agency present and voting at such meeting.

Section 4. 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 notice of such meeting. Pursuant to the Public Officers Law, notice of such special meeting shall be given to the news media.

Section 5. Executive Sessions. When determined by the Agency that any matter pending before it is confidential in nature, it may, upon its own motion, establish an executive session in accordance with the NYS Open Meetings Law and exclude non-members from such sessions.

Section 6. Quorum. At all meetings of the Agency, a majority of the Members of the Agency shall constitute a quorum and the vote of a majority of the Members of the Agency shall be deemed the act of the Agency. A majority of the Members present whether or not a quorum is present may adjourn any meeting to another time and place.

Section 7. Order of Business. The order of business at regular meetings will be:

- (a) Roll call (Determination of quorum)
- (b) Reading of minutes of previous meeting
- (c) Approval of minutes of previous meeting
- (d) Report of Chief Financial Officer
- (e) Unfinished business
- (f) New business



- (g) Other
- (h) Adjournment

Section 8. Committees. The Chair, Vice Chair and Members of all committees shall be appointed by the Chair of the Agency who shall be an ex officio Member of each committee. A quorum of any committee shall consist of a majority of Members of that committee. The Chief Executive Officer shall attend all committee meetings, if requested and make such reports and recommendations as he/she deems necessary and advisable.

Section 9. Execution of Instruments. All Agency instruments and documents shall be signed or countersigned, executed, verified or acknowledged by such officer or official or other person or persons as provided in these by-laws or as the Agency may from time to time designate.

Section 10. Voting. (A) The voting on all questions coming before the Agency shall be by roll call, except as otherwise directed by the Chair, and the yeas and nays for the voting on all questions coming before the Agency shall be entered on the minutes of such meeting, except in the case of appointments when the vote may be by ballot.

(B) All resolutions of the Agency shall be passed by a majority of the Members of the Agency. In order to vote on a resolution, a Member of the Agency must be present at a meeting of the Board either in person or via videoconference.

#### ARTICLE IV

##### EXECUTIVE OFFICERS AND EMPLOYEES

Section 1. Chief Executive Officer. (A) The Chief Executive Officer shall be appointed by the Board, and shall be the chief executive officer of the Agency.

(B) The Chief Executive Officer shall have general supervision over the administration of the business and affairs of the Agency, 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 Agency.

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

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

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

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

(G) Every annual financial report of the Agency 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 Agency as of, and for, the periods presented in the financial statements.

Section 2. Chief Financial Officer. (A) The Chief Financial Officer shall be appointed by the Board, and shall be the chief financial officer of the Agency.

(B) The Chief Financial Officer, in coordination with the Treasurer, shall have the care and custody of all funds of the Agency and shall deposit the same in the name of the Agency in such bank or banks as the Board may select or, if the Board have 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 Agency.

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

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

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

(G) Every annual financial report of the Agency 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 Agency as of, and for, the periods presented in the financial statements.

Section 3. Additional Personnel. The Agency may from time to time employ such personnel as it deems necessary to exercise its statutory powers, duties and functions. The selection and compensation of all personnel shall be determined by the Agency.

Section 4. Financial Disclosure. Officers and employees of the Agency shall file annual financial disclosure statements with the Albany County Board of Ethics.

## ARTICLE V

## INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. Right of Indemnification. Each Member and officer of the Agency, whether or not then in office, and any person whose testator or intestate was such a Member or officer, 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, in accordance with and to the fullest extent permitted by the Section 18 of the Public Officers Law of the State of New York or other 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 a Member or officer only if such action or proceeding (or part thereof) was authorized by the Board.

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

(B) To the extent permitted by law, the Board shall not be required to find that the Member or officer 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 V (A) shall be available with respect to events occurring prior to the adoption of this Article V, (B) shall continue to exist after any rescission or restrictive amendment of this Article V 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 Member or officer (or, if applicable, at the sole discretion of the testator or intestate of such Member or officer 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 Member or officer 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 V shall not be deemed exclusive of any other rights to which any Member or officer of the Agency or other person may now or hereafter be otherwise entitled, whether contained in these by-laws, a resolution of the Board 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 V shall not be deemed exclusive of any rights, pursuant to statute or otherwise, of any Member or officer of the Agency 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 V 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 V shall remain fully enforceable. Any payments made pursuant to this Article V shall be made only out of funds legally available therefor.

## ARTICLE VI

### AMENDMENTS

Section 1. Amendments to By-Laws. The by-laws of the Agency shall be amended only with the approval of at least a majority of all the Members of the Agency at a regular or special meeting, but no such amendment shall be adopted unless at least seven (7) days written notice thereof has been previously given to all Members of the Agency.

## ARTICLE VII

### MISCELLANEOUS

Section 1. Interpretation. In these By-Laws, words of masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.