

NEW YORK JOB DEVELOPMENT AUTHORITY

BY-LAWS

ARTICLE I

Offices

- A. Principal Office. The Principal office of the Authority shall be located in the City of New York.
- B. Other Offices. The Authority may have another office or offices at such other place or places within the state of New York as the Members of the Authority from time to time may determine to be necessary or appropriate for the conduct of its operations.

ARTICLE II

Officers

- A. In General. The officers of the Authority shall be a Chairman, a Vice Chairman, a President, an Executive Vice President, one or more Vice Presidents, a General Counsel, a Secretary, an Assistant Secretary and a Treasurer. Any three offices except those of the Chairman and Vice Chairman may be held by the same person.
- B. Other Officers. The Authority may name and appoint, from time to time, such additional officers as it may require, and shall, by resolution or amendment of these By-laws, designate their duties and under whose supervision or direction they shall serve.
- C. Terms. All officers of the Authority, other than the Chairman and the Vice Chairman, shall hold office at the pleasure of the Authority subject to the New York State Civil Service Law and the regulations of the Civil Service Commission of the State.
- D. Salaries. The Salary of the President shall be fixed by the Authority Members upon the recommendation of the Chairman. The salaries of the Executive Vice President, Senior Vice Presidents and Vice Presidents will be fixed by the Authority Members upon recommendation of the President. The salaries of the other officers and staff shall be fixed by the President in accordance with a Compensation Plan approved by the Authority members.

E. Removal. Any officer, other than a Member of the Authority, may be removed, either with or without cause, at any time, by resolution adopted by the Authority at any meeting called for the purpose and at which a quorum is present.

F. Resignations. Any officer may resign at any time by giving written notice to the Authority or to the President or to the Secretary. Any such resignation shall take effect upon receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

G. Vacancies. A vacancy in any office shall be filled in the manner prescribed in these By-laws for appointment to such office.

ARTICLE III

Duties of the Officers

A. The Chairman. The Commissioner of Economic Development of the State of New York shall be the Chairman of the Authority and shall preside over all meetings of the Authority and subject to its direction shall have general supervision, direction and control of the affairs of the Authority. In addition, the Chairman may execute loan and loan agreements, and other documents relating to loans, guarantees or mortgages, to execute agreements with banks, underwriters or others for the borrowing of money or raising funds for the Authority and other Agreements in the name of the Authority, sign all official rules and regulations of the Authority, and the reports required by Section 1829 of the Job Development Authority Act, and have all such other powers and duties as may be incident to the position of the Chairman.

B. The Vice Chairman. The Vice Chairman shall perform the duties of the Chairman in the event the Office of Chairman is vacant or in the event that the Chairman is unable to perform such duties by reason of illness, disability or absence.

A. The President. The President shall, subject to the policies established by the Authority and under the direction of the Chairman, be generally in administrative charge of all activities of the Authority. The President shall possess the same powers of the Chairman to execute loan and loan guarantee agreements, mortgages and other documents relating to loans, loan guarantees or mortgages; and to execute agreements with banks, underwriters or others for the borrowing of money or raising funds for the Authority and other agreements in the name of the Authority. The President shall act as a liaison officer between the Authority and his or her counterpart at all other governmental agencies and non-governmental organizations; review applications for loans and loan guarantees submitted to the Authority for compliance with the rules and regulations of the Authority and make recommendations in respect thereof to the Authority; maintain current information on outstanding loans of the Authority; prepare as often as the Authority may require a report of the financial condition and operations of the Authority including the reports required by Section 1829 of the New York Job Development Authority Act; approve in the name of the Authority all purchase orders, payrolls and vouchers (including

travel and expense vouchers) relating to the operations of the Authority; prepare in initial form the annual operating budget of the Authority; and have such other powers and duties as may be assigned to the President by the Authority. The President may delegate such of the foregoing powers and duties as in his or her discretion may seem appropriate.

B. The Executive Vice President. The Executive Vice President shall perform such duties as the President may assign. In the absence of or incapacitation of the President, the Executive Vice President shall act in his or her stead.

C. Vice President(s). Vice Presidents, reporting to the Executive Vice President, shall perform such duties as may be assigned to them by the President or Executive Vice President.

D. The General Counsel. The General Counsel shall be the chief legal officer of the Authority. The General Counsel shall review all applications for loans and loan guarantees from the Authority for legal sufficiency. The General Counsel shall draft all legal forms, contracts, mortgages, or documents necessary in connection with all phases of the Authority's work or purposes. In addition, the General Counsel shall perform all other work incidents to his or her office and such other duties as from time to time may be assigned to him or her by the Authority.

E. The Secretary. The Secretary shall act as necessary at all meetings of the Authority and keep minutes thereof in a book or books to be provided for the purpose, shall insure that all notices of meetings required to be given to Members of the Authority are duly given and served, and shall insure that all reports, statements and other documents required by law are properly kept and filed. The Secretary shall perform all the duties incident to his or her office and such other duties as from time to time may be assigned to him or her by the President.

F. The Treasurer. Under the supervision of the President, the Treasurer shall act as the chief financial officer of the Authority, maintain books of account of the Authority in accordance with the systems of accounts established by the Authority and examine and audit for the Authority, all purchase orders, payrolls and vouchers relating to the operation of the Authority including travel and expense vouchers of Members of the Authority. Subject to the provisions of the New York Job Development Authority Act and the State Finance Law, the Treasurer shall have the care and custody of and be responsible for all the funds and securities of the Authority and shall receive and give receipts for moneys due and payable to the Authority from any source whatever. Unless otherwise prescribed by contract with holders of the Authority's note or bond obligations, the Treasurer shall cause all moneys of the Authority to be paid to the Commissioner of Taxation and Finance. When authorized by resolution of the Authority, the Treasurer shall requisition for the payment of moneys as provided by Section 1810 of the Public Authorities Law. The Treasurer shall render a statement of the condition of the finances of the Authority at each regular meeting of the Authority and at other such times as shall be required of him or her and a full financial report at the annual meeting of the Authority. The Treasurer shall do and perform all duties appertaining to his or her office and such duties as from time to time may be assigned to him or her by the President. The Treasurer

shall give such bond, if any, for the faithful discharge of his or her duties as may be required by the Authority or any provision of law.

G. The Assistant Secretary. The Assistant Secretary shall assist the Secretary in the performance of all the duties incident to the Secretary's office, shall perform the duties of the Secretary in the absence of the Secretary or in the event of his or her inability to act and shall perform such other duties as from time to time may be assigned to him or her by the President.

H. Limitation on the Authority of Officers. Notwithstanding any other provision of these By-laws, in the absence of formal approval by a majority of the Members, no officer of the Authority shall be authorized to bind the Authority by an agreement to pay in excess of Five Thousand Dollars (\$5,000) for goods or services, except that the President shall be authorized to bind the Authority for Procurement Contracts in accordance with Authority-approved Procurement Guidelines and Procedure Manual Guidelines.

ARTICLE IV

Meetings

A. Annual Meetings. The annual meeting of the Authority shall be held on the third Tuesday in March in each year or on such earlier date in each calendar year as the Chairman of the Authority may determine.

B. Regular Meetings. Regular meetings of the Authority shall be held on the third Tuesday of each month.

C. Other Meetings. Other meetings shall be called at any time by the Secretary at the request of the Chairman or at the request of any three Members of the Authority. Notice of Meetings, specifying the time, place within the State, and purpose thereof, shall be given to each Member by mailing same at least five (5) days before the meeting or by telegraphing or cabling the Member or Members, at least twenty-four (24) hours before the meeting. In lieu of the notice prescribed in this paragraph, a waiver thereof in writing, signed by the Member or Members entitled to said notice whether before or after the time stated therein shall be deemed equivalent to such notice for the purpose of these By-laws. Any matter except those relating to the issuance of bonds or notes, the granting of a mortgage loan, or the amendment of the By-laws, may be considered at any meeting, whether or not specified in the notice thereof, if all of the Members of the Authority are present or if the Members not present waive notice in writing and consent thereto. No notice to or waiver by any Member with respect to such a meeting shall be required if such Member be present at the meeting.

D. Quorum. Six Members shall constitute a quorum for the transaction of any business or the exercise of any power or function of the Authority. Resolutions authorizing the issuance of bonds or notes of the Authority and resolutions authorizing the granting of loans and loan guarantees shall be approved by not less than six Members of the Authority at a meeting duly

called for such purpose, but for the transaction of any other business or the performance of any other power or function of the Authority, other than the amendment of these By-laws, the Authority may act by a majority of the Members present at any meeting at which a quorum is in attendance.

ARTICLE V

Advisory Committees

- A. Appointment. The Authority may appoint one or more advisory committees consisting of not more than seven members each to consider and advise the Authority on matters submitted to them by the Authority.
- B. Terms. Upon the appointment of an Advisory Committee, the Authority shall specify the terms, not to exceed four years, of each member thereof and such terms shall be deemed to expire at the nearest annual meeting of the Authority.
- C. Salaries. Members of the Advisory Committees shall serve without salary but shall be entitled to reimbursement for their actual and necessary travel expenses incurred in the performance of their duties.

ARTICLE VI

Finance and Audit Committee

- A. Appointment. The Chairman shall appoint a Finance and Audit Committee to consist of not less than three (3) Authority Members, one of whom the Chairman shall designate to serve as chairman. The President is deemed to be an *ex-officio* member of the Committee. The Finance and Audit Committee shall serve at the pleasure of the Chairman of the Authority.

ARTICLE VII

Indemnification of Members and Officers

- A. (1) General Scope of Indemnification. The provisions of this Article for indemnification shall be in addition to and shall not supplant any indemnification by the State of New York heretofore or hereafter conferred upon any Member, officer or other employee of the Authority, as such term is defined in Section 18(1)(b) of the Public Officers Law (hereinafter an "Employee") by a statute, by Sections 17, 18 and 19 of the Public Officers Law, or otherwise. The term "Employee", as used in these Bylaws, shall include employees of the New York State Urban Development Corporation when performing duties on behalf of or for the benefit of the Authority. This Article is to be construed liberally in favor of each Member, officer and Employee of the Authority to the fullest extent permitted by law, and any ambiguity,

uncertainty or reasonable doubt as to facts, interpretation or legal conclusions shall be resolved in favor of such Member, officer or Employee. The provisions of this Article shall inure only to the Members, officers or Employees of the Authority and their estates, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

(2) Members, Officers and Employees. Other than as provided in Section D of this Article VII, the Authority shall to the fullest extent permitted by law save harmless and indemnify any person (or his or her estate) who shall have served as a Member, officer or Employee of the Authority against financial loss or reasonable litigation expense incurred in connection with any claim, demand, suit, action or proceeding, whether civil or criminal, or the defense thereof, and arising out of (1) any transaction of the Authority, or (2) any act or failure to act by any such Member, officer or Employee while engaged in the discharge of his or her duties on behalf of the Authority.

B. Conditions Precedent and Representation of Persons Indemnified. Except in a criminal proceeding, the right to indemnification shall be conditioned on (1) the prompt delivery to the Authority of a copy of the summons, complaint, process, notice, demand or pleading commencing any such claim, demand, suit, action or proceeding, (2) a contemporaneous offer to name counsel to the Authority as counsel to the Member, officer or Employee in the defense of such claim, demand, suit, action or proceeding, and (c) the full cooperation of the Member, officer or Employee, in the event the offer is accepted, in the making of such defense. The Authority may, either by its own staff counsel or by outside counsel of its choice, accept the offer and assume the representation of any person who becomes a party to the claim, demand, suit, action or proceeding, except in situations in which (x) choice of counsel is governed by statute, or (y) the Authority's counsel determines that it is inappropriate or inadvisable for such person to be represented by counsel chosen by the Authority. In the event the Authority does not assume such representation, such person shall have the right to engage private counsel of his or her choice and the Authority shall have the obligation of indemnification for the reasonable fees and expenses of such private counsel as provided in this Article.

C. Advances of Expenses.

(1) Members and Officers. A Member or officer who becomes a party to an action or proceeding may request that the Authority advance expenses pending the final disposition of such action or proceeding. Such advancement shall be made in the manner delineated by Section 723 of the Business Corporation Law.

(2) Employees. Reasonable litigation expenses incurred by an Employee who becomes a party to an action or proceeding may be paid by the Authority from time to time pending the final disposition of such action or proceeding without necessity for any authorization, findings, or other action by the Members prior to the making of such advances; provided, however, that such advancement shall be made in the manner delineated by Section 723 (c) of the Business Corporation Law, and that the Members (i) may make a preliminary

finding at any time prior to the final disposition of such action or proceeding that it then appears that an Employee has clearly not acted in good faith, for a purpose reasonably believed to be in the best interests of the Authority and, in criminal actions or proceedings, in addition, that the Employee clearly had not had reasonable cause to believe that his or her conduct was lawful, or may seek an opinion in writing of outside legal counsel with respect to that issue, and if such a preliminary finding shall be made or a negative opinion on the issue shall be given, no further advances under this paragraph shall be made with respect to expenses of such Employee, and (ii) may determine, or provide for the determination of, the reasonableness of expenses sought to be advanced.

D. Members' Liability. No Member of the Authority shall be personally liable to the Authority for damages for any breach of duty as a Member, unless a judgment or other final adjudication adverse to the Member establishes that, in connection with any such breach of duty (i) the acts or omissions of the Member were in bad faith or involved intentional misconduct or a knowing violation of law, (ii) the Member personally gained in fact a financial profit or other advantage to which the Member was not legally entitled, or (iii) the acts of the Member violated Section 719 of the Business Corporation Law.

ARTICLE VIII

Miscellaneous

A. Seal. The official seal of the Authority shall be a design bearing the outline of the State of New York and bearing the words "New York Job Development Authority – 1962" around the circumference thereof. The Secretary shall be the custodian of the seal.

B. Fiscal Year. The fiscal year of the Authority shall begin on April one and end at the close of business on the thirty-first day of March in each year.

C. Checks. In accordance with Section 1811 of the New York Job Development Authority Act, the moneys of the Authority shall be paid out on checks signed by the State Commissioner of Taxation and Finance upon requisition of the President of the Authority or by the Treasurer when authorized by resolution of the Authority.

ARTICLE IX

Amendments

A. The By-laws of the Authority may be altered, amended or repealed by the affirmative vote of six Members of the Authority, provided that notice of the proposal so to alter, amend or repeal such By-laws shall have been included in the notice of the meeting at which such action is taken.